

By the Committee on Rules; and Senator Burton

595-02952-26

20261338c1

1 A bill to be entitled
2 An act relating to charitable giving; creating s.
3 496.432, F.S.; providing legislative findings;
4 defining terms; prohibiting a charitable organization
5 that accepts a contribution pursuant to a written
6 donor-imposed restriction from violating the terms of
7 that restriction; authorizing a donor, or a donor's
8 legal representative, to file a complaint within a
9 specified timeframe if a charitable organization
10 violates a donor-imposed restriction contained in an
11 endowment agreement; specifying the venue where the
12 complaint may be filed; providing that the complaint
13 may be filed regardless of whether the endowment
14 agreement expressly reserves a right to sue or enforce
15 the agreement; providing an exception; prohibiting a
16 donor or donor representative from seeking a judgment
17 awarding damages; authorizing such a donor or donor
18 representative to seek a refund of all or a portion of
19 the donated funds under certain circumstances;
20 requiring a charitable organization to notify a donor,
21 or a donor's legal representative, if it cannot
22 fulfill a term in the endowment agreement and offer
23 the donor, or the donor's legal representative, an
24 alternative solution that closely matches the initial
25 term in such endowment agreement; providing an
26 exception; authorizing a charitable organization to
27 obtain a judicial declaration of the rights and duties
28 expressed in an endowment agreement; authorizing the
29 charitable organization to seek a judicial declaration

595-02952-26

20261338c1

30 in any suit brought under the act or by filing a
31 complaint; authorizing a court to order one or more
32 remedies consistent with the charitable purposes
33 expressed in the endowment agreement if the court
34 determines that a charitable organization violated a
35 donor-imposed restriction in the endowment agreement;
36 prohibiting the court from ordering the return of the
37 donated funds to the donor or the donor's legal
38 representative; providing an exception; providing
39 construction; providing severability; creating s.
40 496.433, F.S.; providing legislative findings;
41 prohibiting a state agency or a state official from
42 imposing any annual filing or reporting requirements
43 on certain organizations regulated or exempted from
44 regulation under ch. 496, F.S., which are more
45 burdensome than the requirements authorized by state
46 law; providing applicability and construction;
47 providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Section 496.432, Florida Statutes, is created to
52 read:

53 496.432 Safeguarding Endowment Gifts Act.—

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

595-02952-26

20261338c1

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

60 (a) "Charitable organization" means an organization
61 organized and operated exclusively for religious, charitable,
62 scientific, literary, educational, testing for public safety, or
63 other specified purposes and that is tax exempt from federal
64 income tax as an entity described in s. 501(c)(3) of the
65 Internal Revenue Code.

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

71 (c) "Donor-imposed restriction" means a written statement
72 within an endowment agreement which specifies restrictions or
73 conditions on the management, investment, purpose, or use of
74 endowment funds.

75 (d) "Endowment agreement" means a written agreement between
76 a charitable organization and a donor regarding the contribution
77 made by the donor to an existing endowment fund or a new
78 endowment fund of a charitable organization, which agreement may
79 include donor-imposed restrictions.

80 (e) "Endowment fund" means a fund held exclusively for a
81 charitable purpose, other than program-related assets, or part
82 thereof which, under the terms of a gift instrument, is not
83 wholly expendable by the charitable organization on a current
84 basis. The term does not include assets that a charitable
85 organization designates as an endowment fund for its own use.

86 (f) "Gift instrument" means a record or records, including
87 a charitable solicitation, under which property is granted to,

595-02952-26

20261338c1

88 transferred to, or held by a charitable organization as a fund
89 held exclusively by a charitable purpose, other than program-
90 related assets.

91 (g) "Legal representative" means the administrator or
92 personal representative of a person's estate, or a person
93 designated in an endowment agreement, whether or not born at the
94 time of such designation, to act in place of a party to the
95 agreement for all matters expressed in the agreement and all of
96 the actions it contemplates, including, but not limited to,
97 interpreting, performing, and enforcing the agreement and
98 defending its validity.

99 (h) "Property" means real property, tangible or intangible
100 personal property, or any other asset.

101 (3) PROTECTIONS AFFORDED.—

102 (a) Except where specifically required or authorized by
103 federal or state law, a charitable organization that accepts a
104 contribution pursuant to a written donor-imposed restriction may
105 not violate the terms of that restriction.

106 (b) If a charitable organization violates a donor-imposed
107 restriction contained in an endowment agreement, the donor, or
108 the donor's legal representative, 90 days after notifying the
109 charitable organization of the breach, may file a complaint
110 within 5 years after discovery for breach of such agreement. The
111 complaint may be filed in the circuit court where a charitable
112 organization's principal office is or was last located or, if
113 none, where its registered office is or was last located. The
114 complaint may be filed regardless of whether the endowment
115 agreement expressly reserves a right to sue or enforce the
116 agreement, unless other language in the endowment agreement

595-02952-26

20261338c1

117 expressly waives this right. The complaint may not seek a
118 judgment awarding damages to the donor or donor representative,
119 but it may seek a refund of all or a portion of the donated
120 funds if the donor expressly reserved a right to a refund in the
121 endowment agreement.

122 (c) If a charitable organization determines in accordance
123 with its internal policies that it is unable to fulfill a term
124 in the endowment agreement, the charitable organization must
125 notify the donor, or the donor's legal representative, within
126 120 days after such determination that it is unable to fulfill
127 the terms and must offer an alternative solution that closely
128 matches the initial term in the endowment agreement, unless
129 other language in the endowment agreement limits this
130 requirement.

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

139 (e) If the court determines that a charitable organization
140 violated a donor-imposed restriction in an endowment agreement,
141 the court may order one or more remedies consistent with the
142 charitable purposes expressed in the endowment agreement. The
143 court may not order the return of donated funds to the donor or
144 the donor's legal representative unless a right to a refund is
145 expressly reserved by the donor in the endowment agreement.

595-02952-26

20261338c1

146 (f) This act does not affect the authority of the Attorney
147 General to enforce any restriction in an endowment agreement;
148 limit the application of the judicial power of cy pres; or alter
149 the right of a charitable organization to modify a restriction
150 on the management, investment, purpose, or use of an endowment
151 fund in a manner expressly permitted by the donor in the
152 endowment agreement or in a manner permitted by the Florida
153 Uniform Prudent Management of Institutional Funds Act created in
154 s. 617.2104.

155 (4) SEVERABILITY.—If any provision of this section or its
156 application to any person or circumstance is held invalid, the
157 invalidity does not affect other provisions or applications of
158 the section which can be given effect without the invalid
159 provision or application, and to this end the provisions of this
160 section are declared severable.

161 Section 2. Section 496.433, Florida Statutes, is created to
162 read:

163 496.433 Charity Protection Act.—

164 (1) LEGISLATIVE FINDINGS.—The Legislature finds that it is
165 necessary to minimize burdens on the charitable sector and to
166 create a grantmaking environment centered on effectiveness and
167 fiscal impact on charitable organizations.

168 (2) PROTECTIONS AFFORDED.—

169 (a) Except where specifically required or authorized by
170 federal law, a state agency or state official may not impose any
171 annual filing or reporting requirements on an organization
172 regulated or specifically exempted from regulation under this
173 chapter which are more burdensome than the requirements
174 authorized by Florida law.

595-02952-26

20261338c1

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

177 (c) This subsection does not restrict enforcement actions
178 against specific nonprofit organizations.

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