



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4594

Introduced 02/04/04, by Mark H. Beaubien Jr.

SYNOPSIS AS INTRODUCED:

760 ILCS 5/5.5 new

Amends the Illinois Trust and Trustees Act. Provides anti-lapse provisions for gifts to a deceased beneficiary of an inter vivos trust, unless the settlor expressly provides otherwise in his or her trust. Provides that the anti-lapse provisions do not apply to a future interest that is or becomes indefeasibly vested at the settlor's death or at any time thereafter before it takes effect in possession or enjoyment.

LRB093 18825 LCB 44560 b

1 AN ACT concerning trusts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Trusts and Trustees Act is amended by adding
5 Section 5.5 as follows:

6 (760 ILCS 5/5.5 new)

7 Sec. 5.5. Gift to a deceased beneficiary under an inter
8 vivos trust. Unless the settlor expressly provides otherwise in
9 his or her trust:

10 (1) if a gift of a present or future interest is to a
11 descendant of the settlor who dies before or after the
12 settlor, the descendants of the deceased beneficiary
13 living when the gift is to take effect in possession or
14 enjoyment take per stirpes the gift so bequeathed;

15 (2) if a gift of a present or future interest is to a
16 class and any member of the class dies before or after the
17 settlor, the members of the class living when the gift is
18 to take effect in possession or enjoyment take the share or
19 shares that the deceased member would have taken if he or
20 she were then living, except that, if the deceased member
21 of the class is a descendant of the settlor, the
22 descendants of the deceased member then living shall take
23 per stirpes the share or shares that the deceased member
24 would have taken if he or she were then living; and

25 (3) except as above provided in items (1) and (2), if
26 the gift is not to a descendant of the settlor or is not to
27 a class as provided in items (1) and (2) and if the
28 beneficiary dies either before or after the settlor and
29 before the gift is to take effect in possession or
30 enjoyment, then the gift shall lapse. If the gift lapses by
31 reason of the death of the beneficiary before the gift is
32 to take possession or enjoyment, then the gift so given

1 shall be included in and pass as part of the residue of the
2 trust under the trust. If the gift is or becomes part of
3 the residue, the gift so bequeathed shall pass to and be
4 taken by the beneficiaries remaining, if any, of the
5 residue in proportions and upon trusts corresponding to
6 their respective interests in the residue of the trust.

7 The provisions of items (1) and (2) do not apply to a
8 future interest that is or becomes indefeasibly vested at the
9 settlor's death or at any time thereafter before it takes
10 effect in possession or enjoyment.

11 The provisions of this Section apply on and after January
12 1, 2005 for any gifts to a deceased beneficiary under an inter
13 vivos trust where the deceased beneficiary dies after January
14 1, 2005 and before the gift is to take effect in possession or
15 enjoyment.