

1 SB368
2 150483-1
3 By Senator Ward
4 RFD: Children, Youth Affairs, and Human Resources
5 First Read: 04-APR-13

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8 SYNOPSIS: Under existing law, the Alabama Family
9 Trust was established to supplement the basic
10 support provided by state government and other
11 governmental programs and provide for medical,
12 social, or other supplemental services for persons
13 with a physical or mental impairment that
14 substantially limits one or more major life
15 activities as determined by the Social Security
16 Administration.

17 Under existing law, the word donor is used
18 to refer to a person or entity who contributes
19 assets to the Alabama Family Trust to establish an
20 account for a life beneficiary.

21 This bill would replace the word donor with
22 either contributor, any person who contributes
23 assets to the account of the life beneficiary, or
24 settlor, any person who establishes an Alabama
25 Family Trust account for a life beneficiary.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 To amend Sections 38-9B-2, 38-9B-3, 38-9B-5,
5 38-9B-6, and 38-9B-7, Code of Alabama 1975, relating to the
6 Alabama Family Trust; to delete the definition of donor; to
7 provide further for the definition of contributor; and to add
8 the term settlor and provide for its definition.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 38-9B-2, 38-9B-3, 38-9B-5,
11 38-9B-6, and 38-9B-7, Code of Alabama 1975, are amended to
12 read as follows:

13 "§38-9B-2.

14 "As used in this chapter, the following words shall
15 have the following meanings:

16 "(1) ALABAMA FAMILY CHARITABLE TRUST (AFT CHARITABLE
17 TRUST). The trust established by the board of trustees that
18 qualifies as a tax exempt charitable entity under the United
19 States Internal Revenue Code, to provide benefits for
20 ~~individuals for whom no contribution to the~~ any individual who
21 does not have a sufficient amount in his or her AFT Trust has
22 ~~been made~~ to meet the individual's needs.

23 "(2) ALABAMA FAMILY TRUST (AFT TRUST). The Alabama
24 Family Trust established pursuant to this chapter.

25 "(3) ALABAMA FAMILY TRUST CORPORATION (AFT
26 CORPORATION). An Alabama not-for-profit corporation
27 established by the board of trustees pursuant to this chapter

1 that qualifies as a tax exempt charitable organization under
2 the United States Internal Revenue Code.

3 "(4) BOARD OF TRUSTEES. The Alabama Family Trust
4 Board of Trustees established pursuant to this chapter.

5 "(5) COMMISSIONER. The Commissioner of the Alabama
6 Department of Mental Health.

7 "(6) CONTRIBUTION. The balance of all amounts placed
8 in a particular account but not including any appreciation in
9 value of investments or accretions thereto resulting from any
10 source, such as dividends, interest, and capital gains. In no
11 event shall contribution mean more than the total of all
12 contributions made to a particular account.

13 "(7) CONTRIBUTOR. Any person who makes a donation
14 directly to the AFT Corporation or the AFT Charitable Trust.

15 "(8) CO-TRUSTEE. Any person named by the ~~donor~~
16 settlor to work with the ~~board of trustees~~ trustee in
17 providing benefits to a life beneficiary, except neither ~~the~~
18 ~~donor~~ a contributor nor ~~the donor's~~ a contributor's spouse
19 shall be the co-trustee if the ~~donor~~ contributor or the
20 ~~donor's~~ contributor's spouse is the life beneficiary.

21 "(9) DEPARTMENT. The Alabama Department of Mental
22 Health.

23 "~~(10) DONOR. Any person who contributes assets to~~
24 ~~the AFT Trust to establish an account for a life beneficiary.~~

25 "~~(11)~~ (10) IMPAIRMENT. A mental or physical
26 disability that substantially limits one or more major life
27 activities, whether the impairment is congenital or acquired

1 by accident, injury, age, or disease, and where the impairment
2 is verified by medical findings that meet the
3 medical-vocational requirements for a finding of disability
4 under Section 223(d) of the Social Security Act, 42 U.S.C.
5 Section 423(d), or under Section 1614 of the Social Security
6 Act, 42 U.S.C. Section 1382c.

