

SENATE BILL NO. 134

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE SAFEGUARDING ENDOWMENT GIFTS ACT;
PROVIDING DEFINITIONS; PROVIDING PROTECTIONS AFFORDED TO ENDOWMENTS AND GIFTS TO
CERTAIN ENTITIES; PROVIDING REQUIREMENTS FOR CERTAIN ENTITIES RELATING TO
ENDOWMENTS AND GIFTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 3] may be cited as the
"Safeguarding Endowment Gifts Act".

(2) [Sections 1 through 3] are necessary to provide legal recourse to individual charitable donors
when their giving restrictions are not followed by a recipient charitable organization according to an endowment
agreement.

NEW SECTION. Section 2. Definitions. For the purposes of [sections 1 through 3], the following
definitions apply:

(1) "Charitable organization" means an organization arranged and operated exclusively for
religious, charitable, scientific, literary, educational, or other specified purposes or for testing for public safety
and that has a tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code,
26 U.S.C. 501(c)(3).

(2) "Donor" means an individual or entity who has made a contribution of property or money to
either an existing endowment fund or a new endowment fund of a charitable organization or of a charitable trust
pursuant to the terms of an endowment agreement that may include donor-imposed restrictions ~~or other~~
~~conditions~~ governing the use of the contribution.

(3) "Donor-imposed restriction" means a written statement within an endowment agreement that

specifies obligations on the management or purpose of the endowment fund.

(4) "Endowment agreement" means a written agreement between a charitable organization and a donor or a charitable trust and a donor regarding the contribution made by the donor and accepted by the charitable organization or the charitable trust that may include donor-imposed restrictions ~~or other conditions~~ governing the use of the contribution.

(5) (a) "Endowment fund" means an institutional fund or part of an institutional fund that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis.

(b) The term does not include assets that an institution designates as an endowment fund for its own use.

(6) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(7) "Legal representative" means the administrator or executor of a person's estate, IF MADE KNOWN BY THE DONOR TO THE CHARITABLE ORGANIZATION, a surviving spouse if a court judgment has settled the accounts of the estate, or a person designated in an endowment agreement, ~~whether or not the person has been born at the time of the designation~~, to act in place of a party to the agreement for all matters expressed in the agreement and all of the actions the agreement contemplates, including without limitation interpreting, performing, and enforcing the agreement and defending its validity.

(8) "Property" means real property, personal property or money, cryptocurrency, stocks, bonds, or any other asset or financial instrument.

NEW SECTION. Section 3. Protections afforded. (1) Except where specifically required or authorized by federal or state law, a charitable organization that accepts a contribution pursuant to a written donor-imposed restriction may not violate the terms of that restriction without potential penalty.

(2) If a charitable organization violates a donor-imposed restriction contained in an endowment agreement, the donor or that person's legal representative, 90 days after WRITTEN notification IS PROVIDED to the charitable organization AT THE ORGANIZATION'S ADDRESS OF RECORD, may file a complaint within ~~6~~ 3 years after discovery for breach of the endowment agreement. The complaint may be filed in a court of general jurisdiction in the county where a charitable organization named as a party has its principal office or principal place of