

## Part II: The Benefit Corporation and Public Charities; Threat or Opportunity

Prepared by Dana A. Rose, Esq.  
January 2021

In a prior advisory ([Your Ohio For-Profit Corporation Can Now Do Good: The Benefit Corporation](#)), we discussed Ohio's recent enactment of its revised Corporation Law, which now permits the formation and operation of a "[Benefit Corporation](#)." Use of the Benefit Corporation permits not only the pursuit of pecuniary gain, but also socially beneficial purposes, many of which might align with traditionally charitable endeavors.

Within the community of non-profit organizations exempt from taxation under 501(c)(3) of the Internal Revenue Code (charities), there is some fear that competing Benefit Corporations might pose a threat. This might be true, however, new ownership structures for charities and Benefit Corporation collaborations may provide opportunities.

Currently existing charities should familiarize themselves with newly forming Benefit Corporations and the components of their socially beneficial missions in order to consider whether approaches regarding collaboration are in order. A charity might also consider whether utilization of a Benefit Corporation within its overall corporate structure might make sense. Of course, issues such as unrelated business taxable income, private inurement and intermediate sanctions must be considered with regard to any such corporate combinations. Opportunities may present, but charities considering collaboration or other utilization of Benefit Corporations must be mindful of the potentially adverse consequences to the charitable organization and the individuals involved in governance and leadership.

If you have any questions about Benefit Corporations, please contact Dana Rose or your Weston Hurd attorney.



### **About the Author**

**Dana Rose** practices primarily in the areas of real estate, nonprofit organizations, business and commercial matters. He can be reached at 216.687.3342 (direct) or [DRose@westonhurd.com](mailto:DRose@westonhurd.com).

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