

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

H.P. 415 - L.D. 532

An Act To Update the Maine Uniform Trust Code

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

**Sec. 1. 18-B MRSA §103, sub-§4-A** is enacted to read:

**4-A. Current beneficiary.** "Current beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined, is a distributee or permissible distributee of trust income or principal.

**Sec. 2. 18-B MRSA §105, sub-§2, ¶H,** as amended by PL 2005, c. 184, §5, is further amended to read:

H. Subject to subsection 3, the duty under section 813, subsection 2, paragraphs B and C to notify ~~qualified~~ current beneficiaries of an irrevocable trust who have attained 25 years of age of the existence of the trust, of the identity of the trustee and of their right to request trustee's reports;

**Sec. 3. 18-B MRSA §105, sub-§2, ¶I,** as amended by PL 2005, c. 184, §5, is further amended to read:

I. Subject to subsection 3, the duty under section 813, subsection 1 to respond to the request of a ~~qualified~~ current beneficiary of an irrevocable trust for trustee's reports and other information reasonably related to the administration of a trust;

**Sec. 4. 18-B MRSA §105, sub-§3, ¶B,** as enacted by PL 2005, c. 184, §6, is amended to read:

~~B. Designating~~ 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 ~~qualified~~ 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 in lieu of providing such notice, information or reports to the ~~qualified~~ current beneficiaries. The person or persons designated under this paragraph are deemed to be representatives of the ~~qualified~~ 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**Sec. 5. 18-B MRSA §504, sub-§3**, as enacted by PL 2005, c. 184, §12, is repealed and the following enacted in its place:

**3. Creditor limited.** If a trustee's or cotrustee's discretion to make distributions for the trustee's or cotrustee's own benefit is limited by an ascertainable standard, a creditor may not reach or compel distribution of the beneficial interest except to the extent the interest would be subject to the creditor's claim were the beneficiary not acting as trustee or cotrustee.

**Sec. 6. 18-B MRSA §506**, as enacted by PL 2003, c. 618, Pt. A, §1 and affected by §2, is repealed and the following enacted in its place:

**§506. Overdue distribution**

**1. Definitions.** As used in this section, unless the context otherwise indicates, "mandatory distribution" means a distribution of income or principal that a trustee is required to make to a beneficiary under the terms of a trust, including a distribution upon termination of the trust. "Mandatory distribution" does not include a distribution subject to the exercise of the trustee's discretion even if:

- A. The discretion is expressed in the form of a standard of distribution; or
- B. The terms of the trust authorizing a distribution couple language of discretion with language of direction.

**2. Unreasonable delay in distribution.** Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date.

**Sec. 7. 18-B MRSA §813, sub-§6** is enacted 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. 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.

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

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Approved ..... 2011

..... Governor