

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0126.01 Richard Sweetman x4333

SENATE BILL 26-118

SENATE SPONSORSHIP

Coleman and Simpson,

HOUSE SPONSORSHIP

Clifford,

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE PAYMENT OF DESIGNATED BENEFITS TO A**
102 **CHARITABLE ORGANIZATION UPON THE DEATH OF A DONOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires a bank, broker-dealer, depository institution, credit union, or financial or institutional investor (covered entity) that holds benefits that are designated by a donor to a charitable organization to pay the designated benefits not later than 60 calendar days after the charitable organization submits an affidavit attesting to the death of the donor and including certain other information, except as described in

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

federal law. If a covered entity that holds designated benefits is unable to pay the designated benefits to a charitable organization because federal law requires the covered entity to take certain actions or satisfy certain criteria in order to pay the designated benefits, the covered entity must take such actions or satisfy the criteria and comply with the bill not less than 120 days after the charitable organization submits the affidavit to the covered entity.

If a charitable organization receives designated benefits that concern a creditor claim, statutory allowance, or elective-share or supplemental elective-share claim (outstanding claim) for which the charitable organization may be liable, the charitable organization must return to the donor's estate a portion or all of the designated benefits in order to satisfy the outstanding claim within 60 days after receiving written notice of the liability, with certain exceptions. If the charitable organization fails to comply, it must pay statutory interest to the donor's estate for each day the unreturned amount remains outstanding. Upon receiving notice of the outstanding claim from the personal representative of the donor's estate, the charitable organization must hold all or a portion of the designated benefits in a constructive trust pending a determination of the outstanding claim. Moreover, the charitable organization may be subject to one or more court actions.

A covered entity that holds benefits that are designated to a charitable organization shall not:

- Require the charitable organization to establish an account with the covered entity as a condition of receiving the designated benefits; or
- Require an individual employed by, or serving on the board of, the charitable organization to submit personal information as a condition of receiving designated benefits.

The bill may be enforced by the division of banking, the financial services board, or the division of securities, as appropriate.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 15-15-104 as
3 follows:

4 **15-15-104. Payment of designated benefits to charitable**
5 **organizations - timeline - affidavits - conditional requirements**
6 **prohibited - enforcement - definitions.**

7 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

1 REQUIRES:

2 (a) "BENEFITS" MEANS:

3 (I) PROCEEDS PAYABLE UPON DEATH PURSUANT TO AN ANNUITY
4 OR INSURANCE POLICY;

5 (II) A SAVINGS OR CHECKING ACCOUNT WITH A
6 PAYABLE-UPON-DEATH DESIGNATION;

7 (III) A SECURITY REGISTERED IN BENEFICIARY FORM WITH A
8 PAYABLE-UPON-DEATH DESIGNATION; OR

9 (IV) PROCEEDS PAYABLE UPON DEATH PURSUANT TO A PENSION OR
10 A PROFIT-SHARING, A RETIREMENT, OR OTHER EMPLOYMENT-RELATED
11 BENEFIT PLAN.

12 (b) "CHARITABLE ORGANIZATION" HAS THE MEANING SET FORTH
13 IN SECTION 39-26-102 (2.5).

14 (c) "COVERED ENTITY" MEANS:

15 (I) A BANK, AS DEFINED IN SECTION 11-51-201 (1);

16 (II) A BROKER-DEALER, AS DEFINED IN SECTION 11-51-201 (2);

17 (III) A DEPOSITORY INSTITUTION, AS DEFINED IN SECTION
18 11-51-201 (5);

19 (IV) A CREDIT UNION, AS DEFINED IN SECTION 11-30-101 (1)(a);

20 OR

21 (V) A FINANCIAL OR INSTITUTIONAL INVESTOR, AS DEFINED IN
22 SECTION 11-51-201 (6).

23 (d) "DESIGNATED BENEFITS" MEANS BENEFITS THAT ARE
24 DESIGNATED TO BE TRANSFERRED TO A CHARITABLE ORGANIZATION UPON
25 THE DEATH OF AN INDIVIDUAL.

