

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 406

BY REPRESENTATIVE FIELDS

1 Page 1, line 1:

2 Delete "**the validity of trusts involving**"

3

4 Page 1, line 2, following "**Treasury**":

5 Insert "**serving as trustees or receiving a distribution as a beneficiary**"

6

7 Page 1, lines 5 - 10:

8 Delete all material and insert:

9 **"* Section 1.** AS 13.36.071 is amended by adding a new subsection to read:

10 (e) A person that is listed on the most recent Specially Designated Nationals
11 and Blocked Persons List published by the United States Department of the Treasury,
12 Office of Foreign Assets Control, may not accept a trusteeship or serve as a trustee, act
13 to preserve trust property under (c) of this section, or inspect or investigate trust
14 property under (d) of this section.

15 *** Sec. 2.** AS 13.36.073(a) is amended to read:

16 (a) Except as otherwise provided in the trust instrument, a vacancy in a
17 trusteeship occurs if

18 (1) a person designated as a trustee rejects the trusteeship, [OR] is
19 considered to have rejected the trusteeship under AS 13.36.071, **or is prohibited**
20 **under AS 13.36.071(e) from accepting the trusteeship or serving as a trustee;**

21 (2) a person designated as a trustee cannot be identified or does not
22 exist;

23 (3) a trustee resigns, **including resignation under AS 13.36.074(d);**

- 1 (4) a trustee is disqualified or removed under AS 13.36.076;
 2 (5) a trustee dies;
 3 (6) a guardian or conservator is appointed for an individual serving as
 4 a trustee.

5 * **Sec. 3.** AS 13.36.074 is amended by adding a new subsection to read:

6 (d) Notwithstanding (a) and (b) of this section, a trustee shall resign if the
 7 trustee is listed on the most recent Specially Designated Nationals and Blocked
 8 Persons List published by the United States Department of the Treasury, Office of
 9 Foreign Assets Control. If the trustee does not resign, a beneficiary of the trust may
 10 remove the trustee without obtaining approval of the court.

11 * **Sec. 4.** AS 13.36.076(a) is amended to read:

12 (a) A trustee may be removed from office

13 (1) by the decision of a trust protector under AS 13.36.370(b)(1);

14 (2) by the decision of another person specified in the trust instrument;

15 (3) under a procedure specified in the trust instrument;

16 (4) by a court on petition by the settlor, a co-trustee, a qualified
 17 beneficiary, or the court on its own initiative, if

18 (A) the court finds there is a basis for removal under (b) of this
 19 section, there is not a trust protector or another specified person who is
 20 currently acting and who may be contacted by the settlor, trustee, or qualified
 21 beneficiary in person, by mail, electronically, or by another means, and there is
 22 not a procedure for removal specified in the trust instrument; or

23 (B) notwithstanding the appointment of a trust protector under
 24 AS 13.36.370 or the existence of a procedure for trustee removal specified in
 25 the trust instrument, there has been a serious breach of trust as specified under
 26 (b)(1) of this section;

27 **(5) by a beneficiary under AS 13.36.074(d).**

28 * **Sec. 5.** AS 13.36.153 is amended by adding a new subsection to read:

29 (k) Notwithstanding any other provision of this chapter, a trustee may not
 30 make a distribution to a beneficiary if the beneficiary is listed on the most recent
 31 Specially Designated Nationals and Blocked Persons List published by the United

1 States Department of the Treasury, Office of Foreign Assets Control, unless the failure
2 to make the distribution would jeopardize

3 (1) a deduction or exclusion originally claimed with respect to a
4 contribution to a trust that qualified for the annual exclusion under 26 U.S.C. 2503(b),
5 the marital deduction under 26 U.S.C. 2056(a) or 26 U.S.C. 2523(a), or the charitable
6 deduction under 26 U.S.C. 170(a), 26 U.S.C. 642(c), 26 U.S.C. 2055(a), or 26 U.S.C.
7 2522(a) (Internal Revenue Code);

8 (2) the qualification of a transfer as a direct skip under 26 U.S.C.
9 2642(c) (Internal Revenue Code);

10 (3) an election to treat a corporation as a subchapter S corporation
11 under 26 U.S.C. 1362 (Internal Revenue Code); or

12 (4) another specific tax benefit for which the contribution originally
13 qualified for income, gift, estate, or generation-skipping transfer tax purposes under 26
14 U.S.C. (Internal Revenue Code)."

15
16 Renumber the following bill sections accordingly.

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18 Page 2, line 5:

19 Delete "AS 13.36.380, enacted by sec. 1 of this Act, does"

20 Insert "AS 13.36.071(e), enacted by sec. 1 of this Act, AS 13.36.073(a), as amended
21 by sec. 2 of this Act, AS 13.36.074(d), enacted by sec. 3 of this Act, AS 13.36.076(a), as
22 amended by sec. 4 of this Act, and AS 13.36.153(k), enacted by sec. 5 of this Act, do"

23
24 Page 2, line 6, following "Act":

25 Insert "or to the trustees and distributions of a trust formed before the effective date of
26 this Act"