

SENATE BILL No. 57

DIGEST OF INTRODUCED BILL

Citations Affected: IC 30-4-3-29.

Synopsis: Removal of trustee by beneficiaries. Provides that a beneficiary of any trust may petition the court for the removal of a corporate trustee if there has been a change in the control of the corporate trustee. (Current law limits the application of the procedure to trusts executed after June 30, 1996.)

Effective: July 1, 1998.

Wheeler

January 6, 1998, read first time and referred to Committee on Judiciary.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 57

A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 30-4-3-29, AS AMENDED BY P.L.199-1996,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 29. (a) A trustee may be removed as follows:
4 (1) By the court.
5 (2) By the person, if any, who by the terms of the trust is
6 authorized to remove the trustee.
7 (3) Unless the terms of the trust instrument provide otherwise, by
8 a beneficiary of the trust whose petition is granted by the court
9 under subsection (e).
10 (b) Upon petition by the trustee the court may, in its discretion,
11 permit the trustee to resign if the trustee's resignation will not be
12 detrimental to the trust.
13 (c) Unless a successor trustee is named in or selected according to
14 a method prescribed in the terms of the trust, the court may appoint a
15 trustee to replace a removed, resigned, or deceased trustee and, on
16 petition by a party to the trust, may appoint a co-trustee if to do so
17 would facilitate more effective administration of the trust. The court

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1 shall inquire into the qualifications of a proposed successor trustee and
2 give due consideration to the intentions of the settlor of the trust before
3 appointing a successor trustee.

4 (d) For good cause shown, the court may at any time appoint a
5 temporary trustee for such period of time, and to perform such duties,
6 as the court may direct.

7 (e) ~~This subsection applies only to a trust executed after June 30,~~
8 ~~1996.~~ A beneficiary of a trust may petition the court for the removal of
9 a corporate trustee if there has been a change in control of the corporate
10 trustee after the date of the execution of the trust. The court may
11 remove the corporate trustee if the court determines the removal is in
12 the best interests of all the beneficiaries of the trust. For purposes of
13 this subsection, a change in control of the corporate trustee occurs
14 whenever a person or group of persons acting in concert ~~acquire~~
15 **acquires** the beneficial ownership of an aggregate of at least
16 twenty-five percent (25%) of the outstanding shares of voting stock of:

17 (1) a trustee; or

18 (2) a corporation controlling a trustee.

19 ~~after June 30, 1996.~~

