

By the Committee on Banking and Insurance; and Senator Bennett

597-03060-12

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1 A bill to be entitled
 2 An act relating to the Uniform Fraudulent Transfer
 3 Act; amending s. 726.102, F.S.; defining the terms
 4 "charitable contribution" and "qualified religious or
 5 charitable entity or organization"; amending s.
 6 726.109, F.S.; exempting certain transfers of
 7 charitable contributions from the provisions of ch.
 8 726, F.S.; providing for application of the act;
 9 providing an effective date.

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 11 Be It Enacted by the Legislature of the State of Florida:

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 13 Section 1. Subsections (3), (4), (5), (6), (7), (8), (9),
 14 (10), (11), (12), and (13) of section 726.102, Florida Statutes,
 15 are renumbered as subsections (4), (5), (6), (7), (8), (9),
 16 (10), (11), (13), (14), and (15), respectively, and new
 17 subsections (3) and (12) are added to that section, to read:

18 726.102 Definitions.—As used in ss. 726.101-726.112:

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

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

24 (b) Consists of:

25 1. A financial instrument as that term is defined in s.
 26 731(c)(2)(C) of the Internal Revenue Code of 1986; or

27 2. Cash.

28 (12) "Qualified religious or charitable entity or
 29 organization" means:

597-03060-12

2012458c1

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

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

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

36 726.109 Defenses, liability, and protection of transferee.-

37 (7) (a) Except as provided in paragraph (b), a transfer of a
38 charitable contribution that is received in good faith by a
39 qualified religious or charitable entity or organization is not
40 a transfer that is covered by this chapter.

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

49 1. The amount of the contribution does not exceed 15
50 percent of the gross annual income of the transferor for the
51 year in which the transfer of the contribution is made; or

52 2. The contribution made by the transferor exceeded the
53 percentage amount of gross annual income specified in
54 subparagraph 1., if the transfer was consistent with the
55 practices of the transferor in making charitable contributions.

56 Section 3. This act shall take effect July 1, 2012, but
57 does not apply to transfers that are avoided by the entry of a
58 judgment prior to July 1, 2012.