

By Senator Burton

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A bill to be entitled

An act relating to charitable giving; creating s.
496.432, F.S.; providing legislative findings;
defining terms; prohibiting a charitable organization
that accepts a contribution pursuant to a written
donor-imposed restriction from violating the terms of
that restriction without potential penalty;
authorizing a donor, or a donor's legal
representative, to file a complaint within a specified
timeframe if a charitable organization violates a
donor-imposed restriction contained in an endowment
agreement; specifying the venue where the complaint
may be filed; providing that the complaint may be
filed regardless of whether the endowment agreement
expressly reserves a right to sue or enforce the
agreement; prohibiting a donor or donor representative
from seeking a judgment awarding damages; requiring a
charitable organization to notify a donor, or a
donor's legal representative, if it cannot fulfill a
term in the endowment agreement and offer the donor,
or the donor's legal representative, an alternative
solution that closely matches the initial term in such
endowment agreement; authorizing a charitable
organization to obtain a judicial declaration of the
rights and duties expressed in an endowment agreement;
requiring the charitable organization to seek a
judicial declaration in any suit brought under the act
or by filing a complaint; authorizing a court to order
one or more remedies consistent with the charitable

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purposes expressed in the endowment agreement if the court determines that a charitable organization violated a donor-imposed restriction in the endowment agreement; prohibiting the court from ordering the return of the donated funds to the donor or the donor's legal representative; providing construction; providing severability; creating s. 496.433, F.S.; providing legislative findings; prohibiting a state agency or a state official from imposing any annual filing or reporting requirements on certain organizations regulated or exempted from regulation under ch. 496, F.S., which are more burdensome than the requirements authorized by state law; providing applicability and construction; providing an effective date.

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

Section 1. Section 496.432, Florida Statutes, is created to read:

496.432 Safeguarding Endowment Gifts Act.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that it is necessary to provide legal recourse to individual charitable donors when their giving restrictions are not followed by a recipient charitable organization according to an endowment agreement.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Charitable organization" means an organization organized and operated exclusively for religious, charitable,

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59 scientific, literary, educational, testing for public safety or
60 other specified purpose and that is tax exempt from federal
61 income tax as an entity described in s. 501(c)(3) of the
62 Internal Revenue Code.

63 (b) "Donor" means an individual or entity that has made a
64 contribution of property or money to an existing endowment fund
65 or a new endowment fund of a charitable organization or of a
66 charitable trust pursuant to the terms of an endowment agreement
67 that may include donor-imposed restrictions or conditions
68 governing the use of the contribution.

69 (c) "Donor-imposed restriction" means a written statement
70 within an endowment agreement which specifies requirements for
71 the management or use of endowment funds.

72 (d) "Endowment agreement" means a written agreement between
73 a charitable organization and a donor or between a charitable
74 trust and a donor regarding the contribution made by the donor
75 and accepted by the charitable organization or the charitable
76 trust, which agreement may include donor-imposed restrictions or
77 other conditions governing the use of the contribution.

78 (e) "Endowment fund" means an institutional fund or part
79 thereof which, under the terms of a gift instrument, is not
80 wholly expendable by the institution on a current basis. The
81 term does not include assets that an institution designates as
82 an endowment fund for its own use.

83 (f) "Gift instrument" means a record or records, including
84 an institutional solicitation, under which property is granted
85 to, transferred to, or held by an institution as an
86 institutional fund.

87 (g) "Legal representative" means the administrator or

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88 executor of a person's estate; a surviving spouse if a court
89 judgment has settled the accounts of the estate; or a person
90 designated in an endowment agreement, whether or not born at the
91 time of such designation, to act in place of a party to the
92 agreement for all matters expressed in the agreement and all of
93 the actions it contemplates, including, but not limited to,
94 interpreting, performing, and enforcing the agreement and
95 defending its validity.

96 (h) "Property" means real property, personal property, or
97 money, cryptocurrency, stocks, bonds, or any other asset or
98 financial instrument.

99 (3) PROTECTIONS AFFORDED.—

100 (a) Except where specifically required or authorized by
101 federal or state law, a charitable organization that accepts a
102 contribution pursuant to a written donor-imposed restriction may
103 not violate the terms of that restriction without potential
104 penalty.

105 (b) If a charitable organization violates a donor-imposed
106 restriction contained in an endowment agreement, the donor, or
107 the donor's legal representative, 90 days after notifying the
108 charitable organization of the breach, may file a complaint
109 within 6 years after discovery for breach of such agreement. The
110 complaint may be filed in a court of general jurisdiction in the
111 county where a charitable organization named as a party has its
112 principal office or principal place of carrying out its
113 charitable purpose, or in a court of the United States whose
114 district includes such county. The complaint may be filed
115 regardless of whether the endowment agreement expressly reserves
116 a right to sue or enforce the agreement, and it may not seek a

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judgment awarding damages to the donor or donor representative.

(c) If a charitable organization is unable to fulfill a term in the endowment agreement, the charitable organization must notify the donor, or the donor's legal representative, within 30 days after discovering it is unable to fulfill the terms and offer an alternative solution that closely matches the initial term in the endowment agreement.

(d) A charitable organization may obtain a judicial declaration of the rights and duties expressed in an endowment agreement containing donor restrictions as to all of the actions the endowment agreement contemplates, including, but not limited to, the interpretation, performance, or enforcement of the agreement, and a determination of its validity. The charitable organization shall seek a judicial declaration in any suit brought under this section, or by filing a complaint.

(e) If the court determines that a charitable organization violated a donor-imposed restriction in an endowment agreement, the court may order one or more remedies consistent with the charitable purposes expressed in the endowment agreement. The court may not order the return of donated funds to the donor or the donor's legal representative.

(f) This act does not affect the authority of the Attorney General to enforce any restriction in an endowment agreement; limit the application of the judicial power of cy pres; or alter the right of an institution to modify a restriction on the management, investment, purpose, or use of an endowment fund in a manner permitted by the endowment agreement and by the Florida Uniform Prudent Management of Institutional Funds Act created in s. 617.2104.

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146 (4) SEVERABILITY.—If any provision of this section or its
147 application to any person or circumstance is held invalid, the
148 invalidity does not affect other provisions or applications of
149 the section which can be given effect without the invalid
150 provision or application, and to this end the provisions of this
151 section are declared severable.

152 Section 2. Section 496.433, Florida Statutes, is created to
153 read:

154 496.433 Charity Protection Act.—

155 (1) LEGISLATIVE FINDINGS.—The Legislature finds that it is
156 necessary to minimize burdens on the charitable sector and to
157 create a grantmaking environment centered on effectiveness and
158 fiscal impact on charitable organizations.

159 (2) PROTECTIONS AFFORDED.—

160 (a) Except where specifically required or authorized by
161 federal law, a state agency or state official may not impose any
162 annual filing or reporting requirements on an organization
163 regulated or specifically exempted from regulation under this
164 chapter which are more burdensome than the requirements
165 authorized by Florida law.

166 (b) This subsection does not apply to state grants or
167 contracts or to fraud investigations.

168 (c) This subsection does not restrict enforcement actions
169 against specific nonprofit organizations.

170 Section 3. This act shall take effect July 1, 2026.