

CHAPTER 169—S.F.No. 1097

An act relating to trusts; prohibiting trustees from exercising certain powers; proposing coding for new law in Minnesota Statutes, chapter 501B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [501B.14] PROHIBITION AGAINST EXERCISE OF POWERS BY TRUSTEE.

Subdivision 1. PROHIBITION. No trustee may exercise or participate in the exercise of any of the following powers:

(1) any power of the trustee to make discretionary distributions of either principal or income to or for the benefit of the trustee as beneficiary, unless by the terms of the will or other written instrument those discretionary distributions are limited by an ascertainable standard relating to that trustee's health, education, maintenance, or support as described in sections 2041 and 2514 of the Internal Revenue Code of 1986, as amended through December 31, 1992; or

(2) any power to make discretionary distributions of either principal or income to discharge any legal support or other obligations of the trustee to any person.

Subd. 2. EXERCISE OF AFFECTED POWERS. Any power described in subdivision 1 that is conferred upon two or more trustees may be exercised by the trustee or trustees who are not disqualified under subdivision 1. If there is no trustee qualified to exercise the power, any trustee or other person interested in the trust may petition the district court pursuant to section 501B.16 to appoint an additional trustee. The district court may limit the powers of an additional trustee appointed under this subdivision to exercise the power to make discretionary distributions when no other trustee may exercise that power.

Subd. 3. APPLICATION. (a) Except as provided in paragraph (b), this section applies to any exercise of any powers of the trustee after the date of final enactment under any trust created before, on, or after the date of enactment, unless the terms of the trust refer specifically to this section and provide that this section does not apply.

(b) This section does not apply to a trustee:

(1) who retains or is granted an unlimited lifetime or testamentary power, exercisable in a capacity other than as trustee, to revoke the trust, or to withdraw all of the income and principal of the trust, or to appoint all of the income and principal of the trust to the trustee individually or the trustee's estate;

(2) of a trust created on or before the date of final enactment if the entire principal of the trust would be included in the gross estate of the trustee for federal estate tax purposes if the trustee had died on the date of enactment without regard to any power described in subdivision 1;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) of a trust created on or before the date of final enactment if no part of the principal of the trust would be included in the gross estate of the trustee for federal estate tax purposes if the trustee had died on the date of enactment without exercising the power;

(4) of a trust created on or before the date of final enactment if (i) the trust is not exempt from generation-skipping transfer tax under chapter 13 of the Internal Revenue Code of 1986, as amended through December 31, 1992, because of Public Law Number 99-514, section 1433(b) to (d); (ii) there would be a taxable termination with respect to the assets held in the trust if the trustee and all beneficiaries of the trust who are assigned to the trustee's generation or a higher generation had died on the date of enactment; and (iii) the trust would have an inclusion ratio, as defined in section 2642(c) of the Internal Revenue Code of 1986, as amended through December 31, 1992, of one with respect to the taxable termination; or

(5) of a trust created on or before the date of final enactment if (i) on the date of final enactment there is no person with the power to amend or revoke the trust, and (ii) on the date of final enactment there is only one trustee of the trust.

(c) This section has no effect on an action taken by a trustee on or before the date of final enactment.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor May 11, 1993

Signed by the governor May 14, 1993, 9:08 a.m.

CHAPTER 170—S.F.No. 674

An act relating to civil actions; regulating the posting of a bond required of plaintiffs in certain actions against a public body; amending Minnesota Statutes 1992, section 562.02.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 562.02, is amended to read:

562.02 CIVIL ACTIONS AFFECTING A PUBLIC BODY; SURETY BOND REQUIRED OF PLAINTIFF.

Whenever any action at law or in equity is brought in any court in this state questioning directly or indirectly the existence of any condition or thing precedent to, or the validity of any action taken or proposed to be taken, by any pub-

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