

ARKANSAS SENATE
92nd General Assembly - Regular Session, 2019
Amendment Form

Subtitle of House Bill No. 1765
TO ESTABLISH THE DIRECTED TRUST ACT.

Amendment No. 1 to House Bill 1765

Amend House Bill No. 1765 as originally introduced:

Add Senator Maloch as a cosponsor of the bill

AND

Delete the title in its entirety and substitute:

"AN ACT TO ESTABLISH THE UNIFORM DIRECTED TRUST ACT; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"TO ESTABLISH THE UNIFORM DIRECTED TRUST
ACT."

AND

Page 2, delete lines 6 through 11, and substitute the following:

"SECTION 3. Arkansas Code § 28-73-603 is amended to read as follows:
28-73-603. Settlor's powers – Powers of withdrawal.

(a) To the extent a trust is revocable by a settlor, a trustee may follow a direction of the settlor that is contrary to the terms of the trust. To the extent a trust is revocable by a settlor in conjunction with a person other than a trustee or person holding an adverse interest, the trustee may follow a direction from the settlor and the other person holding the power to revoke even if the direction is contrary to the terms of the trust.

(b) While a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

~~(b)~~(c) During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power."



AND

Page 2, delete line 35, and substitute the following:
"UNIFORM DIRECTED TRUST ACT"

AND

Page 3, line 2, delete "the Directed" and substitute "the Uniform Directed"

AND

Page 7, delete lines 1 through 21, and substitute the following:

"(a) A directed trustee shall take reasonable action to comply with a trust director's direction given to the directed trustee by a trust director acting within the scope of the powers expressly granted to the trust director in the trust instrument, and except as otherwise provided in the trust instrument, the directed trustee is not liable for:

(1) any loss that results directly or indirectly from any act taken or omitted as a result of the reasonable action of the directed trustee to comply with the direction of the trust director or the failure of the trust director to provide consent; and

(2) whenever a directed trust reserves to a trust director the authority to direct the making or retention of any investment, to the exclusion of the directed trustee, the directed trustee shall not be liable for any loss resulting from the making or retention of any investment under such direction.

(b) Absent contrary provisions in the governing instrument, the actions of a directed trustee taken under subsection (a) of this section to comply with a direction of a trust director are administrative actions taken by the directed trustee solely to allow the directed trustee to perform the duties assigned to the directed trustee under the governing instrument and the administrative actions shall not constitute an undertaking by the directed trustee to participate in or otherwise take any fiduciary responsibility for the direction of a trust director."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Maloch

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Secretary