

**SB179 ENROLLED**



1 SB179  
2 ARLXBQS-2  
3 By Senator Barfoot  
4 RFD: Judiciary  
5 First Read: 20-Jan-26



## SB179 Enrolled

1 Enrolled, An Act,

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4 Relating to trusts; to amend Section 19-3B-505, Code of  
5 Alabama 1975, to limit creditor claims to conform to the  
6 Alabama Qualified Dispositions in Trust Act; to limit when a  
7 holder of a withdrawal power is considered a settlor; to amend  
8 Section 19-3B-816, Code of Alabama 1975, to allow a trustee to  
9 reimburse a settlor for income taxes paid or payable without  
10 such amount being subject to the claims of the settlor's  
11 creditors; and to make nonsubstantive, technical revisions to  
12 update the existing code language to current style.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 19-3B-505 and 19-3B-816, Code of  
15 Alabama 1975, are amended to read as follows:

16 "§19-3B-505

17 (a) Whether or not the terms of a trust contain a  
18 spendthrift provision, the following rules apply:

19 (1) During the lifetime of the settlor, the property of  
20 a revocable trust is subject to claims of the settlor's  
21 creditors.

22 (2) ~~With~~ Except as provided in Chapter 3E, with respect  
23 to an irrevocable trust, a creditor or assignee of the settlor  
24 may reach the maximum amount that can be distributed to or for  
25 the settlor's benefit. If a trust has more than one settlor,  
26 then the amount the creditor or assignee of a particular  
27 settlor may reach may not exceed the settlor's interest in the  
28 portion of the trust attributable to that settlor's



## SB179 Enrolled

29 contribution.

30 (3) After the death of a settlor, and subject to the  
31 settlor's right to direct the source from which liabilities  
32 will be paid, the property of a trust that was revocable  
33 immediately prior to the settlor's death is subject to claims  
34 of the settlor's creditors, costs of ~~administration of~~  
35 administering the settlor's estate, the expenses of the  
36 settlor's funeral and disposal of remains, ~~and the~~ homestead  
37 allowance, exempt property, and family allowance to a  
38 surviving spouse and children, to the extent the settlor's  
39 probate estate is inadequate to satisfy those claims, costs,  
40 expenses, and homestead allowance, exempt property, and family  
41 allowance.

42 (b) With respect to claims, expenses, and taxes in  
43 connection with the settlement of a trust that was revocable  
44 at the settlor's death:

45 (1) Any claim of a creditor which would be barred  
46 against the fiduciary of a decedent's estate, the estate of  
47 the decedent, or any creditor or beneficiary of the decedent's  
48 estate, shall be barred against the trustee, the trust  
49 property, and the creditors and beneficiaries of the trust;

50 (2) A trustee at any time may give notice to any person  
51 the trustee has reason to believe may have a claim against the  
52 settlor at death. The notice shall contain the name and  
53 address of the trustee to whom the claim must be presented. If  
54 the person fails to present the claim in writing within 90  
55 days from the date of the notice, ~~then~~ the person shall be  
56 forever barred from asserting or recovering on the claim from



## SB179 Enrolled

57 the trustee, the trust property, and the creditors and  
58 beneficiaries of the trust. Any person who presents a claim on  
59 or before the date specified in the notice may not later  
60 increase the claim following the expiration of the 90-day  
61 period;

62 (3) If a claim is not presented in writing to the  
63 personal representative of the settlor's estate or to the  
64 trustee: (i) within six months from the date of the  
65 appointment of the initial personal representative of the  
66 settlor's estate, or (ii) if no personal representative is  
67 appointed within six months from the settlor's date of death  
68 and a claim is not presented in writing to the trustee within  
69 six months from the settlor's date of death, then no trustee  
70 shall be chargeable for any assets that the trustee may pay or  
71 distribute in good faith in satisfaction of any lawful claims,  
72 expenses, or taxes or to any beneficiary before the claim was  
73 presented. A payment or distribution of assets by a trustee  
74 shall be deemed to have been made in good faith unless the  
75 creditor can prove that the trustee had actual knowledge of  
76 the claim at the time of the payment or distribution. The  
77 six-month period shall not be interrupted or affected by the  
78 death, resignation, or removal of a trustee, except that the  
79 time during which there is no trustee in office shall not be  
80 counted as part of the period; and

81 (4) The provisions of Section 43-2-371 ~~dealing with~~  
82 regarding the priority of payment of claims, expenses, and  
83 taxes from the probate estate of a decedent shall apply to a  
84 revocable trust to the extent the assets of the decedent's



**SB179 Enrolled**

85 probate estate are inadequate.