7 ~~"(12)~~ (11) LIFE BENEFICIARY. A beneficiary
8 designated by a ~~donor to the AFT Trust~~ settlor.

9 ~~"(13)~~ (12) NET INCOME. The earnings received on
10 investments less expenses and fees for administration.

11 ~~"(14)~~ (13) REQUESTING PARTY. The party requesting
12 arbitration of a dispute regarding benefits to be provided by
13 the AFT Trust.

14 ~~"(15)~~ (14) RESPONDING PARTY. The party not
15 requesting arbitration of a dispute regarding benefits to be
16 provided by the AFT Trust.

17 "(15) SETTLOR. A person who establishes an AFT Trust
18 account for a life beneficiary.

19 "(16) SUCCESSOR LIFE BENEFICIARY. A successor life
20 beneficiary designated by the ~~donor~~ settlor to the AFT Trust,
21 who is a legal sibling of the life beneficiary and who
22 otherwise qualifies as a life beneficiary under the conditions
23 of this chapter.

24 ~~"(17) SUCCESSOR TRUST. The trust established upon~~
25 ~~distribution by the board of trustees pursuant to notice of~~
26 ~~agreement of withdrawal or termination with a co-trustee and~~
27 ~~administered as set forth in this chapter.~~

1 "~~(18) SUCCESSOR TRUSTEE. The trustee as designated~~
2 ~~by the donor who shall administer the successor trust.~~

3 "~~(19) (17) TRUSTEE. A member of the The Alabama~~
4 ~~Family Trust ~~Board of Trustees~~ Corporation.~~

5 "§38-9B-3.

6 "(a) ~~Donors~~ Contributors may supplement the care,
7 support, habilitation, and treatment of impaired persons
8 pursuant to this chapter. Neither the contribution to the AFT
9 Trust for the benefit of a life beneficiary nor the use of AFT
10 Trust ~~income~~ assets to provide benefits shall in any way
11 reduce, impair, or diminish the benefits to which a person is
12 otherwise entitled by law. The establishment and
13 administration of the AFT Trust shall not be taken into
14 consideration in appropriations for the department to render
15 services required by law.

16 "(b) The assets held by the ~~board of trustees~~
17 trustee and assets held in the AFT Trust and the AFT
18 Charitable Trust pursuant to this chapter shall not be
19 considered state money, assets of the state, or revenue for
20 any purpose of the Constitution of Alabama of 1901, or statute
21 or any other state's constitution or statute. The assets held
22 by the ~~board of trustees~~ trustee and its income and operations
23 shall be exempt from all state and local taxation.

24 "§38-9B-5.

25 "(a) The board of trustees shall establish and
26 administer the AFT Corporation. The board of trustees shall
27 execute all documents necessary to establish and administer

1 the AFT Corporation including, but not limited to, documents
2 to form a not-for-profit corporation and to qualify as an
3 organization pursuant to Section 501(c)(3) of the United
4 States Internal Revenue Code.

5 "(b) The AFT Corporation shall establish the AFT
6 Trust and the AFT Charitable Trust, and the board of trustees
7 shall administer the AFT Trust and the AFT Charitable Trust
8 through the AFT Corporation. The board of trustees and the AFT
9 Corporation shall take all steps necessary to satisfy all
10 federal and state laws to ensure that the AFT Trust and the
11 AFT Charitable Trust are qualified to supplement the provision
12 of government entitlement funding and, where necessary, are
13 qualified as tax exempt entities under the United States
14 Internal Revenue Code.

15 "(c) The documents establishing the AFT Trust shall
16 include and be limited by the following:

17 "(1) To be eligible to participate in the AFT Trust,
18 a life beneficiary must suffer from an impairment as defined
19 in this chapter.