26 (e) "IRS" MEANS THE FEDERAL INTERNAL REVENUE SERVICE.

27 (2) (a) UNLESS A COURT HAS ORDERED OTHERWISE, AND EXCEPT

1 AS MAY BE PROVIDED OTHERWISE BY FEDERAL LAW AND BY SUBSECTION
2 (2)(c) OF THIS SECTION, A COVERED ENTITY THAT HOLDS DESIGNATED
3 BENEFITS SHALL PAY THE DESIGNATED BENEFITS TO THE CHARITABLE
4 ORGANIZATION NOT LATER THAN SIXTY CALENDAR DAYS AFTER THE
5 CHARITABLE ORGANIZATION SUBMITS TO THE COVERED ENTITY AN
6 AFFIDAVIT THAT ATTESTS TO THE DEATH OF THE DONOR AND INCLUDES
7 THE FOLLOWING INFORMATION:

- 8 (I) THE DONOR'S NAME AND LAST-KNOWN ADDRESS;
- 9 (II) A GENERAL DESCRIPTION OF THE DESIGNATED BENEFITS;
- 10 (III) THE CHARITABLE ORGANIZATION'S NAME, ADDRESS,
11 TELEPHONE NUMBER, AND INTERNET WEBSITE ADDRESS, IF ANY;
- 12 (IV) A COPY OF THE CHARITABLE ORGANIZATION'S IRS
13 DETERMINATION LETTER;
- 14 (V) A COPY OF THE CHARITABLE ORGANIZATION'S IRS FORM W-9,
15 SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF THE CHARITABLE
16 ORGANIZATION;
- 17 (VI) A REQUEST THAT THE DESIGNATED BENEFITS BE PAID OR
18 TRANSFERRED TO THE CHARITABLE ORGANIZATION IN ACCORDANCE WITH
19 THIS SECTION, INCLUDING INSTRUCTIONS ON WHERE AND HOW TO REMIT
20 PAYMENT;
- 21 (VII) A COPY OF THE DEATH CERTIFICATE; EXCEPT THAT, IF THE
22 COVERED ENTITY HAS ALREADY RECEIVED NOTICE OF THE DONOR'S DEATH,
23 THIS REQUIREMENT DOES NOT APPLY;
- 24 (VIII) A STATEMENT THAT THE INFORMATION PROVIDED IN THE
25 AFFIDAVIT IS TRUE AND CORRECT;
- 26 (IX) A SIGNATURE FROM A DULY AUTHORIZED REPRESENTATIVE
27 OF THE CHARITABLE ORGANIZATION;

1 (X) A COPY OF THE CHARITABLE ORGANIZATION'S CORPORATE
2 RESOLUTIONS CERTIFYING THAT THE SIGNATORY OF THE AFFIDAVIT IS
3 AUTHORIZED TO ACT ON BEHALF OF THE CHARITABLE ORGANIZATION; AND

4 (XI) A WAIVER SIGNED BY A DULY AUTHORIZED REPRESENTATIVE
5 OF THE CHARITABLE ORGANIZATION, STATING THAT THE CHARITABLE
6 ORGANIZATION ACKNOWLEDGES AND AGREES TO THE FOLLOWING:

7 (A) THE DESIGNATED BENEFITS MAY CONCERN CREDITOR CLAIMS
8 AGAINST THE DONOR'S PROBATE ESTATE AND STATUTORY ALLOWANCES
9 TO THE DONOR'S SPOUSE AND CHILDREN, FOR WHICH CLAIMS AND
10 ALLOWANCES THE CHARITABLE ORGANIZATION MAY BE LIABLE IF THE
11 DONOR'S ESTATE IS INSUFFICIENT TO SATISFY THOSE CLAIMS AND
12 ALLOWANCES, UNLESS THE DESIGNATED BENEFITS ARE SPECIFICALLY
13 EXCEPTED UNDER SECTION 15-15-103 (1)(b);