86 (c) For purposes of this section:

87 (1) ~~during~~ During the period the power may be  
88 exercised, the holder of a power of withdrawal is treated in  
89 the same manner as the settlor of a revocable trust to the  
90 extent of the property subject to the power; ~~and~~

91 ~~(2) upon the lapse, release, or waiver of the power,~~  
92 ~~the holder is treated as the settlor of the trust only to the~~  
93 ~~extent the value of the property affected by the lapse,~~  
94 ~~release, or waiver exceeds the greater of the amount specified~~  
95 ~~in Section 2041(b)(2), 2503(b), or 2514(e) of the Internal~~  
96 ~~Revenue Code of 1986, in each case as in effect on January 1,~~  
97 ~~2007, or as later amended.~~

98 (2) A beneficiary of an irrevocable trust who holds a  
99 power of withdrawal is not a settlor of the trust upon the  
100 lapse of the power;

101 (3) The power of a trustee of an irrevocable trust,  
102 whether arising under the trust agreement or any other  
103 provision of the law, to make a distribution to or for the  
104 benefit of a settlor for the purpose of satisfying or  
105 reimbursing, in whole or in part, the settlor for income taxes  
106 paid or payable on all or any portion of the trust principal  
107 and income that are includable in the settlor's personal  
108 income under applicable law, as well as distributions made by  
109 the trustee pursuant to such authority, shall not be  
110 considered an amount that may be distributed to or for the  
111 benefit of the settlor; and

112 (4) A person, including, but not limited to, a previous



## SB179 Enrolled

113 settlor of the trust, who becomes a beneficiary of a trust due  
114 to the exercise of a power of appointment by someone other  
115 than that person, shall not be considered a settlor of the  
116 trust."

117 "§19-3B-816

118 (a) Without limiting the authority ~~conferred~~ granted by  
119 Section 19-3B-815, a trustee may:

120 (1) ~~collect~~ Collect trust property and accept or reject  
121 additions to the trust property from a settlor or any other  
122 person, including, but not ~~being~~ limited to, the authority to  
123 receive, collect, hold, and retain common or preferred stock  
124 or other interests in the trustee or any related party;

125 (2) ~~acquire~~ Acquire or sell property, for cash or on  
126 credit, at public or private sale;

127 (3) ~~exchange~~ Exchange, partition, or otherwise change  
128 the character of trust property;

129 (4) ~~deposit~~ Deposit trust money in an account in a  
130 regulated financial ~~service~~ service institution;

131 (5) ~~borrow~~ Borrow money, with or without security, and  
132 mortgage or pledge trust property for a period within or  
133 extending beyond the duration of the trust;

134 (6) ~~with~~ With respect to an interest in a  
135 proprietorship, partnership, limited liability company,  
136 business trust, corporation, or other form of business or  
137 enterprise, continue the business or other enterprise and take  
138 any action that may be taken by shareholders, members, or  
139 property owners, including merging, dissolving, or otherwise  
140 changing the form of business organization or contributing



## SB179 Enrolled

141 additional capital;

142           (7) ~~with~~ With respect to stocks or other securities,  
143 exercise the rights of an absolute owner, including the right  
144 to:

145           ~~(A) vote~~ a. Vote, or give proxies to vote, with or  
146 without power of substitution, or enter into or continue a  
147 voting trust agreement;

148           ~~(B) hold~~ b. Hold a security in the name of a nominee or  
149 in other form without disclosure of the trust so that title  
150 may pass by delivery;

151           ~~(C) pay~~ c. Pay calls, assessments, and other sums  
152 chargeable or accruing against the securities, and sell or  
153 exercise stock subscription or conversion rights; and

154           ~~(D) deposit~~ d. Deposit the securities with a ~~depository~~  
155 depository or other regulated financial ~~service~~ service  
156 institution;

157           (8) ~~with~~ With respect to an interest in real property,  
158 construct, or make ordinary or extraordinary repairs to,  
159 alterations to, or improvements in, buildings or other  
160 structures ; demolish improvements ; raze existing or erect  
161 new party walls or buildings ; subdivide or develop land ;  
162 dedicate land to public use or grant public or private  
163 easements ; and make or vacate plats and adjust boundaries;