20 "(2) The AFT Trust may accept contributions from any
21 source, so long as basic eligibility requirements are
22 satisfied, to be held, administered, managed, invested, and
23 distributed in order to facilitate the coordination and
24 integration of private financing for individuals who have an
25 impairment, while maintaining the eligibility of those
26 individuals for government entitlement funding. Contributions
27 and earnings of the AFT Trust may be administered as one trust

1 for purposes of investment and management of funds.
2 Notwithstanding the foregoing, separate accounts shall be
3 established for each designated life beneficiary. The net
4 income earned shall be credited to the accounts of the life
5 beneficiaries in proportion to the fair market value that each
6 account has to the total fair market value of all accounts.
7 Administrative fees and administrative expenses may be charged
8 directly to an account of a life beneficiary, except that
9 administrative fees shall not exceed the income allocated to
10 that account.

11 "(3) Every ~~donor~~ settlor shall designate a specific
12 person as the life beneficiary of the contribution made by the
13 ~~donor~~ contributor. In addition, each ~~donor~~ settlor shall name
14 a co-trustee, including ~~the donor and~~ a successor or
15 successors to the co-trustee, to act with the ~~trustees of the~~
16 ~~AFT Trust~~ trustee on behalf of the designated life
17 beneficiary. Notwithstanding the foregoing, neither a life
18 beneficiary~~7~~, or his or her spouse~~7~~, shall ~~not~~ be eligible to be
19 a co-trustee or a successor co-trustee.

20 "(4) If a ~~donor~~ settlor designates ~~himself or~~
21 ~~herself or his or her~~ a contributor or the contributor's
22 spouse as the life beneficiary, then the account of the life
23 beneficiary shall, regardless of any other provision of this
24 chapter, meet the following additional conditions:

25 "(i) The AFT Trust shall be irrevocable.

26 "(ii) The amounts remaining in the life
27 beneficiary's account upon the death of the life beneficiary

1 shall be first dispersed to the AFT Corporation, as agent for
2 all purposes of the State of Alabama, as reimbursement for any
3 funds owed to the State of Alabama, or to any other state, the
4 District of Columbia or any other commonwealth, territory, or
5 jurisdiction of the United States for medical assistance paid
6 on behalf of the life beneficiary under the plan of the
7 respective jurisdiction, and the balance, if any, shall be
8 dispersed in accordance with rules and regulations adopted by
9 the AFT Corporation. All sums received by the AFT Corporation,
10 as agent for the State of Alabama, shall be distributed, as
11 appropriate, by the AFT Corporation.

12 "(iii) Neither ~~the donor~~ a contributor nor the
13 ~~donor's~~ contributor's spouse shall serve as co-trustee.

14 "(5) During his or her lifetime, any ~~donor~~
15 contributor or contributor's spouse who has not been
16 ~~designated himself or herself or his or her spouse~~ as the life
17 beneficiary, may revoke ~~any~~ his or her contribution made to
18 the AFT Trust. Notwithstanding the foregoing, any ~~donor~~
19 contributor may, at any time, voluntarily waive the right to
20 revoke by written notice. ~~If at the time the donor revokes, by~~
21 ~~written notice, the contribution to the AFT Trust and the life~~
22 ~~beneficiary has not received any benefits provided by the use~~
23 ~~of the AFT Trust income or principal~~ at the time the
24 contributor revokes the contribution to the AFT Trust, then an
25 amount equal to the current fair market value of the balance
26 of the life beneficiary's account in the AFT Trust as
27 determined on the date of distribution shall be returned to

1 the ~~donor~~ contributor. If at the time a ~~donor~~ contributor
2 revokes the contribution to the AFT Trust ~~and the life~~
3 ~~beneficiary has received any benefit provided by the use of~~
4 ~~trust income or principal~~, then an amount equal to 95 percent
5 of the current fair market value of the principal balance of
6 the life beneficiary account in the AFT Trust as determined on
7 the date of distribution shall be returned to the ~~donor~~
8 contributor. The remaining balance of the life beneficiary
9 account shall be distributed to the AFT Charitable Trust.