14 (B) THE DESIGNATED BENEFITS MAY CONCERN THE UNSATISFIED
15 BALANCE OF A SURVIVING SPOUSE'S ELECTIVE-SHARE OR SUPPLEMENTAL
16 ELECTIVE-SHARE CLAIM UNDER SECTION 15-11-209 (3), FOR WHICH CLAIM
17 THE CHARITABLE ORGANIZATION MAY BE LIABLE IF THE DONOR'S ESTATE
18 IS INSUFFICIENT TO PAY SUCH CLAIM; AND

19 (C) A PROCEEDING UNDER SECTION 15-15-103 MUST BE
20 COMMENCED WITHIN THE TIME FRAME DESCRIBED IN SECTION 15-15-103
21 (8), AND A SURVIVING SPOUSE MUST FILE AN ELECTION FOR AN
22 ELECTIVE-SHARE CLAIM WITHIN THE TIME LIMITS SET FORTH IN SECTION
23 15-11-211.

24 (b) IF AN INDIVIDUAL WHO IS THE SIGNATORY OF AN AFFIDAVIT
25 DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION SUBMITS THE AFFIDAVIT
26 TO A COVERED ENTITY IN PERSON, THE COVERED ENTITY MAY REQUIRE THE
27 INDIVIDUAL TO PRESENT A VALID, GOVERNMENT-ISSUED FORM OF

1 IDENTIFICATION THAT IDENTIFIES THE INDIVIDUAL AS THE SIGNATORY OF
2 THE AFFIDAVIT.

3 (c) IF A COVERED ENTITY THAT HOLDS DESIGNATED BENEFITS IS
4 UNABLE TO PAY THE DESIGNATED BENEFITS TO A CHARITABLE
5 ORGANIZATION AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION
6 BECAUSE FEDERAL LAW REQUIRES THE COVERED ENTITY TO TAKE CERTAIN
7 ACTIONS OR SATISFY CERTAIN CRITERIA IN ORDER TO PAY THE DESIGNATED
8 BENEFITS, THE COVERED ENTITY SHALL TAKE SUCH ACTIONS OR SATISFY
9 SUCH CRITERIA AND COMPLY WITH SUBSECTION (2)(a) OF THIS SECTION
10 NOT LESS THAN ONE HUNDRED TWENTY DAYS AFTER THE CHARITABLE
11 ORGANIZATION SUBMITS TO THE COVERED ENTITY AN AFFIDAVIT THAT
12 SATISFIES THE REQUIREMENTS OF SUBSECTION (2)(a) OF THIS SECTION.

13 (3) IF A CHARITABLE ORGANIZATION RECEIVES DESIGNATED
14 BENEFITS FOR WHICH THE CHARITABLE ORGANIZATION IS LIABLE UNDER
15 SECTION 15-15-103 OR 15-11-209, THE CHARITABLE ORGANIZATION SHALL
16 RETURN TO THE DONOR'S ESTATE A PORTION OR ALL OF THE DESIGNATED
17 BENEFITS IN ORDER TO SATISFY THE ALLOWED CLAIMS, STATUTORY
18 ALLOWANCES, OR UNSATISFIED BALANCE OF THE ELECTIVE-SHARE OR
19 SUPPLEMENTAL ELECTIVE-SHARE CLAIM WITHIN SIXTY DAYS AFTER
20 RECEIVING WRITTEN NOTICE FROM THE PERSONAL REPRESENTATIVE OF
21 THE DONOR'S ESTATE. IF THE CHARITABLE ORGANIZATION FAILS TO
22 COMPLY WITH THE PROVISIONS OF THIS SUBSECTION (3), THE CHARITABLE
23 ORGANIZATION SHALL PAY STATUTORY INTEREST, AS DESCRIBED IN
24 SECTION 5-12-102, TO THE DONOR'S ESTATE FOR EACH DAY THE
25 UNRETURNED AMOUNT REMAINS OUTSTANDING. MOREOVER, THE
26 CHARITABLE ORGANIZATION MAY BE SUBJECT TO ONE OR MORE OF THE
27 FOLLOWING:

1 (a) AN ACTION TO AVOID THE INITIAL PAYOUT TO THE EXTENT
2 NECESSARY TO SATISFY THE ALLOWED CLAIMS, STATUTORY ALLOWANCES,
3 OR UNSATISFIED BALANCE OF THE ELECTIVE-SHARE OR SUPPLEMENTAL
4 ELECTIVE-SHARE CLAIM;

