

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Amend the Maine Uniform Trust Code Regarding Reporting by Trustees and the Duties of Trustees to Settlers**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 18-B MRSA §105, sub-§3**, as amended by PL 2011, c. 42, §4, is further amended to read:

**3. Waiver or modification.** The settlor, in the trust instrument or in another writing delivered to the trustee, may waive or modify the duties of a trustee under section 813, subsection 1 ~~or~~ 2 or 3 to give notice, information and reports to qualified beneficiaries in either or both of the following ways:

A. Waiving or modifying such duties as to all qualified beneficiaries except the settlor's surviving spouse during the lifetime of the settlor or the lifetime of the settlor's surviving spouse; and

B. With respect to one or more of the current beneficiaries as to whom the settlor has waived or modified such duties, designating a person or persons, any of whom may or may not be a beneficiary, to act in good faith to protect the interests of the current beneficiaries who are not receiving notice, information or reports and to receive any notice, information or reports required under section 813, subsection 1 ~~or~~ 2 or 3 in lieu of providing such notice, information or reports to the current beneficiaries. The person or persons designated under this paragraph are deemed to be representatives of the current beneficiaries not receiving notice, information or reports for the purposes of the time limitation for a beneficiary to commence an action against the trustee for breach of trust as provided in section 1005, subsection 1.

**Sec. 2. 18-B MRSA §813, sub-§6**, as enacted by PL 2011, c. 42, §7, is amended to read:

**6. Duty to settlor of revocable trust.** During the lifetime of the settlor of a revocable trust, whether or not the settlor has capacity to revoke the trust, the trustee's duties under this section are owed exclusively to the settlor and the trustee has no duty to provide information or reports to distributees, permissible distributees or qualified beneficiaries. If the settlor lacks capacity to revoke the trust, a trustee may satisfy the trustee's duties under this section by providing information and reports to any one or more of the following in the order of preference listed:

A. The person or persons designated by the settlor in the trust to receive information and reports on the settlor's behalf;

B. The settlor's spouse or registered domestic partner under Title 22, section 2710;

C. The settlor's agent under a durable power of attorney;

D. The settlor's court-appointed conservator; or

E. The settlor's court-appointed guardian.

If the settlor lacks capacity to revoke the trust and there are no persons listed in this subsection to whom the trustee may provide information and reports, the trustee shall satisfy its duties under this section by providing information and reports to the qualified beneficiaries.

## **SUMMARY**

This bill amends the Maine Uniform Trust Code in 2 ways. First, it corrects a gap in the statute governing a trustee's duties with regard to reporting to a beneficiary or another person designated by the trust's settlor. The correction allows the trustee to carry out the settlor's directions without violating the duty established by statute. Second, this bill corrects an ambiguity with regard to the duty the trustee owes to the settlor of a revocable trust during the settlor's lifetime, clarifying that the trustee has no duty to provide information and reports to distributees, permissible distributees or qualified beneficiaries while the settlor is alive.