10 "(6) The co-trustee, with the consent of the
11 trustee, ~~annually~~ shall agree on the amount of income or
12 principal, or both, to be used to provide non-cash benefits in
13 the best interest of ~~of the nature and type of benefits to be~~
14 ~~provided to the life beneficiary. Such permissible benefits~~
15 ~~shall include, but not be limited to, more sophisticated~~
16 ~~dental, medical, and diagnostic work or treatment than is~~
17 ~~otherwise available from public assistance, private~~
18 ~~rehabilitative training, supplementary education aid,~~
19 ~~entertainment, periodic vacations and outings, expenditures to~~
20 ~~foster the interests, talents, and hobbies of the life~~
21 ~~beneficiary, and expenditures to purchase personal property~~
22 ~~and services which will make life more comfortable and~~
23 ~~enjoyable for the life beneficiary but which will not defeat~~
24 ~~his or her eligibility for public assistance. Expenditures may~~
25 ~~include payment of the funeral and burial costs of the life~~
26 ~~beneficiary. The trustee or co-trustee, in his or her~~
27 ~~discretion, may make payments from time to time for a person~~

1 ~~to accompany the life beneficiary on vacations and outings and~~
2 ~~for the transportation of the life beneficiary or of friends~~
3 ~~and relatives of the life beneficiary to visit the life~~
4 ~~beneficiary. Expenditures shall not be made for the primary~~
5 ~~support or maintenance of the life beneficiary, including~~
6 ~~basic food, shelter, and clothing, if, as a result the life~~
7 ~~beneficiary would no longer be eligible to receive public~~
8 ~~benefits or assistance to which the life beneficiary would~~
9 ~~otherwise be entitled. Any net income which is not used shall~~
10 be added annually to the principal.

11 "(7) In the event that the trustees and the
12 co-trustee shall be unable to agree either on the amount of
13 income or principal, or income and principal, to be used or
14 the benefits to be provided, then either the trustees or the
15 co-trustee may request that the matter be resolved by
16 arbitration. The requesting party shall send a written request
17 for arbitration to the responding party and shall in the
18 request set forth the name, address, and telephone number of
19 the requesting party's arbitrator. The responding party shall,
20 within 10 days, after receipt of the request for arbitration,
21 set forth in writing to the requesting party the name,
22 address, and telephone number of the responding party's
23 arbitrator. Copies of the request for arbitration and response
24 shall be sent to the commissioner of the department. If the
25 two designated arbitrators are unable to agree upon a third
26 arbitrator within 10 days after the responding party has
27 identified the responding party's arbitrator, then the

1 commissioner shall designate the third arbitrator by written
2 notice to the requesting and responding parties' arbitrators.
3 The three arbitrators shall meet and render a decision within
4 30 calendar days after the appointment of the third
5 arbitrator. A decision of a majority of the arbitrators shall
6 be binding upon the requesting and responding parties. Each
7 party shall pay the fees and expenses of the party's
8 arbitrator and the fees and expenses of the third arbitrator
9 shall be borne equally by the parties.

10 ~~"(8) Any acting co-trustee, other than the donor~~
11 ~~may, for good and sufficient reason upon written notice to the~~
12 ~~trustees, revoke any contribution made to the AFT Trust and~~
13 ~~direct withdrawal of all of the current fair market value of~~
14 ~~the balance of the life beneficiary's account in the AFT Trust~~
15 ~~as determined on the date of distribution. In no event shall a~~
16 ~~co-trustee be entitled to direct withdrawal of only a portion~~
17 ~~of the current fair market value of the life beneficiary's~~
18 ~~account in the AFT Trust. In the event of withdrawal, the~~
19 ~~applicable portion, determined as set forth below in~~
20 ~~subdivision (10), of the current fair market value of the~~
21 ~~balance of the life beneficiary's account in the AFT Trust, as~~
22 ~~determined on the date of distribution, shall be distributed~~
23 ~~to the successor trust and the remaining balance of the life~~
24 ~~beneficiary's account in the AFT Trust shall be distributed to~~
25 ~~the AFT Charitable Trust.~~