164           (9) ~~enter~~ Enter into a lease for any purpose as lessor  
165 or lessee, including a lease or other arrangement for  
166 exploration and removal of natural resources, with or without  
167 the option to purchase or renew, for a period within or  
168 extending beyond the duration of the trust;



## SB179 Enrolled

169           (10) ~~grant~~ Grant an option ~~involving~~ for a sale, lease,  
170 or other disposition of trust property or acquire an option  
171 ~~for the acquisition of~~ to purchase property, including an  
172 option exercisable beyond the ~~duration of the trust~~ trust's  
173 duration, and exercise ~~an option so acquired~~ any such option;

174           (11) ~~insure~~ Insure the property of the trust against  
175 damage or loss and insure the trustee, the trustee's agents,  
176 and beneficiaries against liability arising from the  
177 administration of the trust;

178           (12) ~~abandon~~ Abandon or decline to administer property  
179 of no value or of insufficient value to justify its collection  
180 or continued administration;

181           (13) ~~with~~ With respect to environmental law, exercise  
182 those powers granted a fiduciary by applicable law;

183           (14) ~~pay~~ Pay or contest any claim, settle a claim by or  
184 against the trust, and release, in whole or in part, a claim  
185 belonging to the trust;

186           (15) ~~pay~~ Pay taxes, assessments, compensation of the  
187 trustee and of employees and agents of the trust, and other  
188 expenses incurred in the administration of the trust;

189           (16) ~~exercise~~ Exercise elections with respect to  
190 federal, state, and local taxes;

191           (17) ~~select~~ Select a mode of payment under any employee  
192 benefit or retirement plan, annuity, or life insurance payable  
193 to the trustee, exercise rights thereunder, including ~~exercise~~  
194 ~~of exercising~~ the right to indemnification for expenses and  
195 against liabilities, and take appropriate action to collect  
196 the proceeds;



## SB179 Enrolled

197           (18) ~~make~~ Make loans out of trust property, including  
198 loans to a beneficiary on terms and conditions the trustee  
199 considers to be fair and reasonable under the circumstances,  
200 ~~and the trustee has~~ place a lien on future distributions for  
201 repayment of those loans;

202           (19) ~~pledge~~ Pledge trust property to guarantee loans  
203 made by others to the beneficiary;

204           (20) ~~appoint~~ Appoint a trustee to act in another  
205 jurisdiction with respect to trust property located in the  
206 other jurisdiction, confer upon the appointed trustee all of  
207 the powers and duties of the appointing trustee, require that  
208 the appointed trustee furnish security, and remove any trustee  
209 so appointed;

210           (21) ~~(A) pay a.~~ Pay an amount distributable to a  
211 beneficiary who is under a legal disability or who the trustee  
212 reasonably believes is incapacitated, by paying it directly to  
213 the beneficiary or applying it for the beneficiary's benefit,  
214 or by:

215           1. ~~paying~~ Paying it to the beneficiary's conservator  
216 or, if the beneficiary does not have a conservator, the  
217 beneficiary's guardian;

218           2. ~~paying~~ Paying it to the beneficiary's custodian  
219 under the Uniform Transfers to Minors Act or custodial trustee  
220 under the Uniform Custodial Trust Act, and, for that purpose,  
221 creating a custodianship or custodial trust;

222           3. ~~if~~ If the trustee does not know of a conservator,  
223 guardian, custodian, or custodial trustee, paying it to an  
224 adult relative or other person having legal or physical care



**SB179 Enrolled**

225 or custody of the beneficiary, to be expended on the  
226 beneficiary's behalf; or—

227 ~~4. managing~~ Managing it as a separate fund on the  
228 beneficiary's behalf, subject to the beneficiary's continuing  
229 right to withdraw the distribution.

230 ~~(B) the b. The~~ trustee shall not be ~~under any duty to~~  
231 ~~see to~~ responsible for ensuring the application of the  
232 payment made pursuant to ~~subparagraphs 1. to 4. above, so made~~  
233 this subdivision if the trustee acted as a prudent person in  
234 the selection of the person, including the minor or  
235 incompetent, to whom the payments were made; and the receipt  
236 of the ~~person~~ funds shall be full acquittance to the trustee.;

237 ~~(22) on~~ On distribution of trust property or the  
238 division or termination of a trust, make distributions in  
239 divided or undivided interests, allocate particular assets in  
240 proportionate or disproportionate shares, value the trust  
241 property for those purposes, and adjust for resulting  
242 differences in valuation;

