

CS FOR SENATE BILL NO. 225(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to trusts; relating to nonjudicial settlement agreements in trust**
2 **matters; relating to claims of a beneficiary against a trustee; relating to the modification**
3 **and termination of irrevocable trusts; and providing for an effective date."**

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

5 * **Section 1.** AS 13.36 is amended by adding a new section to read:

6 **Sec. 13.36.057. Nonjudicial settlement agreements.** (a) Except as provided in
7 this section, indispensable parties may enter into a binding nonjudicial settlement
8 agreement with respect to any matter involving a trust that is within the scope of
9 proceedings described in AS 13.36.035(a) without the approval of the court.

10 (b) A nonjudicial settlement agreement is valid only to the extent that the
11 agreement does not violate a material purpose of the trust and includes terms and
12 conditions that could be properly approved by the court under this chapter or other
13 applicable law.

14 (c) Matters that may be resolved by a nonjudicial settlement agreement

1 include

2 (1) the investment or use of trust assets;

3 (2) the lending or borrowing of money;

4 (3) the addition, deletion, or modification of a term or condition of the
5 trust;

6 (4) the interpretation or construction of a term of the trust;

7 (5) the designation or transfer of the principal place of administration
8 of the trust;

9 (6) the approval of a report of a trustee under AS 13.36.100;

10 (7) the choice of law governing the construction of the trust instrument
11 or administration of the trust;

12 (8) the direction of a trustee to perform or refrain from performing a
13 particular act;

14 (9) the grant to a trustee of any necessary or desirable power;

15 (10) the resignation or appointment of a trustee and the determination
16 of a trustee's compensation;

17 (11) a merger or division of trusts;

18 (12) the grant of approval or authority for a trustee to make charitable
19 gifts from a noncharitable trust;

20 (13) the liability of a trustee for an action relating to the trust; and

21 (14) the termination of the trust.

22 (d) A nonjudicial settlement agreement takes effect when the agreement has
23 been signed by all indispensable parties. If an indispensable party may be represented
24 and bound by another person under AS 13.06.120, the agreement is considered to have
25 been signed by the indispensable party if the agreement is signed by the person who
26 may represent and bind the indispensable party under AS 13.06.120.

27 (e) An indispensable party may petition the court to approve a nonjudicial
28 settlement agreement.

29 (f) In this section, "indispensable party" means an interested person, as
30 defined in AS 13.06.050, whose consent would be required to achieve a binding
31 settlement if the settlement were to be approved by the court.

1 * **Sec. 2.** AS 13.36.100(a) is amended to read:

2 (a) Unless resolved or barred under (b), [OR] (c), or (i) of this section, and
3 notwithstanding the lack of adequate disclosure, all claims against a trustee who has
4 issued a report received by the beneficiary and who has informed the beneficiary of
5 the location and availability of records for examination by the beneficiary are barred
6 unless a proceeding to assert the claims is commenced within three years after the
7 beneficiary's receipt of the report.

8 * **Sec. 3.** AS 13.36.100 is amended by adding a new subsection to read:

9 (i) All potential claims of a beneficiary against a trustee are barred if a report
10 that adequately discloses the existence of the potential claims is approved by the
11 beneficiary in a nonjudicial settlement agreement under AS 13.36.057.

12 * **Sec. 4.** AS 13.36.360(a) is amended to read:

13 (a) Except as otherwise provided by this section, on petition by a trustee,
14 settlor, or beneficiary, a court may modify or terminate an irrevocable trust if all of the
15 beneficiaries consent and if continuation of the trust on the existing terms of the trust
16 is not necessary to further a material purpose of the trust. However, the court, in its
17 discretion, may determine that the reason for modifying or terminating the trust under
18 the circumstances outweighs the interest in accomplishing the material purposes of the
19 trust. The inclusion of a restriction on the voluntary or involuntary transfer of trust
20 interests under AS 34.40.110 may constitute a material purpose of the trust under this
21 subsection, but is not presumed to constitute a material purpose of the trust under this
22 subsection. **If a settlor of an irrevocable trust consents to the modification or**
23 **termination of the trust, there is a rebuttable presumption that continuing the**
24 **trust on the existing terms of the trust is not necessary to further a material**
25 **purpose of the trust and that the reason for modifying or terminating the trust**
26 **outweighs the interest in accomplishing the material purposes of the trust.**

27 * **Sec. 5.** AS 13.36.360(b) is repealed.

28 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 APPLICABILITY. AS 13.36.360(a), as amended by sec. 4 of this Act, and the repeal
31 of AS 13.36.360(b) by sec. 5 of this Act apply to a trust that is created on or after the effective

1 date of this Act.

2 * **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).