



Rep. Emily McAsey

Filed: 3/26/2012

09700HB4662ham002

LRB097 14569 WGH 67987 a

1 AMENDMENT TO HOUSE BILL 4662

2 AMENDMENT NO. _____. Amend House Bill 4662 by replacing
3 lines 17 through 26 of page 7 and lines 1 through 12 of page 8
4 with the following:

5 "(e) Notice. An authorized trustee may exercise the power
6 to distribute in favor of a second trust under subsections (c)
7 and (d) without the consent of the settlor or the beneficiaries
8 of the first trust and without court approval if:

9 (1) there are one or more legally competent current
10 beneficiaries and one or more legally competent
11 presumptive remainder beneficiaries and the authorized
12 trustee sends written notice of the trustee's decision,
13 specifying the manner in which the trustee intends to
14 exercise the power and the prospective effective date for
15 the distribution, to all of the legally competent current
16 beneficiaries and presumptive remainder beneficiaries,
17 determined as of the date the notice is sent and assuming

1 non-exercise of all powers of appointment; and

2 (2) no beneficiary to whom notice was sent objects to
3 the distribution in writing delivered to the trustee within
4 60 days after the notice is sent ("notice period").

5 A trustee is not required to provide a copy of the notice
6 to a beneficiary who is known to the trustee but who cannot be
7 located by the trustee after reasonable diligence or who is not
8 known to the trustee.

9 If a charity is a current beneficiary or presumptive
10 remainder beneficiary of the trust, the notice shall also be
11 given to the Attorney General's Charitable Trust Bureau."; and

12 on page 9 by replacing lines 2 through 5 with the following:

13 "exercise of the trustee's powers. The trustee has the
14 burden of proving the proposed exercise of the power
15 furtheres the purposes of the trust."; and

16 on page 9, line 24, by replacing "do so" with "extend or
17 lengthen its perpetuities period"; and

18 on page 10 by replacing lines 25 and 26 with the following:

19 "provision of applicable law, or a court order. In addition,
20 distribution of trust principal to a second trust may be made
21 by agreement between a trustee and all primary beneficiaries of

1 a first trust, acting either individually or by their
2 respective representatives in accordance with Section 16.1 of
3 this Act."; and

4 on page 16, line 9, by replacing "Section" with "Section. If
5 the settlor of a first trust is not also the settlor of a
6 second trust, then the settlor of the first trust shall be
7 considered the settlor of the second trust, but only with
8 respect to the portion of second trust distributed from the
9 first trust in accordance with this Section"; and

10 on page 17, line 5, by replacing "The" with "Except for a
11 distribution of trust principal from a first trust to a second
12 trust made by agreement in accordance with Section 16.1 of this
13 Act, the".