

SECOND REGULAR SESSION

HOUSE BILL NO. 1924

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REUTER.

3980H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 461, RSMo, by adding thereto one new section relating to charitable organizations as named beneficiaries.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 461, RSMo, is amended by adding thereto one new section, to be known as section 461.900, to read as follows:

461.900. 1. This section shall be known and may be cited as the "Charitable Organizations Privacy Protection Act".

2. For purposes of this section, the following terms mean:

(1) "Beneficiary designation", a provision in an instrument designating a beneficiary, other than in a will or an instrument creating a trust, and may also mean the instrument itself including, but not limited to, the following:

(a) An annuity or insurance policy;

(b) An account with a designation for payment on death;

(c) A security registered in beneficiary form;

(d) A pension, profit-sharing, retirement, or other employment-related benefit plan; and

(e) Any other nonprobate transfer at death;

(2) "Charitable organization", an organization with a charitable purpose that does business in this state or holds property in this state and is described in section 501(c)(3) of the Internal Revenue Code as being exempt from taxation under section 501(a) of the Internal Revenue Code;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (3) "Charitable purpose", a purpose described in section 501(c)(3) of the
18 Internal Revenue Code, or a benevolent, educational, philanthropic, humane, scientific,
19 patriotic, social welfare or advocacy, public health, environmental conservation, civic,
20 or other eleemosynary objective.

21 3. If a charitable organization is a beneficiary of an interest in property created
22 by beneficiary designation, the charitable organization may present an affidavit to the
23 holder of the property or to any person with information about the property for the
24 purpose of obtaining the property or information regarding the property. The affidavit
25 shall state the following:

26 (1) The decedent's name and last known address;

27 (2) A general description of the property to the extent known;

28 (3) The charitable organization's name, address, and primary contact
29 information;

30 (4) That the charitable organization is a charitable organization as defined in
31 this section;

32 (5) A request that the property be paid or transferred to the charitable
33 organization or that information about the property be given to the charitable
34 organization;

35 (6) That no one other than the charitable organization has a right to the interest
36 in the property listed in the affidavit;

37 (7) That the affidavit has been signed by a duly authorized representative of the
38 charitable organization under penalty of perjury before a notary public as provided in
39 chapter 486; and

40 (8) That the information in the affidavit is true and correct.

41 4. The affidavit shall be accompanied by the following:

42 (1) A copy of the charitable organization's determination letter from the
43 Internal Revenue Service recognizing its tax-exempt status;

44 (2) A copy of the charitable organization's certificate of good standing issued by
45 the secretary of state as conclusive evidence that the domestic or foreign corporation is
46 in good standing;

47 (3) A statement that on information or belief of the affiant, the property owner is
48 deceased supported by a death certificate of the decedent, or probate notice published
49 by the personal representative of the decedent's estate, or proof of payment of the
50 decedent's funeral expenses, or the decedent's obituary as verification of the decedent's
51 death;

52 (4) A corporate resolution or similar statement of authority of the affiant to act
53 on behalf of the charitable organization; and

54 **(5) Federal Internal Revenue Service form W-9 completed by an authorized**
55 **representative of the charitable organization.**

56 **5. The holder of the property shall not request any additional personal**
57 **information from any individual employed by or serving on the board of the charitable**
58 **organization including, but not limited to, the following:**

59 **(1) Social security number or driver's license number;**

60 **(2) Contact information; or**

61 **(3) Personal financial information.**

62 **6. If the requirements of subsections 3 and 4 of this section are satisfied, the**
63 **following apply:**

64 **(1) The decedent's property shall be paid, delivered, or transferred to or for the**
65 **benefit of the charitable organization if the affidavit has requested the transfer of**
66 **ownership of the property to the charitable organization;**

67 **(2) A transfer agent of a security described in the affidavit shall change**
68 **registered ownership on the books of the corporation from the decedent to or for the**
69 **benefit of the charitable organization if the affidavit has requested the transfer of**
70 **ownership of the property to the charitable organization; and**

71 **(3) The information requested in the affidavit shall be delivered to the**
72 **organization.**

73 **7. The holder of the property and any person who in good faith delivers the**
74 **property or information requested in reliance on information a charitable organization**
75 **provides under this section, who has no knowledge that representations contained in the**
76 **affidavit are incorrect, shall not be liable to any person for so acting and may assume**
77 **without inquiry the existence of the facts contained in the affidavit. The time to verify a**
78 **charitable organization's authority shall not exceed thirty days from the date of delivery**
79 **of the affidavit. Any right or title acquired from the charitable organization in**
80 **consideration of the provision of property or information under this section is not**
81 **invalid in consequence of misapplication by the charitable organization. A transaction**
82 **and a lien created by a transaction entered into by the charitable organization and**
83 **anyone acting in reliance on the affidavit under this section is enforceable against the**
84 **property the charitable organization has requested.**

85 **8. If the holder of the property refuses to provide the requested property or**
86 **information within thirty days after receiving the affidavit, the charitable organization**
87 **may bring an action against the holder of the property to recover the property or receive**
88 **the information or to compel the delivery of the property. An action brought under this**
89 **section shall be brought within one year after the date of the act or failure to act. If the**
90 **court finds that the holder of the property acted unreasonably in failing to deliver the**

91 **property or information as requested in the affidavit, the court may award to the**
92 **charitable organization any or all of the following:**

93 **(1) Damages sustained by the charitable organization;**

94 **(2) Costs of the action;**

95 **(3) A penalty in an amount determined by the court between five hundred**
96 **dollars and ten thousand dollars; and**

97 **(4) Reasonable attorney's fees based on the value of the time reasonably**
98 **expended by the charitable organization's attorney.**

✓