



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB1494**

Introduced 2/23/2005, by Sen. Kirk W. Dillard

**SYNOPSIS AS INTRODUCED:**

760 ILCS 5/4  
760 ILCS 5/4.26 new

from Ch. 17, par. 1654

Amends the Trusts and Trustees Act. Permits a trustee to terminate a trust if it has a market value of less than \$100,000 and the costs of continuing the trust will substantially impair the purpose of the trust. Outlines how distribution shall be made. Provides that a trustee who is an income beneficiary may not participate as a trustee in the exercise of termination power. Provides that the trustee shall give notice to the persons entitled to distribution at least 30 days prior to the effective date of the termination of the trust. Provides that the provisions of the Section concerning small trust termination shall not apply to trusts for domestic or pet animals. Effective immediately.

LRB094 10962 LCB 41550 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  
5 changing Section 4 and adding Section 4.26 as follows:

6 (760 ILCS 5/4) (from Ch. 17, par. 1654)

7 Sec. 4. Powers of Trustee. The trustee has the powers  
8 specified in the Sections following this Section and preceding  
9 Section 5 ~~4.01 through 4.25.~~

10 (Source: P.A. 88-367.)

11 (760 ILCS 5/4.26 new)

12 Sec. 4.26. Small trust termination. To terminate the trust  
13 and distribute the trust estate, including principal and  
14 accrued and undistributed income, if the trustee determines, in  
15 the trustee's sole discretion, that the market value of a trust  
16 is less than \$100,000 and that the costs of continuing the  
17 trust will substantially impair accomplishment of the purpose  
18 of the trust.

19 Distribution shall be made to the persons then entitled to  
20 receive or eligible to have the benefit of the income from the  
21 trust in the proportions in which they are entitled thereto, or  
22 if their interests are indefinite, to those persons per stirpes  
23 if they have a common ancestor, or if not, then in equal  
24 shares. The trustee shall give notice to the persons at least  
25 30 days prior to the effective date of the termination.

26 If a particular trustee is an income beneficiary of the  
27 trust or is legally obligated to an income beneficiary, then  
28 that particular trustee may not participate as a trustee in the  
29 exercise of this termination power; provided, however, that if  
30 the trust has one or more co-trustees who are not so  
31 disqualified from participating, the co-trustee or co-trustees

1 may exercise this power.

2 This Section shall not apply to the extent that it would  
3 cause a trust otherwise qualifying for a federal or State tax  
4 benefit or other benefit not to so qualify, nor shall it apply  
5 to trusts for domestic or pet animals.

6 The provisions of this amendatory Act of the 94th General  
7 Assembly apply to all trusts created before, on, or after its  
8 effective date.

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.