

# House Study Bill 757

## Bill Text

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1 1 Section 1. NEW SECTION. 633.699A MODIFICATION OR  
1 2 TERMINATION OF UNECONOMICAL TESTAMENTARY TRUST.  
1 3 1. On petition by a trustee or beneficiary, and after  
1 4 notice to all interested parties as determined by the court,  
1 5 if the court determines that the fair market value of a  
1 6 testamentary trust has become so low in relation to the cost  
1 7 of administration that continuation of the trust under its  
1 8 existing terms will defeat or substantially impair the  
1 9 accomplishment of its purposes, the court may, in its  
1 10 discretion, order termination of the trust, modification of  
1 11 the trust, or appointment of a new trustee.  
1 12 a. If the court orders the termination of the trust,  
1 13 disposition of all property shall be made according to the  
1 14 will provisions that address the disposition of the property  
1 15 in the event the trust is terminated. However, if the will  
1 16 does not address the disposition of the property in the event  
1 17 the trust is terminated, the court shall determine the  
1 18 disposition of the trust property, according to what the court  
1 19 determines would be most consistent with the trustor's  
1 20 original intent.  
1 21 b. The existence of a trust provision restraining transfer  
1 22 of the beneficiary's interest does not prevent application of  
1 23 this subsection.  
1 24 2. In the case of a charitable testamentary trust, the  
1 25 attorney general shall be considered an interested party under  
1 26 this section. This section shall not be construed to limit  
1 27 intervention by the attorney general according to section  
1 28 633.303.

1 29 **EXPLANATION**  
1 30 This bill adds a new section to the probate code, that  
1 31 permits a court to modify or terminate a testamentary trust  
1 32 when it has become uneconomical to administer.  
1 33 LSB 4454HC 76  
1 34 jls/cf/24