
SENATE BILL No. 112

DIGEST OF INTRODUCED BILL

Citations Affected: IC 30-4-1.

Synopsis: Construction of nonprobate transfers. Adds rules of construction concerning nonprobate transfers to the trust code. (The introduced version of this bill was prepared by the probate code study commission.)

Effective: July 1, 2000.

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January 20, 2000, read first time and referred to Committee on Judiciary.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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SENATE BILL No. 112



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 30-4-1-8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2000]: **Sec. 8. If a trust creating a power of appointment**
4 **expressly requires that the power be exercised by a reference, an**
5 **express reference, or a specific reference, to the power or its**
6 **source, it is presumed that the settlor's intention, in requiring that**
7 **the grantee exercise the power by making reference to the**
8 **particular power or to the creating instrument, was to prevent an**
9 **inadvertent exercise of the power.**

10 SECTION 2. IC 30-4-1-9 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2000]: **Sec. 9. A trust shall not operate as to the exercise of a**
13 **power of appointment, which the settlor may have with respect to**
14 **any real or personal property, unless by its terms the trust**
15 **specifically indicates that the settlor intended to exercise the power.**

16 SECTION 3. IC 30-4-1-10 IS ADDED TO THE INDIANA CODE
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1 1, 2000]: **Sec. 10.** If a distribution in favor of "descendants",
 2 "issue", or "heirs of the body" does not specify the manner in
 3 which the property is to be distributed among the class members,
 4 the property is distributed among the class members who are living
 5 when the distribution is to take effect in possession or enjoyment,
 6 in such shares they would receive, under the applicable law of
 7 intestate succession, as if the designated ancestor had then died
 8 intestate, unmarried, and owning the subject matter of the
 9 distribution.

10 SECTION 4. IC 30-4-1-11 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2000]: **Sec. 11.** The meaning and legal effect of a distribution
 13 under a trust shall be determined by the law of the state selected by
 14 the settlor in the trust, unless the application of that law is contrary
 15 to the public policy of this state.

16 SECTION 5. IC 30-4-1-12 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2000]: **Sec. 12.** In construing a trust making a distribution to a
 19 person described by relationship to the settlor or to another, a
 20 person born out of wedlock shall be considered the child of the
 21 child's mother. If a person born out of wedlock's right to inherit
 22 from the person's father is established under IC 29-1-2-7, the
 23 person shall also be considered a child of the child's father.

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