

House Study Bill 712 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to trusts, including optional notices to
2 creditors when a will has been admitted to probate without
3 administration and the trust is the beneficiary of the
4 estate, trust accounting, specific powers of a trustee, and
5 representation of holders of power and similar interests.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633A.3110, Code 2022, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 12. The form of notice set forth in
4 subsection 5 may also contain the following optional language
5 in substantially the following form which, if included, shall
6 serve to bar any claim against the assets of the decedent's
7 estate in the same manner and subject to the same limitations
8 as provided in section 633A.3109 with respect to the assets of
9 the trust:

10 Notice is further given that the will of the decedent has
11 been admitted to probate without present administration in the
12 [above-named] court, that such will designates the trust as the
13 residual beneficiary of the estate, that all persons indebted
14 to the estate of the decedent are requested to make immediate
15 payment to the undersigned trustee, and that any person or
16 entity possessing a claim against the estate must mail proof
17 of the claim to the trustee at the address listed below by
18 certified mail, return receipt requested, by the later to occur
19 of four months from the date of the second publication of this
20 notice or thirty days from the date of mailing this notice if
21 required, or the claim shall be forever barred, unless paid or
22 otherwise satisfied.

23 Sec. 2. Section 633A.4213, subsection 3, Code 2022, is
24 amended to read as follows:

25 3. Except as provided in [subsection 4](#), a trustee
26 shall provide annually to each adult beneficiary and the
27 representative of any minor or incompetent beneficiary who
28 may receive a distribution of income or principal during the
29 accounting time period, an accounting, unless an accounting has
30 been waived specifically for that accounting time period. Upon
31 request, the accounting shall include the beginning balance and
32 the ending balance.

33 Sec. 3. Section 633A.4402, subsection 27, unnumbered
34 paragraph 1, Code 2022, is amended to read as follows:

35 With respect to any actual or potential violation of

1 any environmental law affecting property held directly or
2 indirectly by the trustee, a trustee ~~shall~~ may do ~~all of~~ the
3 following:

4 Sec. 4. Section 633A.6302, Code 2022, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 3. To the extent there is no conflict of
7 interest with respect to the fiduciary matter, the person or
8 persons holding a limited power of appointment and the taker or
9 takers in default of the exercise of such power may together
10 represent and bind persons whose interests are dependent on the
11 affirmative exercise of such power of appointment by the holder
12 or holders of the power.

13 Sec. 5. Section 633A.6304, Code 2022, is amended to read as
14 follows:

15 **633A.6304 Representation by holders of similar interests.**

16 Unless otherwise represented, a minor, ~~or~~ an incompetent,
17 unborn, or unascertained person, or a remote contingent
18 beneficiary may be represented by and bound by another person
19 having a substantially identical interest with respect to the
20 fiduciary matter but only to the extent that the person's
21 interest is adequately represented.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill relates to trusts, including optional notices to
26 creditors when a will has been admitted to probate without
27 administration and the trust is the beneficiary of the
28 estate, trust accounting, specific powers of a trustee, and
29 representation of holders of power and similar interests.

30 The bill provides optional language that may be included in
31 a notice given to creditors, heirs, and surviving spouses for
32 when a decedent's will has been admitted to probate without
33 administration. If such notice is provided, creditors must
34 mail proof of claims to the trustee within four months or else
35 be barred from asserting such claims.

1 The bill provides that annual accountings of the trust
2 provided by the trustee to each beneficiary shall include the
3 beginning and ending balances of the trust upon request.

4 The bill changes the specific powers designated to a trustee
5 relating to obligations a trustee has when there is an actual
6 or potential violation of an environmental law on a property
7 held by a trustee. The bill makes such obligations into
8 optional actions that a trustee may take.

9 The bill provides for holders of a limited power of
10 appointment along with the taker in default of the appointment
11 power to jointly represent and bind a person whose interest is
12 dependent upon that power of appointment.

13 The bill allows first order remainder beneficiaries to
14 represent a remote contingent beneficiary in addition to a
15 minor or an incompetent, unborn, or unascertained person.