

Senate Bill 433

By: Senators Cowser of the 46th, Kennedy of the 18th, Gooch of the 51st, Robertson of the 29th, Tillery of the 19th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 14 of the Official Code of Georgia Annotated,
2 relating to general provisions for nonprofit corporations, so as to enact the "Donor Intent
3 Protection Act"; to provide for a short title; to provide for definitions; to prohibit charitable
4 organizations from violating the terms of charitable contributions made with donor imposed
5 restrictions, subject to exceptions; to provide for a cause of action; to provide for a
6 limitations period; to provide for venue; to provide for remedies; to provide for related
7 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 1 of Chapter 3 of Title 14 of the Official Code of Georgia Annotated, relating to
12 general provisions for nonprofit corporations, is amended by adding a new part to read as
13 follows:

"Part 8

14-3-190.

This part shall be known and may be cited as the 'Donor Intent Protection Act.'

14-3-191.

As used in this part, the term:

(1) 'Charitable organization' means an entity organized and operated exclusively for religious, charitable, scientific, literary, educational, testing for public safety, or other specified purposes and that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code.

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

(3) 'Donor imposed restriction' means a provision of an endowment agreement that specifies obligations of the charitable organization regarding the management or use of the contribution made by the donor.

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

(5) 'Endowment fund' means an institutional fund, including any aggregate institutional fund or part thereof, that under the terms of a gift instrument is not wholly expendable by the institution on a current basis; provided, however, that such term does not include assets that an institution designates as an endowment fund for its own use.

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

14-3-192.

(a) Except as required or authorized by federal or state law or a valid court order, a charitable organization that accepts a contribution of property or money pursuant to an endowment agreement containing a donor imposed restriction shall not violate the terms of such restriction without potential penalty.

(b) If a charitable organization violates a donor imposed restriction contained in an endowment agreement, the donor or that individual's legal representative may bring a civil action within six years after discovery of a breach of the endowment agreement. Such civil action may be filed in the county where a charitable organization named as a party has its principal office or principal place of carrying out its charitable purpose. Such civil action may be filed regardless of whether the endowment agreement expressly reserves a right to sue or enforce, and it shall not seek a judgment awarding damages to the plaintiff.

(c) A charitable organization may obtain a judicial declaration of rights as to the terms of an endowment agreement, including any donor imposed restrictions, and the actions the agreement contemplates, including but not limited to the interpretation, performance, and enforcement of the agreement and determination of its validity. A charitable organization may do so by bringing a civil action and shall seek such declaration in any suit brought against it under this part.

(d) If the court determines that a charitable organization violated a donor imposed restriction, the court shall be authorized to order one or more remedies consistent with the charitable purposes expressed in the endowment agreement. The court shall not be authorized to order the return of the contribution to the donor or the donor's legal representative or estate."

63 **SECTION 2.**

64 This Act shall become effective July 1, 2024, and shall apply to contracts, agreements, and
65 other instruments entered into on or after such date.

66 **SECTION 3.**

67 All laws and parts of laws in conflict with this Act are repealed.