

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Steube offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsections (3) through (10) and (11) through
7 (13) of section 726.102, Florida Statutes, are renumbered as
8 subsections (4) through (11) and (13) through (15),
9 respectively, and new subsections (3) and (12) are added to that
10 section to read:

11 726.102 Definitions.—As used in ss. 726.101-726.112:

12 (3) "Charitable contribution" means a charitable
13 contribution as that term is defined in s. 170(c) of the
14 Internal Revenue Code of 1986, if that contribution:

15 (a) Is made by a natural person or a qualified religious
16 or charitable entity or organization; and

17 (b) Consists of:

18 1. A financial instrument as that term is defined in s.
19 731(c) (2) (C) of the Internal Revenue Code of 1986; or

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20 2. Cash.

21 (12) "Qualified religious or charitable entity or
22 organization" means:

23 (a) An entity described in s. 170(c)(1) of the Internal
24 Revenue Code of 1986; or

25 (b) An entity or organization described in s. 170(c)(2) of
26 the Internal Revenue Code of 1986.

27 Section 2. Subsection (7) is added to section 726.109,
28 Florida Statutes, to read:

29 726.109 Defenses, liability, and protection of
30 transferee.—

31 (7) (a) Except as provided in paragraph (b), a transfer of
32 a charitable contribution that is received in good faith by a
33 qualified religious or charitable entity or organization is not
34 considered a transfer covered by this chapter.

35 (b) A transfer of a charitable contribution that was
36 received on or within 2 years before the date of commencement of
37 an action under this chapter or the date of commencement of
38 proceedings under the law of any state or federal law, including
39 the appointment of an assignee for the benefit of creditors, the
40 appointment of a trustee or receiver, or the filing of a
41 petition under the federal Bankruptcy Code, is not entitled to
42 the protection under paragraph (a) unless the transfer was
43 received in good faith and:

44 1. The amount of the charitable contribution does not
45 exceed 15 percent of the gross annual income of the transferor
46 for the year in which the transfer of the charitable
47 contribution is made; or

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48 2. The charitable contribution made by a transferor
49 exceeded the percentage amount of gross annual income specified
50 in subparagraph 1., if the transfer was consistent with the
51 practices of the transferor in making charitable contributions.

52 Section 3. This act shall take effect July 1, 2012, but
53 shall not apply to transfers avoided by entry of a judgment
54 prior to July 1, 2012.

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58 **T I T L E A M E N D M E N T**

59 Remove the entire title and insert:

60 A bill to be entitled
61 An act relating to fraudulent transfers; amending s.
62 726.102, F.S.; defining the terms "charitable
63 contribution" and "qualified religious or charitable
64 entity or organization" for purposes of the Uniform
65 Fraudulent Transfer Act; amending s. 726.109, F.S.;
66 providing that certain transfers of charitable
67 contributions to a qualified religious or charitable
68 entity or organization in good faith are not covered
69 under the act; providing applicability; providing an
70 effective date.

71
72 WHEREAS, Florida's Uniform Fraudulent Transfer Act may
73 potentially be construed to require an exempt organization to
74 return a charitable contribution that was accepted in good
75 faith, and

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 451 (2012)

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76 WHEREAS, the application of Florida's Uniform Fraudulent
77 Transfer Act to an exempt organization has the potential to harm
78 an exempt organization that accepts, in good faith, a charitable
79 contribution for charitable purposes, and

80 WHEREAS, the Legislature desires to amend Florida's Uniform
81 Fraudulent Transfer Act to reflect the intent of the
82 Legislature, NOW, THEREFORE,