

Senate Study Bill 1026

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY
GENERAL BILL)

Passed Senate, Date _____ Passed House, 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.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1320DP 83
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1 1 Section 1. NEW SECTION. 633A.5107 FILING REQUIREMENTS.
1 2 1. This section applies to a charitable trust in which one
1 3 or more charitable purposes or beneficiaries has a
1 4 noncontingent vested interest.
1 5 2. a. Within sixty days from the creation of a charitable
1 6 trust, the trustee shall register the trust with the attorney
1 7 general. The trustee shall register the charitable trust on a
1 8 form provided by the attorney general. The trustee shall also
1 9 submit a copy of the trust instrument to the attorney general
1 10 as required by the attorney general.
1 11 b. The trustee of a charitable trust shall annually file a
1 12 copy of the trust's annual report with the attorney general.
1 13 The annual report may be the same report submitted to the
1 14 persons specified in section 633A.4213 or an annual report
1 15 completed on a form provided by the attorney general.
1 16 c. The attorney general may require that documents be
1 17 filed electronically, including forms, trust instruments, and
1 18 reports. In addition, the attorney general may require the
1 19 use of electronic signatures as defined in section 554D.103.
1 20 3. At any time, the attorney general may investigate a
1 21 charitable trust to determine whether or not the charitable
1 22 trust is being administered in accordance with law and the
1 23 terms and purposes of the trust. The attorney general may, at
1 24 any time, make application to the court for such orders that
1 25 are reasonable to carry out the terms and purposes of the
1 26 trust.
1 27 Sec. 2. PRIOR EXISTING CHARITABLE TRUSTS. Not later than
1 28 sixty days after the effective date of this Act, the trustee
1 29 of a charitable trust created prior to the effective date of
1 30 this Act and still in existence shall register the trust with
1 31 and submit a current copy of the trust instrument to the
1 32 attorney general. The trustee shall comply with the remainder
1 33 of this Act as if the charitable trust were created on or
1 34 after the effective date of this Act.
1 35 Sec. 3. Section 633.303, Code 2009, is repealed.

2 1 EXPLANATION
2 2 This bill amends Code chapter 633A, the "Iowa Trust Code",
2 3 and specifically subchapter V which governs charitable trusts,
2 4 created for beneficial purposes (the relief of poverty, the
2 5 advancement of education or religion, or the promotion of
2 6 health).
2 7 A trust may be created by a settlor who transfers property
2 8 to the trust which is administered by a trustee on behalf of a
2 9 beneficiary. A settlor may create a trust using a number of
2 10 methods including by executing a trust instrument during the
2 11 settlor's lifetime or a will that takes effect upon the
2 12 settlor's death (see Code section 633A.2101).
2 13 The bill provides that within a time certain after the
2 14 creation of a charitable trust, the trustee must register the
2 15 trust with and submit a copy of the trust instrument to the
2 16 attorney general. In addition, the trustee must annually file
2 17 an annual report with the attorney general. The attorney
2 18 general may require that the documents be filed
2 19 electronically. The bill also authorizes the attorney general

2 20 to investigate a charitable trust to determine whether it is
2 21 administered in accordance with the law and the terms and
2 22 purposes of the trust and to bring legal action if necessary.
2 23 The bill provides that within 60 days after the effective
2 24 date of the bill, the trustee of a charitable trust created
2 25 prior to the effective date of the bill must comply with the
2 26 registration requirements applicable to charitable trusts
2 27 created on and after that date.

2 28 The bill eliminates a provision in Code chapter 633, the
2 29 "Iowa Trust Code", which provides that when a will creating a
2 30 charitable trust has been admitted to probate, the clerk of
2 31 court must mail a copy of the will to the attorney general,
2 32 and authorizes the attorney general to conduct an
2 33 investigation to determine whether the trust is being properly
2 34 administered and to bring any necessary action in court to
2 35 ensure compliance.

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