

AMENDMENT #1 adopted VC

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);

(4) a trustee is disqualified or removed under AS 13.36.076;

(5) a trustee dies;

(6) a guardian or conservator is appointed for an individual serving as a trustee.

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

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

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

(a) A trustee may be removed from office

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

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

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

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

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

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

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

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

(k) Notwithstanding any other provision of this chapter, a trustee may not make a distribution to a beneficiary if the beneficiary is listed on the most recent 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.

17
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"

AMENDMENT

#2 adopted UC

OFFERED IN THE HOUSE
TO: HB 406

BY REPRESENTATIVE FIELDS

1 Page 1, lines 2 - 3:

2 Delete "documents conveying land to persons sanctioned by the United States
3 Department of the Treasury"

4 Insert "certain real property interest transfers and beneficial ownership
5 information on the transfers"

6

7 Page 1, line 11, through page 2, line 2:

8 Delete all material and insert:

9 "* Sec. 2. AS 34.15 is amended by adding a new section to read:

10 **Sec. 34.15.360. Recording of beneficial ownership information.** (a) If the
11 transfer of a real property interest is accomplished without a mortgage or similar form
12 of financing or is financed by a financial institution that is not regulated by 31 U.S.C.
13 5318(h), or if the purchaser of the real property interest is a corporation, trust, or other
14 legal entity organized in a foreign country, the transfer and the beneficial ownership
15 information for each beneficial owner of the real property interest transferred,
16 including by gift, shall be offered for recording under AS 40.17 within 30 days after
17 the transfer is finalized. Documents offered for recording under this subsection must
18 comply with the applicable requirements for recording under AS 40.17.030 and
19 40.17.110.

20 (b) The beneficial ownership information under (a) of this section shall be
21 offered for recording by

22 (A) the title insurance company or its agent that is used for the
23 transfer;

1 (B) if there is no person that satisfies (A) of this subsection, the
2 escrow company or its agent that handles the transfer;

3 (C) if there is no person that satisfies (A) or (B) of this
4 subsection, the transferee's attorney;

5 (D) if there is no person that satisfies (A) - (C) of this
6 subsection, the transferor's attorney;

7 (E) if there is no person that satisfies (A) - (D) of this
8 subsection, the transferee's real estate broker or agent;

9 (F) if there is no person that satisfies (A) - (E) of this
10 subsection, the transferor's real estate broker or agent;

11 (G) if there is no person that satisfies (A) - (F) of this
12 subsection, the transferee; or

13 (H) if there is no person that satisfies (A) - (G) of this
14 subsection, the transferor.

15 (c) A person that fails to comply with this section is subject to a civil penalty
16 of \$150 for each day the person fails to comply.

17 (d) In this section,

18 (1) "beneficial owner" means

19 (A) an individual or entity that owns all or part of the real
20 property interest as a result of the transfer;

21 (B) with respect to an entity that owns all or part of the real
22 property interest as a result of the transfer, an individual who, through a
23 contract, arrangement, understanding, relationship, or other method, directly or
24 indirectly exercises substantial control over the entity, or owns or controls 25
25 percent or more of the ownership interests of the entity;

26 (2) "beneficial ownership information" means

27 (A) a beneficial owner's full legal name;

28 (B) a beneficial owner's date of birth, if the beneficial owner is
29 a natural person;

30 (C) a beneficial owner's date and location of organization, if the
31 beneficial owner is not a natural person;

1 (D) a beneficial owner's residential address, if the beneficial
2 owner is a natural person, and any business street address; and

3 (E) one of the following, if the beneficial owner has one of the
4 following:

5 (i) a beneficial owner's tax identification number or
6 employer identification number;

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

11 (iii) a number assigned to the beneficial owner by the
12 United States Department of the Treasury Financial Crimes
13 Enforcement Network."
14

15 Page 2, line 5, following "APPLICABILITY.":

16 Insert "(a)"
17

18 Page 2, following line 6:

19 Insert a new subsection to read:

20 "(b) AS 34.15.360, enacted by sec. 2 of this Act, applies to a real property interest that
21 is transferred on or after the effective date of this Act."