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Bannister
4/14/22

CS FOR HOUSE BILL NO. 405(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the establishment of trusts and the relocation of foreign trusts;
2 requiring the filing of certain information relating to trusts; and requiring compliance
3 with a federal law."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 13.36.005(a) is amended to read:

6 (a) After the trust is established under AS 13.36.030, the [THE] trustee of a
7 trust having its principal place of administration in this state shall register the trust in
8 the court of this state at the principal place of administration. Unless otherwise
9 designated in the trust instrument, the principal place of administration of a trust is the
10 trustee's usual place of business where the records pertaining to the trust are kept, or at
11 the trustee's residence if the trustee has no such place of business. In the case of co-
12 trustees, the principal place of administration, if not otherwise designated in the trust
13 instrument, is

14 (1) the usual place of business of the corporate trustee if there is but

one corporate co-trustee; [OR]

(2) the usual place of business or residence of the individual trustee who is a professional fiduciary if there is but one such person and no corporate co-trustee; or [AND OTHERWISE]

(3) the usual place of business or residence of any of the co-trustees as agreed upon by them.

* **Sec. 2.** AS 13.36 is amended by adding a new section to article 1 to read:

Sec. 13.36.030. Establishment or relocation of trust. (a) Notwithstanding any other law, a person shall deliver a trust establishment document to the department for filing and pay a fee established by the department to establish or relocate to the state a trust that will be governed by the law of this state or administered in whole or in part in this state or by a trustee in this state.

(b) The trust establishment document filed under (a) of this section must be signed by the settlor or a trustee of the trust and contain, in addition to other information required by the department by regulation,

(1) the name and address of the trust;

(2) for the person that files the trust establishment document and any person that directs or controls the filing,

(A) the legal name and address of the person;

(B) any other name the person uses to conduct business;

(C) if the person is not an individual, the state or foreign country where the person was organized; and

(D) one of the following:

(i) the person's tax identification number or employer identification number;

(ii) if the person does not have a tax identification number or an employer identification number, the person's data universal numbering system number issued by Dun and Bradstreet; or

(iii) a number assigned to the person by the United States Department of the Treasury Financial Crimes Enforcement Network;

(3) the legal name and address of each person who is

(A) a trustee of the trust, a trust protector appointed under AS 13.36.370 for the trust, and a person with direct or indirect authority to dispose of the income, assets, or principal of the trust;

(B) a beneficiary of the trust with a direct or indirect right to receive, demand, or withdraw income, assets, or principal from the trust; and

(C) a grantor or settlor of the trust with a direct or indirect right to revoke the trust or to receive, demand, or withdraw income, assets, or principal from the trust; and

(4) any other name under which the trust will be engaging in business, if applicable.

(c) A trust or the relocation of a trust to this state does not become effective or enforceable until a person files a trust establishment document for the trust that complies with (a) and (b) of this section.

(d) A trust for which a trust establishment document is filed under this section shall submit a revised trust establishment document to the department within 30 days after the initial trust establishment document filed under (a) of this section or a revised trust establishment document filed under this subsection becomes inaccurate, including an inaccuracy caused by a change or an inaccuracy that, with reasonable inquiry, would have been discovered before the trust establishment document was filed. A trust that fails to comply with this subsection is liable to the state for a civil penalty of \$500 for each failure.

(e) A trust establishment document is confidential and is not a public record under AS 40.25.110 - 40.25.140, except that the department may release the information in a trust establishment document to the United States Department of the Treasury under 31 U.S.C. 5336 and may share the information for verification, administrative, and enforcement purposes with another department, division, or office in the executive branch of state government.

(f) A trust that is established or relocated to this state under this section shall comply as a reporting company with 31 U.S.C. 5336, including submitting the report required by 31 U.S.C. 5336(b). In this subsection, "reporting company" has the

1 meaning given in 31 U.S.C. 5336.

2 (g) The department may adopt regulations to implement this section.

3 (h) In this section,

4 (1) "address" means the business address, or, if the person does not
5 have a business address, the residence address of the person;

6 (2) "department" means the Department of Commerce, Community,
7 and Economic Development.

8 * **Sec. 3.** AS 13.36.043(a) is amended to read:

9 (a) The situs of a foreign trust is moved to this state when the trust satisfies the
10 conditions listed in AS 13.36.035(c)(1) - (4), **and the requirements of AS 13.36.030,**
11 and a qualified person serving as trustee registers the trust under AS 13.36.010.

12 * **Sec. 4.** AS 13.36.043(c) is amended to read:

13 (c) **Except as provided by AS 13.36.030, a** [A] foreign trust that moves its
14 situs to this state is valid whether or not the trust complied with the laws of this state at
15 the time of its creation or after its creation.

16 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 APPLICABILITY. This Act applies to a trust created on or after the effective date of
19 this Act. A testamentary trust is not created on or after the effective date of this Act if the will
20 under which the trust is established is made before the effective date of this Act and the
21 testator dies before the effective date of this Act. In this section, "testamentary trust" means a
22 trust that is established under a will after the death of the testator.