26 ~~"(9) (8)~~ If a life beneficiary for whose benefit a
27 contribution has been made to the AFT Trust ceases to be

1 eligible to participate in the AFT Trust, and ~~neither the~~
2 ~~donor nor the then acting co-trustee revokes~~ contributor does
3 not revoke or ~~withdraws~~ withdraw the applicable balance of the
4 life beneficiary's account in the AFT Trust, then the ~~board of~~
5 ~~trustees~~ trustee may, by written notice to the ~~donor~~
6 contributor or acting co-trustee, terminate the AFT Trust as
7 to such life beneficiary. ~~Upon termination, the board of~~
8 ~~trustees shall distribute the applicable portion, as set forth~~
9 ~~below, of such life beneficiary's account in the AFT Trust to~~
10 ~~the successor trustee of the successor trust to be held,~~
11 ~~administered, and distributed by the successor trustee in~~
12 ~~accordance with the successor trust described in subdivision~~
13 ~~(11) of this subsection.~~

14 ~~"(10)~~ (9) At the time of ~~revocation and withdrawal~~
15 ~~by the co-trustee pursuant to subdivision (8) of this~~
16 ~~subsection or~~ termination pursuant to subdivision ~~(9)~~ (8) of
17 this subsection of a life beneficiary's account from the AFT
18 Trust, if the life beneficiary has not received any benefits
19 provided by the use of AFT Trust income or principal, or the
20 life beneficiary has received benefits provided by the use of
21 AFT Trust income or principal for a period of not more than
22 five years from the date a contribution has first been made to
23 the AFT Trust for the life beneficiary, then an amount equal
24 to 95 percent of the current fair market value of the
25 principal balance of the life beneficiary's account in the AFT
26 Trust as determined on the date of distribution shall be
27 distributed to the account of the successor ~~trust~~ life

1 beneficiary, and the balance of the life beneficiary's account
2 in the AFT Trust shall be distributed to the AFT Charitable
3 Trust. At the time of withdrawal by the co-trustee or
4 termination as provided above, if the life beneficiary has
5 received any benefits provided by the use of AFT Trust income
6 or principal for a period of more than five years from the
7 date a contribution has first been made to an account in the
8 AFT Trust for the life beneficiary, then an amount equal to 90
9 percent of the current fair market value of the balance of the
10 life beneficiary's account in the AFT Trust as determined on
11 the date of distribution shall be distributed to the account
12 of the successor ~~trust~~ life beneficiary, and the balance of
13 the life beneficiary's account in the AFT Trust shall be
14 distributed to the AFT Charitable Trust.

15 ~~"(11)~~ (10) If the life beneficiary dies before
16 receiving any benefits provided by the use of AFT Trust income
17 or principal, all amounts remaining in the account of such
18 life beneficiary shall be transferred to the account of a
19 successor life beneficiary, if any. If there is no successor
20 life beneficiary, then an amount equal to the current fair
21 market value of the principal balance of the life
22 beneficiary's account in the AFT Trust, ~~as determined on the~~
23 ~~date of distribution less payment, if made by the AFT Trust,~~
24 ~~of funeral and burial costs of the life beneficiary,~~ shall be
25 distributed to the person or persons as the ~~donor~~ settlor has
26 designated. If at the time of death of the life beneficiary,
27 the life beneficiary has received benefits provided by the use

1 of AFT Trust income or principal, or both, then, ~~after payment~~
2 ~~of funeral and burial costs of the life beneficiary,~~ all
3 amounts remaining in the account of such life beneficiary
4 shall be transferred to the account of a successor life
5 beneficiary, if any. If there is no successor life
6 beneficiary, an amount equal to 90 percent of the current fair
7 market value of the balance of the life beneficiary's account
8 in the AFT Trust, as determined on the date of distribution,
9 shall be distributed to the person or persons as the ~~donor~~
10 settlor has designated, and the remaining balance of the life
11 beneficiary's account in the AFT Trust, shall be distributed
12 to the AFT Charitable Trust.

