

House File 729 - Introduced

HOUSE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 29)

(COMPANION TO SF 320 BY
COMMITTEE ON JUDICIARY)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to charitable trusts by providing for filing
2 documents with the attorney general and providing for the
3 attorney general's investigative authority.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1320HV 83
6 da/sc/5

PAG LIN

1 1 Section 1. NEW SECTION. 633A.5107 FILING REQUIREMENTS.
1 2 1. The provisions of this section apply to the following
1 3 charitable trusts administered in this state with assets in
1 4 excess of twenty-five thousand dollars:
1 5 a. A nonprofit entity as defined in section 501(c)(3) of
1 6 the Internal Revenue Code, as defined in section 422.3.
1 7 b. A charitable remainder trust as defined in section
1 8 664(d) of the Internal Revenue Code, as defined in section
1 9 422.3.
1 10 c. A charitable lead trust as defined in sections
1 11 2055(e)(2)(b) and 2522(c)(2)(b) of the Internal Revenue Code,
1 12 as defined in section 422.3.
1 13 2. a. Within sixty days from the creation of a charitable
1 14 trust, as described in subsection 1, the trustee shall
1 15 register the charitable trust with the attorney general. The
1 16 trustee shall register the charitable trust on a form provided
1 17 by the attorney general. The trustee shall also submit a copy
1 18 of the trust instrument to the attorney general as required by
1 19 the attorney general.
1 20 b. The trustee of a charitable trust, as described in
1 21 subsection 1, shall annually file a copy of the charitable
1 22 trust's annual report with the attorney general. The annual
1 23 report may be the same report submitted to the persons
1 24 specified in section 633A.4213, the charitable trust's most
1 25 recent annual federal tax filings, or an annual report
1 26 completed on a form provided by the attorney general.
1 27 c. The attorney general may require that documents be
1 28 filed electronically, including forms, trust instruments, and
1 29 reports. In addition, the attorney general may require the
1 30 use of electronic signatures as defined in section 554D.103.
1 31 3. Any document provided to the office of the attorney
1 32 general in connection with a charitable remainder trust or a
1 33 charitable lead trust, as described in subsection 1, shall not
1 34 be considered a public record pursuant to chapter 22. The
1 35 attorney general shall keep the identities and interest of the
2 1 noncharitable beneficiaries confidential except to the extent
2 2 that disclosure is required by a court.
2 3 4. The attorney general is authorized to adopt
2 4 administrative rules in accordance with the provisions of
2 5 chapter 17A for the administration and enforcement of this
2 6 chapter.
2 7 5. For a charitable trust described in subsection 1,
2 8 created prior to the effective date of this Act and still in
2 9 existence, the trustee shall register the trust with and
2 10 submit a current copy of the trust instrument and financial
2 11 report to the attorney general not later than one hundred
2 12 thirty-five days after the close of the trust's next fiscal
2 13 year following the effective date of this Act. The trustee
2 14 shall comply with the remainder of this Act as if the

2 15 charitable trust were created on or after the effective date
2 16 of this Act.

2 17 Sec. 2. NEW SECTION. 633A.5108 ROLE OF THE ATTORNEY
2 18 GENERAL.

2 19 The attorney general may investigate a charitable trust to
2 20 determine whether the charitable trust is being administered
2 21 in accordance with law and the terms and purposes of the
2 22 trust. The attorney general may apply to a district court for
2 23 such orders that are reasonable and necessary to carry out the
2 24 terms and purposes of the trust and to ensure the trust is
2 25 being administered in accordance with applicable law.
2 26 Limitation of action provisions contained in section 633A.4504
2 27 apply.

2 28 Sec. 3. Section 633.303, Code 2009, is repealed.

2 29 EXPLANATION

2 30 This bill amends Code chapter 633A, the "Iowa Trust Code",
2 31 and specifically subchapter V which governs charitable trusts,
2 32 created for beneficial purposes (the relief of poverty, the
2 33 advancement of education or religion, or the promotion of
2 34 health).

2 35 A trust may be created by a settlor who transfers property
3 1 to the trust which is administered by a trustee on behalf of a
3 2 beneficiary. A settlor may create a trust using a number of
3 3 methods including by executing a trust instrument during the
3 4 settlor's lifetime or a will that takes effect upon the
3 5 settlor's death (see Code section 633A.2101).

3 6 The bill provides that within a time certain after the
3 7 creation of a charitable trust, the trustee must register the
3 8 trust with and submit a copy of the trust instrument to the
3 9 attorney general. In addition, the trustee must annually file
3 10 an annual report with the attorney general. Documents filed
3 11 with the general assembly are confidential. The bill also
3 12 authorizes the attorney general to investigate a charitable
3 13 trust to determine whether it is administered in accordance
3 14 with the law and the terms and purposes of the trust and to
3 15 bring legal action if necessary.

3 16 The bill provides that within 135 days after the effective
3 17 date of the bill, the trustee of a charitable trust created
3 18 prior to the effective date of the bill must comply with the
3 19 registration requirements applicable to charitable trusts
3 20 created on and after that date.

3 21 The bill eliminates a provision in Code chapter 633, the
3 22 "Iowa Trust Code", which provides that when a will creating a
3 23 charitable trust has been admitted to probate, the clerk of
3 24 court must mail a copy of the will to the attorney general,
3 25 and authorizes the attorney general to conduct an
3 26 investigation to determine whether the trust is being properly
3 27 administered and to bring any necessary action in court to
3 28 ensure compliance.

3 29 LSB 1320HV 83

3 30 da/sc/5