



Rep. Emily McAsey

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09900HB3169ham001

LRB099 10970 HEP 31953 a

1 AMENDMENT TO HOUSE BILL 3169

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3169 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Trusts and Trustees Act is amended by  
5 adding Section 8.5 as follows:

6 (760 ILCS 5/8.5 new)

7 Sec. 8.5. Certification of trust.

8 (a) Instead of furnishing a copy of the trust instrument to  
9 a person other than the beneficiary, the trustee may furnish to  
10 the person a certification of trust containing the following  
11 information:

12 (1) a statement that the trust exists and the date the  
13 trust instrument was executed;

14 (2) the identity of the settlor;

15 (3) the identity and address of the currently acting  
16 trustee;

1           (4) the powers of the trustee;

2           (5) the revocability or irrevocability of the trust,  
3           whether the trust is amendable or unamendable, and the  
4           identity of any person holding a power to revoke or amend  
5           the trust;

6           (6) the authority of co-trustees to sign or otherwise  
7           authenticate and whether all or less than all are required  
8           in order to exercise powers of the trustee;

9           (7) the trust's taxpayer identification number; and

10          (8) the manner of taking title to trust property.

11          (b) A certification of trust must be signed or otherwise  
12          authenticated by one or more of the trustees. A third party may  
13          require that the certification of trust be acknowledged.

14          (c) A certification of trust must state that the trust has  
15          not been revoked, modified, or amended in any manner that would  
16          cause the representations contained in the certification of  
17          trust to be incorrect.

18          (d) A certification of trust need not contain the  
19          dispositive terms of a trust.

20          (e) A recipient of a certification of trust may require the  
21          trustee to furnish copies of those excerpts from the original  
22          trust instrument and later amendments which designate the  
23          trustee and confer upon the trustee the power to act in the  
24          pending transaction.

25          (f) A person who acts in reliance upon a certification of  
26          trust without knowledge that the representations contained

1 therein are incorrect is not liable to any person for so acting  
2 and may assume without inquiry the existence of the facts  
3 contained in the certification. Knowledge of the terms of the  
4 trust may not be inferred solely from the fact that a copy of  
5 all or part of the trust instrument is held by the person  
6 relying upon the certification.

7 (g) A person who in good faith enters into a transaction in  
8 reliance upon a certification of trust may enforce the  
9 transaction against the trust property as if the  
10 representations contained in the certification were correct.

11 (h) A person making a demand for the trust instrument in  
12 addition to a certification of trust or excerpts is liable for  
13 damages if the court determines that the person did not act in  
14 good faith in demanding the trust instrument. A person required  
15 to examine a complete copy of the trust instrument for purposes  
16 of complying with applicable federal, state, or local law, a  
17 person acting in a fiduciary capacity with respect to a trust,  
18 and the Attorney General's Charitable Trust Bureau are deemed  
19 to be acting in good faith when demanding a copy of the trust  
20 instrument.

21 (i) This Section does not limit the right of a person to  
22 obtain a copy of the trust instrument in a judicial proceeding  
23 concerning the trust.

24 (j) A certification of trust may be substantially as  
25 follows, provided that nothing in this subsection (j) shall  
26 invalidate or bar the use of a certification of trust in any

1 other or different form:

2 CERTIFICATION OF TRUST

3 Name of trust: .....

4 Date trust instrument was executed: .....

5 Tax Identification Number of trust (SSN or EIN): .....

6 Name(s) of settlor(s) of trust: .....

7 Name(s) of currently acting trustee(s): .....

8 Address(es) of currently acting trustee(s): .....

9 .... This trust states that .... of .... co-trustee(s) are  
10 required to exercise the powers of the trustee.

11 .... The co-trustees authorized to sign or otherwise  
12 authenticate on behalf of the trust are:.....

13 .... There are no co-trustees authorized to sign or otherwise  
14 authenticate on behalf of the trust.

15 Name(s) of successor trustee(s): .....

16 The trustee(s) has (have) the power to (state, synopsize, or  
17 describe relevant powers): .....

18 Title to the trust property shall be taken as follows (for  
19 example, "John Doe and Jane Doe, co-trustees of the Doe Family  
20 Living Trust, dated January 4, 1999"): .....

21 .....

22 .... This is an irrevocable trust.

23 .... This is a revocable trust. Name(s) of person(s) holding  
24 power to revoke the trust: .....

25 .... This is an unamendable trust.

26 .... This trust is amendable. Name(s) of person(s) holding

1 power to amend the trust: .....

2 I (we) certify that the above named trust is in full force and  
3 has not been revoked, modified, or amended in any manner which  
4 would cause the representations in this Certification of Trust  
5 to be incorrect.

6 IN WITNESS THEREOF, each of the undersigned, being a trustee of  
7 the above-named trust with the authority to execute this  
8 Certification of Trust, does hereby execute it this ..... day  
9 of ....., .....

10 Trustee Signature: .....

11 Printed Name: .....

12 Trustee Signature: .....

13 Printed Name: .....

14 [OPTIONAL:]

15 This instrument was signed and acknowledged before me on  
16 ....., ..... (date) by (name/s of person/s):.....

17 (Signature of Notary Public):

18 .....

19 (SEAL)]

1           Section 99. Effective date. This Act takes effect upon  
2 becoming law.".