HOUSE BILL

58TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2027

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CHARITABLE ORGANIZATIONS; ENACTING THE CHARITABLE ORGANIZATION PRIVACY PROTECTION ACT; SPECIFYING AFFIDAVIT REQUIREMENTS FOR CHARITABLE ORGANIZATIONS DESIGNATED AS BENEFICIARIES; PROHIBITING REQUESTS FOR PERSONAL INFORMATION OF EMPLOYEES OR BOARD MEMBERS OF CHARITABLE ORGANIZATIONS DESIGNATED AS BENEFICIARIES; PROVIDING A CAUSE OF ACTION WHEN INFORMATION REQUESTED IS NOT RECEIVED WITHIN THIRTY DAYS OF PRESENTING AN AFFIDAVIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Charitable Organization Privacy Protection Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Charitable Organization Privacy Protection Act:

A. "beneficiary designation":

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(1) means a provision in an instrument designating a beneficiary;

(2) includes a provision contained within:

(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; or

(e) another nonprobate transfer at death; and

(3) does not include a provision contained within:

(a) a will; or

(b) an instrument creating a trust;

B. "charitable organization":

(1) means:

(a) a person determined by the federal internal revenue service to be a tax-exempt organization pursuant to Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended; or

(b) a person that: 1) holds the person's self out to be a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or other

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eleemosynary organization; or 2) solicits or obtains contributions solicited from the public for charitable purposes;

(2) includes a chapter, branch, area, office or similar affiliate or person soliciting contributions within the state for a charitable organization that has its principal place of business outside the state; and

(3) does not include a person who solicits, by authority of the organization, solely on behalf of a registered or exempt organization or on behalf of an organization excluded from the definition of "charitable organization";

C. "charitable purpose" means:

(1) a purpose described in Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended; or

(2) a purpose to achieve a benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic or other eleemosynary objective; and

D. "personal information" includes:

(1) social security number;

(2) driver's license number;

(3) contact information;

(4) personal financial information;

(5) date of birth;

(6) passport number;

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(7) criminal background check;

(8) marital status;

(9) description of number of dependents; and

(10) spouse's maiden name.

SECTION 3. [NEW MATERIAL] NOTICE TO CHARITABLE ORGANIZATIONS--AFFIDAVIT AND INFORMATION REQUIREMENTS.--

A. If a person holding property that has a beneficiary designation has been notified of the death of the property owner, the property holder shall:

(1) provide notice within ten business days of receiving notification of the death of the property owner to each charitable organization designated as a beneficiary indicating that the charitable organization may be entitled to all or a portion of the property; and

(2) provide the charitable organization with the contact information of the property holder.

B. A charitable organization designated as a beneficiary that receives a notice from a property holder may present an affidavit to the property holder or another person with information about the property to obtain the property or seek information about the property.

C. In addition to an affidavit, a charitable organization shall present to the property holder:

(1) the property owner's name and last known address;

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

(3) a written statement indicating that upon information or belief of the affiant, the property owner is deceased;

(4) the death certificate of the property owner, probate notice published by the personal representative of the estate of the property owner, proof of payment of the property owner's funeral expenses or the property owner's obituary;

(5) the charitable organization's name, address and primary contact information;

(6) a copy of the charitable organization's determination letter from the federal internal revenue service recognizing the charitable organization's Section 501(c)(3) tax-exempt status;

(7) a copy of the charitable organization's certificate of existence issued by the secretary of state;

(8) a corporate resolution or similar statement of the authority of the affiant to act on behalf of the charitable organization;

(9) a federal internal revenue service Form W-9 completed by an authorized representative of the charitable organization;

(10) a written request that the property be

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paid or transferred to the charitable organization or that information about the property be given to the charitable organization; and

(11) a signature on the affidavit by an authorized representative of the charitable organization under penalty of perjury before a notary public.

SECTION 4. [NEW MATERIAL] PROHIBITED CONDUCT.--A property holder shall not:

A. require a charitable organization to open an account or engage as a customer of the property holder;

B. require other beneficiaries to submit claims simultaneously or impose coordination deadlines among beneficiaries;

C. delay payment to a beneficiary if other beneficiaries have not submitted documentation required pursuant to the Charitable Organization Privacy Protection Act; or

D. request personal information from an individual employed by or serving on the board of the charitable organization.

SECTION 5. [NEW MATERIAL] TRANSFER OF PROPERTY OR RELEASE OF INFORMATION.--If the requirements enumerated in Subsections B and C of Section 3 of the Charitable Organization Privacy Protection Act are met:

A. property that is subject of an affidavit

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presented in accordance with the Charitable Organization Privacy Protection Act shall be transferred to the charitable organization;

B. ownership of a security described in an affidavit shall be transferred to the charitable organization; or

C. information requested in the affidavit shall be delivered to the charitable organization.

SECTION 6. [NEW MATERIAL] VERIFICATION DEADLINE.--A property holder that receives an affidavit from a charitable organization in accordance with the Charitable Organization Privacy Protection Act may verify the charitable organization's legitimacy; provided that the time to verify shall not exceed thirty days from the date the affidavit is delivered.

SECTION 7. [NEW MATERIAL] PROPERTY HOLDER LIABILITY.--A person that has no knowledge that representations contained in an affidavit are incorrect that delivers property or information in accordance with the Charitable Organization Privacy Protection Act in good faith and in reliance on the information provided with the affidavit is not liable for assuming that the representations are correct without inquiry.

SECTION 8. [NEW MATERIAL] ENFORCEMENT.--

A. If a person fails to provide property or information requested in an affidavit presented in accordance with the Charitable Organization Privacy Protection Act within

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thirty days after receiving the affidavit, the charitable organization may bring a court action against the property holder to compel delivery of the property or information. The action shall be brought within one year after the date on which the thirty-day period prescribed by this section expires.

B. If the court finds that a property holder acted unreasonably in failing to deliver the property or information requested, the court may award the charitable organization any of the following:

(1) actual damages;

(2) court costs and fees;

(3) monetary damages not to exceed ten thousand dollars ($10,000); and

(4) reasonable attorney fees.

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