

HB 1166 -- Missouri Uniform Trust Code

Sponsor: Diehl

This bill changes the laws regarding the Missouri Uniform Trust Code by allowing a trust instrument to appoint a trust protector who is expressly granted one or more powers over the trust in the trust instrument. In its main provisions, the bill:

- (1) Specifies the express powers that may be granted to a trust protector;
- (2) Specifies when a trust protector has no power to modify a trust;
- (3) Specifies the trust protector must not exercise a power that would result in a taxable gift for federal gift tax purposes or cause the inclusion of any assets of the trust in the trust protector's gross estate for federal estate tax purposes;
- (4) Specifies that a trust protector is not a trustee or fiduciary, has no duty to the beneficiaries of the trust, is not liable or accountable as a trustee or fiduciary when performing or declining to perform the express powers given in the trust instrument, and is not liable for the acts or omissions of any fiduciary or beneficiary under the trust instrument;
- (5) Exonerates a trust protector from all liability for his or her acts or omissions, or arising from any exercise or non-exercise of the express powers given in the trust instrument unless clear and convincing evidence establishes the acts or omissions were in bad faith or with reckless indifference;
- (6) Authorizes a trust protector to exercise the express powers granted in the trust instrument at any time after the trust protector acquires knowledge of his or her appointment as trust protector and of the powers granted;
- (7) Allows the trust protector to receive from the assets of the trust reasonable compensation and reimbursement of reasonable costs and expenses incurred in determining whether to carry out and in carrying out the express powers of the trust instrument;
- (8) Allows the trust protector to receive from the assets of the trust reimbursement of reasonable costs and expenses, including attorney fees, from defending any claim made against the trust protector arising from his or her acts or omissions while acting in that capacity;
- (9) Prohibits the trust protector from exercising the express

powers of the trust instrument for his or her own personal benefit;

(10) Specifies that a trustee must not be liable for any loss resulting directly or indirectly from any act taken or omitted as a result of the written direction of the trust protector or the failure of the trust protector to provide consent, unless there is bad faith or reckless indifference on the part of the trustee;

(11) Specifies when the trust protector is entitled to receive information regarding the administration of the trust;

(12) Allows a trust protector to resign by giving 30 days' written notice to the trustee and any successor trust protector;

(13) Grants any successor trust protector the same powers expressly granted in the trust instrument to the resigning trust protector unless those powers are expressly modified for the successor trust protector; and

(14) Specifies that a trust protector of a trust having its principal place of administration in Missouri submits personally to the jurisdiction of the courts of Missouri while the trust is being administered in this state.