

FEB 7 1996
JUDICIARY

HOUSE FILE 2173
BY HOLVECK

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the modification or termination of certain
2 trusts by the court.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2173

1 Section 1. NEW SECTION. 633.699A MODIFICATION OR
2 TERMINATION OF TRUST.

3 1. On petition by a trustee or beneficiary, the court may
4 modify the provisions of the trust or terminate the trust in
5 whole or in part if the continuation of the trust under its
6 terms would defeat or substantially impair the accomplishment
7 of the purposes of the trust, or if the purposes of the trust
8 have been fulfilled, or have become illegal or impossible to
9 fulfill.

10 a. The court may order the trustee to do acts that are not
11 authorized or are forbidden by the trust instrument, or may
12 order that the trustee be prohibited from performing acts that
13 are required by the terms of the trust.

14 b. The existence of a trust provision restraining transfer
15 of the beneficiary's interest does not prevent application of
16 this subsection.

17 2. On petition by a trustee or beneficiary, if the court
18 determines that the fair market value of a trust has become so
19 low in relation to the cost of administration that
20 continuation of the trust under its existing terms will defeat
21 or substantially impair the accomplishment of its purposes,
22 the court may, in its discretion, order termination of the
23 trust, modification of the trust, or appointment of a new
24 trustee.

25 a. Notwithstanding subsection 2, if the trust principal
26 does not exceed twenty thousand dollars in value, the trustee
27 has the power to terminate the trust without petitioning the
28 court. However, the trustee may seek approval of the court,
29 or may seek instruction on issues related to terminating the
30 trust.

31 b. The existence of a trust provision restraining transfer
32 of the beneficiary's interest does not prevent application of
33 this subsection.

34 EXPLANATION

35 This bill adds a new section to the probate code pertaining

1 to modification or termination of trusts. The section
2 proposes that the court may modify or terminate a trust when
3 the enforcement of the terms of a trust is no longer
4 consistent with the purposes of the trust, or it is impossible
5 to continue the trust. A subsection of the proposed provision
6 expressly permits the court to modify or terminate a trust
7 that has become uneconomical to administer, and permits a
8 trustee to make this determination when the principal of the
9 trust is less than \$20,000.

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