5 (b) AN INJUNCTION AGAINST THE CHARITABLE ORGANIZATION'S
6 DISPOSITION OF THE DESIGNATED BENEFITS, OR ANY PORTION THEREOF, OR
7 ANY ASSET OR PROPERTY OF THE CHARITABLE ORGANIZATION;

8 (c) AN ATTACHMENT OR OTHER PROVISIONAL OR JUDICIAL REMEDY
9 AGAINST THE DESIGNATED BENEFITS OR ANY OTHER ASSET OR PROPERTY
10 OF THE CHARITABLE ORGANIZATION; AND

11 (d) ANY OTHER RELIEF THE COURT DETERMINES IS APPROPRIATE,
12 INCLUDING THE AWARDING OF REASONABLE ATTORNEY FEES.

13 (4) UPON THE CHARITABLE ORGANIZATION'S RECEIPT OF WRITTEN
14 NOTICE OF A POTENTIAL UNSATISFIED CLAIM, STATUTORY ALLOWANCE, OR
15 ELECTIVE-SHARE OR SUPPLEMENTAL ELECTIVE-SHARE CLAIM FROM THE
16 PERSONAL REPRESENTATIVE OF THE DONOR'S ESTATE, THE CHARITABLE
17 ORGANIZATION SHALL HOLD THE DESIGNATED BENEFITS RECEIVED, OR THE
18 PORTION THEREOF NEEDED TO COVER THE PENDING CLAIM, STATUTORY
19 ALLOWANCE, OR ELECTIVE-SHARE OR SUPPLEMENTAL ELECTIVE-SHARE
20 CLAIM, IN A CONSTRUCTIVE TRUST PENDING THE DETERMINATION OF THE
21 CLAIM, STATUTORY ALLOWANCE, OR ELECTIVE-SHARE OR SUPPLEMENTAL
22 ELECTIVE-SHARE CLAIM.

23 (5) A COVERED ENTITY THAT HOLDS DESIGNATED BENEFITS SHALL
24 NOT:

25 (a) REQUIRE THE CHARITABLE ORGANIZATION TO ESTABLISH AN
26 ACCOUNT WITH THE COVERED ENTITY AS A CONDITION OF RECEIVING THE
27 DESIGNATED BENEFITS; OR

1 (b) REQUIRE AN INDIVIDUAL EMPLOYED BY, OR SERVING ON THE
2 BOARD OF, THE CHARITABLE ORGANIZATION TO SUBMIT ANY PERSONAL
3 INFORMATION, INCLUDING A SOCIAL SECURITY NUMBER, A DRIVER'S
4 LICENSE NUMBER, OR PERSONAL FINANCIAL INFORMATION, AS A
5 CONDITION OF RECEIVING DESIGNATED BENEFITS, EXCEPT AS REQUIRED BY
6 SUBSECTION (2) OF THIS SECTION.

7 (6) THIS SECTION MAY BE ENFORCED BY ANY OF THE FOLLOWING
8 ENTITIES, AS APPROPRIATE:

9 (a) THE DIVISION OF BANKING CREATED IN SECTION 11-102-101;

10 (b) THE FINANCIAL SERVICES BOARD CREATED IN SECTION
11 11-44-101.6; OR

12 (c) THE DIVISION OF SECURITIES CREATED IN SECTION 11-51-701,
13 PURSUANT TO ITS AUTHORITY UNDER PART 4 OF ARTICLE 51 OF TITLE 11.

14 **SECTION 2. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly (August 12, 2026, if adjournment sine die is on May 13,
18 2026); except that, if a referendum petition is filed pursuant to section 1
19 (3) of article V of the state constitution against this act or an item, section,
20 or part of this act within such period, then the act, item, section, or part
21 will not take effect unless approved by the people at the general election
22 to be held in November 2026 and, in such case, will take effect on the
23 date of the official declaration of the vote thereon by the governor.

24 (2) This act applies to conduct occurring on or after the applicable
25 effective date of this act.