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31st Alaska State Legislature



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Senator John Coghill

SB 191 – Trusts Sectional Analysis

“An Act relating to trusts and trustees, including trust division, the powers of trustees, delayed gifts to trusts, and community property trusts; and providing for an effective date.”

Sec. 1 – AS 13.36

Adds new a section that changes the default of trusts to allow for easier trust division. Providing that if more than one settlor created the trust, the contributions from each settlor are well documented, as are the earnings and reinvestments, and the trust is governed by Alaska State Law.

Sec. 2 – AS 13.36.109

Clarifies the specific powers of trustees (those responsible for the trust fund) to include insurance against liability with respect to the beneficiaries as an expressly allowed expense to the trust. This section also clarifies that a trustee may treat or deem, within the meaning of United States Treasury Regulation Section 1.643(a)-3, discretionary distributions as first coming from capital gains realized during the year.

Sec. 3 – AS 13.36.109

Adds a new subsection, allowing a trustee to pay for the authorized actions mentioned earlier in the section with funds from the trust itself.

Sec. 4 – AS 13.36.305

Adds new a section outlining the ability to make a promise of a gift enforceable in relation to trusts. The promise must be to a qualifying trust, in writing, reference this statute, express intent to be legally bound, the money will be transferred within nine months after the person’s death, and after 180 days of the promise, it may be treated as a note and a negotiable instrument. This section also outlines what a qualifying trust is: that it intends to be a trust governed by Alaska law, it contains at least \$10,000 of principal assets deposited within the state of Alaska and has at least one trustee in the state.

Sec. 5 – AS 34.77.030

Clarifies the original intent of the existing statute regarding community property, stating that unless expressly declared non-community property, individual or otherwise, appreciation and income accrued in a community property trust is assumed to community property.

Sec. 6 – Uncodified Law

Adds a new section to the uncodified law, stating that sections 1-4 become effective following the normal effective date procedure as outlined in AS 01.10.070.

Sec. 7 – Uncodified Law

Adds a new section to the uncodified law, a saving clause, stating that Section 5 does not affect actions, proceedings, or rights accrued on or after May 23, 1998, the year the Alaska Community Property Act was created and placed into law.

Sec. 8 – Uncodified Law

Section 5, dealing with community property, is retroactive to May 23, 1998, the year the Alaska Community Property Act was created and placed into law.

Sec. 9 – Effective Date

Sections 5 and 8 of this Act take effect immediately.

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