Colorado NONPROFIT Association

Improving Legacy Giving for 501(c)3 Nonprofit Entities

Senator James R. Coleman, Representative Chad Clifford

The Proposal

Establish state law concerning the transfer of funds from financial institutions to 501(c)3 nonprofits listed as beneficiaries on decedents' retirement accounts, among other types of gifted property.

The Problem

There are **no** federal or state laws dictating the method and timeline for financial institutions to transfer funds to charitable entities listed as beneficiaries on deceased individuals' retirement accounts, or other types of gifted property.

It is an emerging practice that financial institutions refuse to transfer the gifted funds unless the charitable beneficiary establishes an account with the institution, rather than immediately delivering them via check, cash, or transferring them to the nonprofit's preferred bank.

This practice creates three problems for nonprofit beneficiaries:

Increased Administrative Burdens
Nonprofits may receive multiple legacy gifts every year. Opening new accounts with different institutions, solely to accept donations, creates significant administrative burdens and complicates existing financial reporting guidelines.

Delays in Transferring Gifted Funds
There are no provided timelines for the holding institution to deliver the gift, with nonprofits often waiting 1-2 years to receive their funds. Opening new accounts also takes time, often requiring review and approval from leadership. Both factors delay the intended use of the donor's gift.

Increased Personal Risk to Nonprofit Officers
When opening new accounts, it is common to require nonprofit employees to provide confidential personal information, such as Social Security number, home address, and driver's license information. This exposes nonprofit employees to unnecessary risk and jeopardizes data security.

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The Language

Add a new section to Colorado Revised Statutes Title 15 - Probate, Trusts, and Fiduciaries, Section 11 - Intestate Succession and Wills, that clarifies the following **two** items:

1) Establishes a process and timeline for transferring property between financial institutions and charitable beneficiaries; **2)** Defines eligible nonprofits and lists the types of eligible property.

- 501(c)3 nonprofits, exclusively, will be eligible under this section.
- Retirement Accounts, Annuities, Insurance Policies, Securities, Savings and Checking Accounts, and Pensions and Employee-Related Benefit Plans will be eligible under this section.
- Authorized representatives of the beneficiary nonprofit will present an affidavit to the holding financial institution, who will be required to deliver the property to the nonprofit within 60 days by direct pay or transfer to the nonprofit's financial institution of choice.
- **The nonprofit will not be required to open an account with the financial institution or provide personal information on their corporate officers in order to receive these funds.**

Why This Law Matters

Legacy gifts are a key part of nonprofits' funding streams, enabling them to provide essential services, meet community needs, and carry out their charitable missions. It is also increasingly popular to name 501(c)3 nonprofits as a beneficiaries of retirement accounts due to both awareness for the practice as well as the distinct tax benefits.

Establishing a state law requiring the timely and efficient transfer of legacy gifts between financial institutions and charitable beneficiaries puts donated dollars to work faster, while reducing the administrative burden for nonprofit staff.

Other Considerations

Both Indiana and Iowa recently passed legislation aimed simplifying and expediting the process for charitable beneficiaries to receive legacy gifts from decedents' holding financial institutions.

There have been attempts to direct the US Financial Crimes and Enforcement Network to take administrative action to require financial institutions to transfer legacy gifts to charitable beneficiaries directly and more quickly. These attempts have been unsuccessful, demonstrating the need for state-level action.

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