

RCW 24.03A.200 Judicial modification or release of restrictions.

(1) Upon application by a corporation subject to a restriction related to a gift's management or investment, rather than to its charitable purpose, the court may modify the restriction if:

(a) Because of circumstances not anticipated by the donor, modification will further the charitable purpose of the gift;

(b) Enforcement of the restriction has become impracticable or wasteful; or

(c) Enforcement of the restriction impairs the management or investment of the gift.

(2) Upon application by a corporation subject to a restriction on the use of a gift relating to the charitable purpose of the gift, rather than its management or investment, the court may modify the restriction if the purpose becomes unlawful, impracticable, impossible to achieve, or wasteful.

(3) If the gift instrument provides for a forfeiture or gift-over to an alternative beneficiary, then the court may modify one or more restrictions under the procedure set out in subsection (1) of this section if a management or investment provision fails. The court may not, however, modify any restriction under the procedure set out in subsection (2) of this section to defeat the interest of an alternate beneficiary unless the beneficiary would also be subject to, and unable to perform, the term requiring modification. The alternative beneficiary is entitled to notice and may participate in the determination of whether to grant modification.

(4) Any modification made by the court must, to the extent possible, be made in a manner consistent with the charitable purposes as expressed in the gift instrument.

(5) A nonprofit corporation shall notify the attorney general whenever it seeks to modify a charitable gift restriction under this section and the court shall offer the attorney general an opportunity to be heard. [2021 c 176 s 1505.]

Effective date—2021 c 176: See note following RCW 24.03A.005.