

1 HB474
2 210754-1
3 By Representative Coleman
4 RFD: Financial Services
5 First Read: 02-MAR-21

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8 SYNOPSIS: Under the Alabama Uniform Trust Code, a
9 beneficiary may not commence a proceeding against a
10 trustee for breach of trust more than two years
11 after the date the beneficiary was sent a report
12 that adequately disclosed the existence of a
13 potential claim for breach of trust.

14 This bill would define the term report to
15 include an account statement or other form of
16 written disclosure made by the trustee to the
17 beneficiary.

18 Also under the Alabama Uniform Trust Code,
19 certain responsibilities are imposed on a trustee
20 when a trustee is seeking to be released from its
21 duties due to trust termination, trustee
22 resignation, or trustee removal.

23 This bill would provide a process for a
24 trustee seeking to be released from its duties to a
25 trust.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to the Alabama Uniform Trust Code; to amend
5 Section 19-3B-1005, Code of Alabama 1975, to further provide
6 for reports of the existence of a potential claim for breach
7 of trust; and to add Section 19-3B-1306 to the Code of Alabama
8 1975, to provide a procedure for the release of a trustee from
9 its duties to a trust.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 19-3B-1005, Code of Alabama 1975,
12 is amended to read as follows:

13 "§19-3B-1005.

14 "(a) A beneficiary may not commence a proceeding
15 against a trustee for breach of trust more than two years
16 after the date the beneficiary or a representative of the
17 beneficiary was sent a report that adequately disclosed the
18 existence of a potential claim for breach of trust. For
19 purposes of this section, a report is an account statement or
20 other form of written disclosure made by the trustee to the
21 beneficiary.

22 "(b) A report adequately discloses the existence of
23 a potential claim for breach of trust if it provides
24 sufficient information so that the beneficiary or
25 representative knows of the potential claim or should have
26 inquired into its existence.

1 "(c) If subsection (a) does not apply, then a
2 judicial proceeding by a beneficiary against a trustee for
3 breach of trust must be commenced within two years after the
4 first to occur of:

5 "(1) the removal, resignation, or death of the
6 trustee;

7 "(2) the termination of the beneficiary's interest
8 in the trust; or

9 "(3) the termination of the trust."

10 Section 2. Section 19-3B-1306 is added to the Code
11 of Alabama 1975, to read as follows:

12 §19-3B-1306.

13 (a) A trustee may obtain a settlement of its
14 accounts in accordance with subsection (b) when any of the
15 following occur:

16 (1) A trust terminates pursuant to the terms of the
17 trust.

18 (2) A trust terminates early pursuant to Section
19 19-3B-414.

20 (3) A trustee resigns or is removed.

21 (4) A trustee seeks discharge of an interim
22 accounting period when the trust is continuing.

23 (b) (1) A trustee who elects to proceed under this
24 section shall provide all of the following to the qualified
25 beneficiaries of the trust and the successor trustee, if
26 applicable, within a reasonable time after termination of the
27 trust pursuant to its terms, the resignation or removal of the

1 trustee, or the end of the period for which the trustee is
2 seeking discharge:

3 a. A statement showing the fair market value of the
4 new assets to be distributed from a terminating trust or to a
5 successor trustee.

6 b. A trust accounting for the prior two years
7 showing all receipts and disbursements and inventory value of
8 the net assets.

9 c. An estimate for any items reasonably anticipated
10 to be received or disbursed.

11 d. The amount of any fees, including trustee fees,
12 remaining to be paid.

13 e. Notice that the trust is terminating, or that the
14 trustee has resigned or been removed, the time period for
15 which the trustee seeks discharge of its accounts, and a
16 statement providing that claims against a trustee under
17 Section 19-3B-604 and Section 19-3B-1005, if applicable, shall
18 be barred if no objections are received within the time period
19 described in subsection (c).

20 f. The name and mailing address of the trustee.

21 g. The name and telephone number of a person who may
22 be contacted for additional information.

23 (2) The trustee may also provide the statement and
24 notice described in this subsection to any other person who
25 the trustee reasonably believes may have an interest in the
26 trust.

1 (3) The statement and notice described in this
2 subsection shall be provided in accordance with Section
3 19-3B-109.

4 (c) (1) If, after receiving the notice and trust
5 information described in subsection (b), a qualified
6 beneficiary or any other party that received the notice and
7 trust information objects to a disclosed act or omission, the
8 qualified beneficiary shall provide written notice of the
9 objection to the trustee not later than 45 days after the
10 notice was sent by the trustee. If no written objection is
11 provided in the 45-day time period, the information provided
12 under subsection (b) shall be considered approved by the
13 recipient. The trustee, in the case of a trust terminating
14 pursuant to the terms of the trust or the trustee's
15 resignation or removal, within a reasonable period of time
16 following the expiration of the 45-day time period, shall
17 distribute the assets as provided in the trust or to the
18 successor trustee. If a qualified beneficiary gives the
19 trustee a written objection within the applicable 45-day time
20 period, the trustee or the qualified beneficiary may do either
21 of the following:

22 a. Submit the written objection to the court for
23 resolution and charge the expense of commencing a proceeding
24 to the trust.

25 b. Resolve the objection by a nonjudicial settlement
26 agreement or other written agreement.

1 (2) Any agreement entered into pursuant to paragraph
2 (1)b. may include a release, an indemnity clause, or both, on
3 the part of the beneficiary against the trustee relating to
4 the trust. If the parties agree to a nonjudicial settlement
5 agreement or other written agreement, any related expenses
6 shall be charged to the trust. Upon a resolution of an
7 objection under this subsection, within a reasonable period of
8 time, the trustee shall distribute the remaining trust assets
9 as provided in the trust or to the successor trustee.

10 (d) The trustee may rely upon the written statement
11 of a person receiving notice that the person does not object.

12 (e) When a trustee distributes assets of a
13 terminating trust or to the successor trustee after complying
14 with this article and having received no objections, each
15 person who received notice and either consented or failed to
16 object pursuant to this section is barred from doing either of
17 the following:

18 (1) Bringing a claim against the trustee or
19 challenging the validity of the trust to the same extent and
20 with the same preclusive effect as if the court had entered a
21 final order approving the trustee's final account.

22 (2) Bringing a claim against the trustee for the
23 period of such interim accounts to the same extent and with
24 the same preclusive effect as if the court had entered a final
25 order approving the trustee's interim accounts.

1 (f) The court, as determined under Section
2 19-3B-203, shall have exclusive jurisdiction over matters
3 under this section.

4 (g) Sections 19-3B-301 through 19-3B-304 shall apply
5 to this section.

6 (h) Nothing in this section shall preclude a trustee
7 from proceeding under Section 19-3B-201 to have the trustee's
8 accounts reviewed and settled by the court.

9 Section 3. This act shall become effective on
10 January 1, 2022, following its passage and approval by the
11 Governor, or its otherwise becoming law.