

MAR 7 1995

JUDICIARY

HOUSE FILE 243
BY KOENIGS and BELL

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

A BILL FOR

1 An Act relating to probate by specifying that revocable trusts
2 are not testamentary trusts for the purposes of corporate or
3 partnership farming and specifying that certain assets are not
4 part of the probate estate.

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

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HF 243

1 Section 1. Section 9H.1, subsection 20, Code 1995, is
2 amended to read as follows:

3 20. "Revocable trust" means a trust which provides that
4 the grantor retains the power to amend, modify, or revoke the
5 trust at any time prior to the death of the grantor,
6 regardless of whether, subsequent to the execution of the
7 revocable trust and at any time prior to death, the grantor is
8 legally competent to exercise the power to amend, modify, or
9 revoke the trust and regardless of when the trust is created.
10 A revocable trust also includes a revocable trust which has
11 become irrevocable due to the death of the grantor.

12 Sec. 2. Section 9H.1, subsection 21, Code 1995, is amended
13 to read as follows:

14 21. "Testamentary trust" means a trust created by devising
15 or bequeathing property in trust in a will as such terms are
16 used in the Iowa probate code. ~~Testamentary-trust-includes-a~~
17 ~~revocable-trust-that-has-not-been-revoked-prior-to-the~~
18 ~~grantor's-death.~~

19 Sec. 3. Section 633.5, Code 1995, is amended to read as
20 follows:

21 633.5 NONESTATE PROPERTY -- INSURANCE PROCEEDS.

22 A decedent's estate shall not include life insurance
23 proceeds, unless the proceeds are payable to the decedent's
24 estate, or property held in a revocable trust which had not
25 been revoked prior to death.

26 Sec. 4. Section 633.197, Code 1995, is amended to read as
27 follows:

28 633.197 COMPENSATION.

29 1. Personal representatives shall be allowed such
30 reasonable fees as may be determined by the court for services
31 rendered, but not in excess of the following commissions upon
32 the gross assets of the estate listed in the probate inventory
33 for Iowa inheritance tax purposes, which shall be received as
34 full compensation for all ordinary services:

35 a. For the first one thousand dollars, six percent₇.

1 b. For the overplus between one and five thousand dollars,
2 four percent.

3 c. For all sums over five thousand dollars, two percent.

4 2. For purposes of this section, the gross assets of the
5 estate shall not include life insurance proceeds, unless
6 payable to the decedent's estate, or property held in a
7 revocable trust which had not been revoked prior to death.

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EXPLANATION

9 This bill eliminates language added during the 1994 Session
10 providing that a testamentary trust for purposes of chapter 9H
11 (corporate and family farming) includes a revocable trust
12 which had not been revoked prior to the grantor's death. The
13 bill amends the definition of revocable trust for the purposes
14 of chapter 9H to include a trust which is made irrevocable by
15 the death of the grantor of the trust.

16 The bill also changes current law to provide that property
17 held in a revocable trust which had not been revoked at the
18 time of death shall not be included in the decedent's probate
19 estate or included in the gross estate for the purpose of
20 computing attorney's fees.

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