243 ~~(23) resolve~~ Resolve a dispute concerning the  
244 interpretation of the trust or its administration by  
245 mediation, arbitration, or other procedure for alternative  
246 dispute resolution and ~~to~~ employ counsel, expert witnesses, or  
247 other agents;

248 ~~(24) prosecute~~ Prosecute or defend an action, claim, or  
249 judicial proceeding in any jurisdiction to protect trust  
250 property and the trustee in the performance of the trustee's  
251 duties and ~~to~~ employ counsel, expert witnesses, or other  
252 agents;



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253           (25) ~~sign~~ Sign and deliver contracts and other  
254 instruments that are useful to achieve or facilitate the  
255 exercise of the trustee's powers;

256           (26) ~~on~~ On termination of the trust, exercise the  
257 powers appropriate to wind up the administration of the trust  
258 and distribute the trust property to the persons entitled to  
259 it;

260           (27) ~~create~~ Create or join in the creation of a joint  
261 venture, partnership, limited liability company, business  
262 trust, corporation, or other form of business or enterprise,  
263 continue the business or other enterprise and take any action  
264 that may be taken by shareholders, members, or property  
265 owners, including merging, dissolving, or otherwise changing  
266 the form of business organization or contributing additional  
267 capital;

268           (28) ~~employ~~ Employ and compensate persons deemed by the  
269 trustee ~~needful~~ necessary to advise or assist in the proper  
270 management and administration of the trust, including, but not  
271 limited to, agents, auditors, including public accountants,  
272 certified public accountants or internal auditors, brokers,  
273 attorneys-at-law, attorneys-in-fact, investment bankers,  
274 investment advisors, rental agents, realtors, appraisers, and  
275 tax specialists, including any related party, so long as the  
276 relationship and the fees charged are reasonable and disclosed  
277 in ~~any~~ a reasonable manner to the current beneficiaries; and  
278 ~~to~~ do so without liability for any neglect, omission,  
279 misconduct, or default of the agent or representative,  
280 provided the trustee acted as a prudent person in selecting



## SB179 Enrolled

281 and monitoring the agent or representative. ~~For purposes of~~  
282 ~~the immediately preceding sentence, compensation~~ Compensation  
283 charged by or paid to an affiliated business entity shall be  
284 presumed to be reasonable if the compensation is consistent  
285 with the published fee schedule maintained by the affiliated  
286 business entity in the ordinary course of business;

287 (29) ~~pay~~ Pay any and all expenses reasonably necessary  
288 for the administration of the trust including interest, taxes,  
289 insurance premiums, assessments, agents' fees or compensation,  
290 trustees' fees or compensation, including additional fees for  
291 extraordinary services and fees to related parties, and other  
292 expenses incurred in the collection, care, administration, and  
293 protection of the trust estate; and

294 (30) ~~in~~ In addition to the investments authorized by  
295 the document or any provision of law for the investment of  
296 funds held by a trustee, ~~the trustee may~~ invest in and hold:  
297 (i) interests, however evidenced, in any common trust fund or  
298 other collective investment fund maintained by any national or  
299 state chartered bank or trust company having trust powers; or  
300 (ii) securities of or other interests in any open-end or  
301 closed-end management type investment company or investment  
302 trust so long as the portfolio of such common trust fund,  
303 collective investment fund, or investment company or  
304 investment trust consists of investments authorized with  
305 respect to the trustee.

306 (b) Without limiting the authority granted by Section  
307 19-3B-815, a trustee, who is neither related or subordinated  
308 within the meaning of 26 U.S.C. §672(c), in the trustee's sole



## SB179 Enrolled

309 discretion, may distribute to or for the benefit of the  
310 settlor or other person treated as owner under the Internal  
311 Revenue Code, all or any portion of the trust for the purpose  
312 of satisfying or reimbursing, in whole or in part, the settlor  
313 or such other person for the amount of any income taxes paid  
314 or payable on all or any portion of the trust principal and  
315 income which are includable in the settlor's or such other  
316 person's personal income under applicable law.

317 ~~(b)~~ (c) Nothing contained in this section, insofar as  
318 ~~such authorization that~~ may be prohibited by the Constitution  
319 of Alabama of ~~1901~~ 2022, shall authorize the investment of  
320 trust assets in the stock of any private corporation."

321 Section 2. This act shall become effective on October  
322 1, 2026, and apply to all trusts in accordance with Section  
323 19-3B-1204.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB179

Senate 17-Mar-26

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

Patrick Harris,  
Secretary.

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House of Representatives

Passed: 08-Apr-26

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By: Senator Barfoot