

SECOND REGULAR SESSION

SENATE BILL NO. 1457

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

6356S.01I

KRISTINA MARTIN, Secretary

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
2 one new section, to be known as section 461.900, to read as
3 follows:

461.900. 1. For purposes of this section, the

2 **following terms mean:**

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

8 (a) **An annuity or insurance policy;**

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

10 (c) **A security registered in beneficiary form;**

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

13 (e) **Any other nonprobate transfer at death;**

14 (2) **"Charitable organization"**, an organization with a
15 charitable purpose that does business in this state or holds
16 property in this state and is described in Section 501(c) (3)
17 of the Internal Revenue Code of 1986, as amended, as being

18 exempt from taxation under Section 501(a) of the Internal
19 Revenue Code of 1986, as amended;

20 (3) "Charitable purpose", a purpose described in
21 Section 501(c) (3) of the Internal Revenue Code of 1986, as
22 amended, or a benevolent, educational, philanthropic,
23 humane, scientific, patriotic, social welfare or advocacy,
24 public health, environmental conservation, civic, or other
25 eleemosynary objective.

26 2. If a charitable organization is a beneficiary of an
27 interest in property created by beneficiary designation, the
28 charitable organization may present an affidavit to the
29 holder of the property or to any person with information
30 about the property for the purpose of obtaining the property
31 or information regarding the property. The affidavit shall
32 state the following:

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

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

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

38 (4) That the charitable organization is a charitable
39 organization as defined in this section;

40 (5) A request that the property be paid or transferred
41 to the charitable organization or that information about the
42 property be given to the charitable organization;

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

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

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

52 3. The affidavit shall be accompanied by the following:

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

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

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

69 (5) Federal Internal Revenue Service Form W-9
70 completed by an authorized representative of the charitable
71 organization.

72 4. The holder of the property shall not request any
73 additional personal information from any individual employed
74 by or serving on the board of the charitable organization
75 including, but not limited to, the following:

76 (1) Social security number or driver's license number;
77 (2) Contact information; or
78 (3) Personal financial information.

79 5. If the requirements of subsections 3 and 4 of this
80 section are satisfied, the following apply:

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

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

(3) The information requested in the affidavit shall be delivered to the charitable organization.

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

7. If the holder of the property refuses to provide the requested property or information within thirty days

113 after receiving the affidavit, the charitable organization
114 may bring an action against the holder of the property to
115 recover the property or receive the information or to compel
116 the delivery of the property. An action brought under this
117 section shall be brought within one year after the date of
118 the act or failure to act. If the court finds that the
119 holder of the property acted unreasonably in failing to
120 deliver the property or information as requested in the
121 affidavit, the court may award to the charitable
122 organization any or all of the following:

123 (1) Damages sustained by the charitable organization;
124 (2) Costs of the action;
125 (3) A penalty in an amount determined by the court
126 between five hundred dollars and ten thousand dollars; and
127 (4) Reasonable attorney's fees based on the value of
128 the time reasonably expended by the charitable
129 organization's attorney and not by the amount of the
130 recovery on behalf of the charitable organization.

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