

1 SB282
2 210754-3
3 By Senator Shelnutt
4 RFD: Banking and Insurance
5 First Read: 02-MAR-21

1 SB282

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4 ENROLLED, An Act,

5 Relating to the Alabama Uniform Trust Code; to amend
6 Section 19-3B-1005, Code of Alabama 1975, to further provide
7 for reports of the existence of a potential claim for breach
8 of trust; and to add Section 19-3B-1306 to the Code of Alabama
9 1975, to provide a procedure for the release of a trustee from
10 its duties to a trust.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 19-3B-1005, Code of Alabama 1975,
13 is amended to read as follows:

14 "§19-3B-1005.

15 "(a) A beneficiary may not commence a proceeding
16 against a trustee for breach of trust more than two years
17 after the date the beneficiary or a representative of the
18 beneficiary was sent a report that adequately disclosed the
19 existence of a potential claim for breach of trust. For
20 purposes of this section, a report is an account statement or
21 other form of written disclosure made by the trustee to the
22 beneficiary.

23 "(b) A report adequately discloses the existence of
24 a potential claim for breach of trust if it provides
25 sufficient information so that the beneficiary or

1 representative knows of the potential claim or should have
2 inquired into its existence.

3 "(c) If subsection (a) does not apply, then a
4 judicial proceeding by a beneficiary against a trustee for
5 breach of trust must be commenced within two years after the
6 first to occur of:

7 "(1) the removal, resignation, or death of the
8 trustee;

9 "(2) the termination of the beneficiary's interest
10 in the trust; or

11 "(3) the termination of the trust."

12 Section 2. Section 19-3B-1306 is added to the Code
13 of Alabama 1975, to read as follows:

14 §19-3B-1306.

15 (a) A trustee may obtain a settlement of its
16 accounts in accordance with subsection (b) when any of the
17 following occur:

18 (1) A trust terminates pursuant to the terms of the
19 trust.

20 (2) A trust terminates early pursuant to Section
21 19-3B-414.

22 (3) A trustee resigns or is removed.

23 (4) A trustee seeks discharge of an interim
24 accounting period when the trust is continuing.

1 (b) (1) A trustee who elects to proceed under this
2 section shall provide all of the following to the qualified
3 beneficiaries of the trust and the successor trustee, if
4 applicable, within a reasonable time after termination of the
5 trust pursuant to its terms, the resignation or removal of the
6 trustee, or the end of the period for which the trustee is
7 seeking discharge:

8 a. A statement showing the fair market value of the
9 new assets to be distributed from a terminating trust or to a
10 successor trustee.

11 b. A trust accounting for the prior two years
12 showing all receipts and disbursements and inventory value of
13 the net assets.

14 c. An estimate for any items reasonably anticipated
15 to be received or disbursed.

16 d. The amount of any fees, including trustee fees,
17 remaining to be paid.

18 e. Notice that the trust is terminating, or that the
19 trustee has resigned or been removed, the time period for
20 which the trustee seeks discharge of its accounts, and a
21 statement providing that claims against a trustee under
22 Section 19-3B-604 and Section 19-3B-1005, if applicable, shall
23 be barred if no objections are received within the time period
24 described in subsection (c).

25 f. The name and mailing address of the trustee.

1 g. The name and telephone number of a person who may
2 be contacted for additional information.

3 (2) The trustee may also provide the statement and
4 notice described in this subsection to any other person who
5 the trustee reasonably believes may have an interest in the
6 trust.

7 (3) The statement and notice described in this
8 subsection shall be provided in accordance with Section
9 19-3B-109.

10 (c) (1) If, after receiving the notice and trust
11 information described in subsection (b), a qualified
12 beneficiary or any other party that received the notice and
13 trust information objects to a disclosed act or omission, the
14 qualified beneficiary shall provide written notice of the
15 objection to the trustee not later than 45 days after the
16 notice was sent by the trustee. If no written objection is
17 provided in the 45-day time period, the information provided
18 under subsection (b) shall be considered approved by the
19 recipient. The trustee, in the case of a trust terminating
20 pursuant to the terms of the trust or the trustee's
21 resignation or removal, within a reasonable period of time
22 following the expiration of the 45-day time period, shall
23 distribute the assets as provided in the trust or to the
24 successor trustee. If a qualified beneficiary gives the
25 trustee a written objection within the applicable 45-day time

1 period, the trustee or the qualified beneficiary may do either
2 of the following:

3 a. Submit the written objection to the court for
4 resolution and charge the expense of commencing a proceeding
5 to the trust.

6 b. Resolve the objection by a nonjudicial settlement
7 agreement or other written agreement.

8 (2) Any agreement entered into pursuant to paragraph
9 (1)b. may include a release, an indemnity clause, or both, on
10 the part of the beneficiary against the trustee relating to
11 the trust. If the parties agree to a nonjudicial settlement
12 agreement or other written agreement, any related expenses
13 shall be charged to the trust. Upon a resolution of an
14 objection under this subsection, within a reasonable period of
15 time, the trustee shall distribute the remaining trust assets
16 as provided in the trust or to the successor trustee.

17 (d) The trustee may rely upon the written statement
18 of a person receiving notice that the person does not object.

19 (e) When a trustee distributes assets of a
20 terminating trust or to the successor trustee after complying
21 with this article and having received no objections, each
22 person who received notice and either consented or failed to
23 object pursuant to this section is barred from doing either of
24 the following:

1 (1) Bringing a claim against the trustee or
2 challenging the validity of the trust to the same extent and
3 with the same preclusive effect as if the court had entered a
4 final order approving the trustee's final account.

5 (2) Bringing a claim against the trustee for the
6 period of such interim accounts to the same extent and with
7 the same preclusive effect as if the court had entered a final
8 order approving the trustee's interim accounts.

9 (f) The court, as determined under Section
10 19-3B-203, shall have exclusive jurisdiction over matters
11 under this section.

12 (g) Sections 19-3B-301 through 19-3B-304 shall apply
13 to this section.

14 (h) Nothing in this section shall preclude a trustee
15 from proceeding under Section 19-3B-201 to have the trustee's
16 accounts reviewed and settled by the court.

17 Section 3. This act shall become effective on
18 January 1, 2022, following its passage and approval by the
19 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB282

Senate 11-MAR-21

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 27-APR-21

By: Senator Shelnutt