13 ~~"(12)~~ (11) Upon receipt of a notice of ~~withdrawal~~
14 ~~from a designated co-trustee, other than the donor, and a~~
15 ~~determination by the board of trustees that the reason for the~~
16 ~~withdrawal is good and sufficient or upon the issuance of a~~
17 ~~notice of termination by the board of trustees, the board of~~
18 ~~trustees shall distribute and pay over to the successor~~
19 ~~trustee of the successor trust~~ the death of a life beneficiary
20 where there is a successor life beneficiary, the applicable
21 portion of the current fair market value of the life
22 beneficiary's account in the AFT Trust shall be transferred to
23 the account of the successor life beneficiary, and the
24 co-trustee for the successor life beneficiary, with the
25 consent of the trustee, shall agree on the amount of income or
26 principal, or both, to be used to provide non-cash benefits in
27 the best interest of the successor life beneficiary. After the

1 death of a life beneficiary, an amount equal to 90 percent of
2 the current fair market value of the balance of the successor
3 life beneficiary's account in the AFT Trust, as determined on
4 the date of distribution, shall be distributed to the person
5 or persons as the settlor has designated, and the remaining
6 balance of the successor life beneficiary's account in the AFT
7 Trust shall be distributed to the AFT Charitable Trust. The
8 ~~successor trustee of the successor trust shall hold,~~
9 ~~administer, and distribute the principal and income of the~~
10 ~~successor trust, in the discretion of the successor trustee,~~
11 ~~for the maintenance, support, health, education, and general~~
12 ~~well-being of the life beneficiary, recognizing that it is the~~
13 ~~purpose of the successor trust to supplement, not replace, any~~
14 ~~government benefits for the life beneficiary's basic support~~
15 ~~to which the life beneficiary may be entitled and to increase~~
16 ~~the quality of the life beneficiary's life by providing him or~~
17 ~~her with those amenities which cannot otherwise be provided by~~
18 ~~public assistance or entitlements or other available sources.~~
19 ~~Permissible expenditures include, but are not limited to, more~~
20 ~~sophisticated dental, medical, and diagnostic work or~~
21 ~~treatment than is otherwise available from public assistance,~~
22 ~~private rehabilitative training, supplementary education aid,~~
23 ~~entertainment, periodic vacations and outings, expenditures to~~
24 ~~foster the interests, talents, and hobbies of the life~~
25 ~~beneficiary, and expenditures to purchase personal property~~
26 ~~and services which will make life more comfortable and~~
27 ~~enjoyable for the life beneficiary but which will not defeat~~

1 ~~his or her eligibility for public assistance. Expenditures may~~
2 ~~include payment of the funeral and burial costs of the life~~
3 ~~beneficiary. The successor trustee, in his or her discretion,~~
4 ~~may make payments from time to time for a person to accompany~~
5 ~~the life beneficiary on vacations and outings and for the~~
6 ~~transportation of the life beneficiary or of friends or~~
7 ~~relatives of the life beneficiary to visit the life~~
8 ~~beneficiary. Any undistributed income of the successor trust~~
9 ~~shall be added to the principal from time to time.~~
10 ~~Expenditures shall not be made for the primary support or~~
11 ~~maintenance of the life beneficiary, including basic food,~~
12 ~~shelter, and clothing, if, as a result, the life beneficiary~~
13 ~~would no longer be eligible to receive public benefits or~~
14 ~~assistance to which the life beneficiary would otherwise be~~
15 ~~entitled. After the death and burial of the life beneficiary,~~
16 ~~the remaining balance of the successor trust shall be~~
17 ~~distributed to the person or persons as the donor has~~
18 ~~designated.~~

