



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3169

by Rep. Emily McAsey

SYNOPSIS AS INTRODUCED:

760 ILCS 5/8.5 new

Amends the Trusts and Trustees Act. Provides that instead of furnishing a copy of the trust instrument to a person other than the beneficiary, the trustee may furnish to the person a certification of trust containing specified information. Provides that a certification of trust may be signed or otherwise authenticated by any trustee and need not contain the dispositive terms of the trust. Includes other provisions governing the form and content of the certification of trust. Contains provisions concerning persons who act in reliance upon a certification of trust. Provides that the new provisions do not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust. Effective immediately.

LRB099 10970 HEP 31325 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Trusts and Trustees Act is amended by adding
5 Section 8.5 as follows:

6 (760 ILCS 5/8.5 new)

7 Sec. 8.5. Certification of trust.

8 (a) Instead of furnishing a copy of the trust instrument to
9 a person other than the beneficiary, the trustee may furnish to
10 the person a certification of trust containing the following
11 information:

12 (1) a statement that the trust exists and the date the
13 trust instrument was executed;

14 (2) the identity of the settlor;

15 (3) the identity and address of the currently acting
16 trustee;

17 (4) the powers of the trustee;

18 (5) the revocability or irrevocability of the trust,
19 whether the trust is amendable or unamendable, and the
20 identity of any person holding a power to revoke or amend
21 the trust;

22 (6) the authority of co-trustees to sign or otherwise
23 authenticate and whether all or less than all are required

1 in order to exercise powers of the trustee;

2 (7) the trust's taxpayer identification number; and

3 (8) the manner of taking title to trust property.

4 (b) A certification of trust may be signed or otherwise
5 authenticated by any trustee.

6 (c) A certification of trust must state that the trust has
7 not been revoked, modified, or amended in any manner that would
8 cause the representations contained in the certification of
9 trust to be incorrect.

10 (d) A certification of trust need not contain the
11 dispositive terms of a trust.

12 (e) A recipient of a certification of trust may require the
13 trustee to furnish copies of those excerpts from the original
14 trust instrument and later amendments which designate the
15 trustee and confer upon the trustee the power to act in the
16 pending transaction.

17 (f) A person who acts in reliance upon a certification of
18 trust without knowledge that the representations contained
19 therein are incorrect is not liable to any person for so acting
20 and may assume without inquiry the existence of the facts
21 contained in the certification. Knowledge of the terms of the
22 trust may not be inferred solely from the fact that a copy of
23 all or part of the trust instrument is held by the person
24 relying upon the certification.

25 (g) A person who in good faith enters into a transaction in
26 reliance upon a certification of trust may enforce the

1 transaction against the trust property as if the
2 representations contained in the certification were correct.

3 (h) A person making a demand for the trust instrument in
4 addition to a certification of trust or excerpts is liable for
5 damages if the court determines that the person did not act in
6 good faith in demanding the trust instrument. A person required
7 to examine a complete copy of the trust instrument for purposes
8 of complying with applicable federal, state, or local law, and
9 a person acting in a fiduciary capacity with respect to a
10 trust, are deemed to be acting in good faith when demanding a
11 copy of the trust instrument.

12 (i) This Section does not limit the right of a person to
13 obtain a copy of the trust instrument in a judicial proceeding
14 concerning the trust.

15 (j) A certification of trust may be substantially as
16 follows, provided that nothing in this subsection (j) shall
17 invalidate or bar the use of a certification of trust in any
18 other or different form:

19 CERTIFICATION OF TRUST

20 Name of trust:

21 Date trust instrument was executed:

22 Tax Identification Number of trust (SSN or EIN):

23 Name(s) of settlor(s) of trust:

24 Name(s) of currently acting trustee(s):

25 Address(es) of currently acting trustee(s):

26 This trust states that of co-trustee(s) are

1 required to exercise the powers of the trustee.

2 The co-trustees authorized to sign or otherwise
3 authenticate on behalf of the trust are:.....

4 There are no co-trustees authorized to sign or otherwise
5 authenticate on behalf of the trust.

6 Name(s) of successor trustee(s):

7 The trustee(s) has (have) the power to (state, synopsize, or
8 describe relevant powers):

9 The proper manner for taking title to trust property is:

10

11 This is an irrevocable trust.

12 This is a revocable trust. Name(s) of person(s) holding
13 power to revoke the trust:

14 This is an unamendable trust.

15 This trust is amendable. Name(s) of person(s) holding
16 power to amend the trust:

17 I (we) certify that the above named trust is in full force and
18 has not been revoked, modified, or amended in any manner which
19 would cause the representations in this Certification of Trust
20 to be incorrect.

21 I (we) certify that, to my (our) knowledge, there is no claim,
22 challenge of any kind, or cause of action alleged that contests
23 or questions the validity of the above-named trust or the
24 trustee(s)'s authority to act for the trust.

1 IN WITNESS THEREOF, the undersigned, being a trustee of the
 2 above-named trust with the authority to execute this
 3 Certification of Trust, do hereby execute it this day of
 4,

5 Trustee Signature:

6 Printed Name:

7 Trustee Signature:

8 Printed Name:

9 This instrument was signed and acknowledged before me on
 10, (date) by (name/s of person/s):.....

11 (Signature of Notary Public):

12

13 (SEAL)

14 Section 99. Effective date. This Act takes effect upon
 15 becoming law.