

House File 649 - Introduced

HOUSE FILE 649
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 515)

A BILL FOR

1 An Act relating to probate law, including charitable
2 organizations as named beneficiaries.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 633.358 Charitable organization
2 beneficiary affidavit and third-party protection.

3 1. A charitable organization, as defined in section
4 15E.311, may present an affidavit to any person for the purpose
5 of obtaining property, or information regarding property, owned
6 by a decedent for which the charitable organization is a named
7 beneficiary.

8 2. To collect the property owned by the decedent,
9 the charitable organization shall furnish to the person
10 an affidavit under penalty of perjury stating all of the
11 following:

12 a. The decedent's name and last known address.

13 b. A general description of the property of the decedent
14 that is to be paid or transferred to the charitable
15 organization.

16 c. The charitable organization's name, address, and primary
17 contact information.

18 d. A statement requesting that the property to be paid or
19 transferred to the charitable organization.

20 e. Affirmation that the charitable organization's
21 tax-exempt status has not been revoked, modified, or amended
22 in any manner which would cause the representations in the
23 affidavit to be incorrect.

24 f. A statement confirming that no inheritance, income,
25 property, or other taxes are owed to the department of revenue,
26 local governments, or the federal internal revenue service on
27 the property listed in the affidavit.

28 g. A statement that no persons, other than the charitable
29 organization, have a right to the interest in the decedent's
30 property listed in the affidavit.

31 h. A statement that the information in the affidavit is true
32 and correct.

33 3. The affidavit shall be signed by an officer of the
34 charitable organization, sworn and subscribed to under penalty
35 of perjury before a notary, and be accompanied with all of the

1 following:

2 *a.* A photocopy of the charitable organization's tax-exempt
3 status from the federal internal revenue service.

4 *b.* A death certificate of the property owner if the person
5 has not been notified of the decedent's death.

6 *c.* A corporate resolution or similar statement of authority
7 to act on behalf of the organization.

8 *d.* Federal internal revenue service form W-9 completed by
9 the charitable organization.

10 4. A person receiving an affidavit under this section
11 shall not request any additional personal information from
12 any individual employed by, or serving on the board of, such
13 charitable organization, including but not limited to any of
14 the following personal information from any individual:

15 *a.* Social security number.

16 *b.* Contact information.

17 *c.* Financial information.

18 5. If the requirements of this section are satisfied, all
19 of the following apply:

20 *a.* The decedent's property shall be paid, delivered, or
21 transferred to or for the benefit of the successor.

22 *b.* A transfer agent of a security described in the
23 affidavit shall change registered ownership on the books of
24 the corporation from the decedent to or for the benefit of the
25 successor.

26 6. A person who in good faith relies on the property
27 or information a charitable organization provides under
28 this section, who has no knowledge that the representations
29 contained in the affidavit are incorrect, shall not be liable
30 to any person for so acting and may assume without inquiry the
31 existence of the facts contained in the affidavit. The period
32 of time to verify a charitable organization's authority shall
33 not exceed thirty days from the date the person received the
34 affidavit. Any right or title acquired from the charitable
35 organization in consideration of the provision of property or

1 information under this section is not invalid in consequence of
2 misapplication by the charitable organization. A transaction
3 and a lien created by a transaction, entered into by the
4 charitable organization and a person acting in reliance on the
5 affidavit under this section, is enforceable against the assets
6 the charitable organization has requested.

7 7. If a person refuses to provide the requested property
8 or information within thirty days of receiving the affidavit,
9 the charitable organization may bring an action to recover
10 the property or information, or to compel the delivery of
11 the property, against the person to whom the charitable
12 organization presented the affidavit. An action brought under
13 this section must be brought within one year after the date
14 of the act or failure to act. If the court finds that the
15 person acted unreasonably in failing to deliver the property or
16 information as requested in the affidavit, the court may award
17 to the charitable organization any of the following:

18 a. Damages sustained.

19 b. Costs of the action.

20 c. A penalty in an amount determined by the court between
21 five hundred dollars and ten thousand dollars.

22 d. Reasonable attorney fees based on the value of the time
23 reasonably expended by the attorney and not by the amount of
24 the recovery on behalf of the charitable organization.

25 8. This section does not limit or change the rights of
26 beneficiaries, heirs, or creditors to estate property to which
27 they are otherwise entitled.

28 EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill relates to probate law regarding charitable
32 organizations named as beneficiaries of an estate. The bill
33 allows a charitable organization to present an affidavit
34 to any person for the purpose of obtaining property, or
35 information regarding property, owned by a decedent for which

1 the charitable organization is a named beneficiary. The bill
2 provides the representations and requirements of the affidavit
3 presented. The bill prohibits a person from requesting any
4 additional personal information of an individual employed by,
5 or serving on the board of, such charitable organization.

6 The bill provides that upon completion of the bill's
7 requirements, the charitable organization shall receive the
8 decedent's property as the beneficiary and a transfer agent of
9 a security described in the affidavit shall change registered
10 ownership on the books of the corporation from the decedent to
11 or for the benefit of the successor. The bill provides that
12 a person in good faith that relies upon and has no knowledge
13 that the representations in the affidavit are incorrect shall
14 not be liable to any person for so acting in reliance of the
15 affidavit. The person who received the request has 30 days to
16 verify the affidavit and provide the information or requested
17 property to the charitable organization. Upon failing to do
18 so the charitable organization may bring an action to recover
19 the property, information, or to compel the delivery of the
20 property against the person to whom the charitable organization
21 presented the affidavit. The bill allows an action to be
22 brought within one year after the date of the act or failure
23 to act. If the charitable organization prevails in the court
24 action, the court may also award damages sustained, costs of
25 the action, a penalty determined by the court of not less than
26 \$500 and not more than \$10,000, and reasonable attorney fees.