19 " (d) The documents establishing the AFT Charitable
20 Trust shall include and be limited to the following:

21 " (1) The AFT Charitable Trust shall be a charitable
22 trust under the United States Internal Revenue Code and shall
23 be administered as part of the AFT Trust, but as a separate
24 account. The income attributable to the AFT Charitable Trust
25 shall be used ~~to provide benefits for individuals who have an~~
26 ~~impairment as determined by the department. The individuals to~~
27 ~~be beneficiaries of the AFT Charitable Trust shall be~~

1 ~~recommended to the board of trustees by the department~~ for the
2 benefit of beneficiaries of AFT individual trusts who have
3 needs that cannot be met from funds available to such life
4 beneficiaries from their AFT individual trusts. The board of
5 trustees ~~and the department~~ shall ~~agree~~ determine annually ~~on~~
6 the amount of AFT Charitable Trust income to be used to
7 provide benefits and the nature and type of benefits to be
8 provided ~~through the department~~ for each ~~identified~~ AFT life
9 ~~beneficiary of the AFT Charitable Trust~~ while ~~maintaining~~
10 taking into account the individual's eligibility for
11 government ~~entitlement funding~~ benefits. Any income of the AFT
12 Charitable Trust not used shall be added annually to the
13 principal.

14 "(2) The board of trustees shall accept
15 contributions to the AFT Charitable Trust from any source and
16 shall comply with all rules and regulations under the United
17 States Internal Revenue Code that govern the acceptance of
18 charitable contributions.

19 "§38-9B-6.

20 "(a) No life beneficiary shall have any vested or
21 property rights or interests in the AFT Trust, nor shall any
22 life beneficiary have the power to anticipate, assign, convey,
23 alienate, or otherwise encumber any interest in the income or
24 principal of the AFT Trust nor shall the income or principal
25 be or any interest of any life beneficiary thereunder be
26 liable for any debt incurred by the life beneficiary, nor
27 shall the principal or income of the AFT Trust Fund be subject

1 to seizure by any creditor of any life beneficiary under any
2 writ or proceeding in law or in equity.

3 "(b) Except for the right of a ~~donor other than a~~
4 ~~donor or a donor's~~ contributor who is not and whose spouse who
5 is not a life beneficiary, to revoke any contribution made to
6 the AFT Trust, pursuant to subdivision (5) of subsection (c)
7 of Section 38-9B-5, ~~and the right of any acting co-trustee,~~
8 ~~other than the donor, to withdraw all or a portion of the~~
9 ~~contribution made to the account of a life beneficiary,~~
10 ~~pursuant to subdivision (8) of subsection (c) of Section~~
11 ~~38-9B-5,~~ neither the ~~donor~~ settlor, contributor, nor any
12 acting co-trustee has the right to sell, assign, convey,
13 alienate, or otherwise encumber, for consideration or
14 otherwise, any interest in the income or the principal of the
15 AFT Trust, nor shall the income or the principal or any
16 interest of any life beneficiary thereunder be liable for any
17 debt incurred by the ~~donor~~ settlor, contributor, or any acting
18 co-trustee, nor shall the principal or income of the AFT Trust
19 be subject to seizure by any creditor of any ~~donor~~ settlor,
20 contributor, or any acting co-trustee under any writ or
21 proceeding in law or in equity.

22 "§38-9B-7.

23 "No trustee, or ~~co-trustee, or successor trustee~~
24 serving pursuant to the provisions of this chapter shall at
25 any time be liable for any mistake of law or fact, or of both
26 law and fact, or errors of judgment, or for any loss sustained
27 by the AFT Trust or AFT Charitable Trust, or by any life

1 beneficiary, or by any other person, except through actual
2 fraud or willful misconduct on the part of such trustee, or
3 co-trustee, ~~or successor trustee.~~"

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.