

H.622

Introduced by Representative Bartley of Fairfax

Referred to Committee on

Date:

Subject: Trusts; stewardship trusts

Statement of purpose of bill as introduced: This bill proposes to authorize the creation of stewardship trusts in Vermont.

An act relating to stewardship trusts

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 14A V.S.A. § 409 is amended to read:

§ 409. NONCHARITABLE TRUST WITHOUT ASCERTAINABLE
BENEFICIARY

Except as otherwise provided in section 408 of this title or by another statute, the following rules apply:

(1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. The trust may not be enforced for more than ~~24~~ 500 years.

1 (2) A trust authorized by this section may be enforced by a person
2 appointed in the terms of the trust or, if no person is so appointed, by a person
3 appointed by the Probate Division of the Superior Court.

4 (3) Property of a trust authorized by this section may be applied only to
5 its intended use, except to the extent the Probate Division of the Superior Court
6 determines that the value of the trust property exceeds the amount required for
7 the intended use. Except as otherwise provided in the terms of the trust,
8 property not required for the intended use must be distributed to the settlor, if
9 then living, otherwise to the settlor's successors in interest.

10 Sec. 2. 14A V.S.A. § 409a is added to read:

11 § 409a. STEWARDSHIP TRUST

12 (a) A stewardship trust may be created under this section for a business
13 purpose without a definite or definitely ascertainable beneficiary. The business
14 purpose may seek economic and noneconomic benefits.

15 (b) A stewardship trust may hold an ownership interest of any corporation,
16 partnership, limited partnership, cooperative, limited liability company, limited
17 liability partnership, or joint venture.

18 (c)(1) A stewardship trust may be enforced by one or more trust enforcers
19 appointed in the terms of the trust, and the terms of the trust may provide a
20 process for appointing successor trust enforcers. If at any time no person is
21 serving as trust enforcer, the court shall name one or more trust enforcers.

1 (2) Each trust enforcer shall enforce the purpose and the terms of the
2 trust and shall exercise authority as a fiduciary. If more than one person is
3 serving as a trust enforcer, action may be taken by a majority of the persons
4 serving as trust enforcers.

5 (3) A trust enforcer shall not be a beneficiary of a trust created pursuant
6 to this section, but a trust enforcer may have the rights of a qualified
7 beneficiary.

8 (d)(1)(A) A stewardship trust shall have a trust stewardship committee with
9 at least three persons as members. Each member of the trust stewardship
10 committee shall exercise authority as a fiduciary.

11 (B) The terms of the trust may appoint the initial members of the
12 trust stewardship committee and may provide a process for appointing
13 successor members.

14 (2)(A) A vacancy on the trust stewardship committee shall be filled if
15 the trust stewardship committee has fewer than three members.

16 (B) A vacancy on the trust stewardship committee that is required to
17 be filled by subdivision (A) of this subdivision (2) shall be filled in the
18 following order of priority:

19 (i) by a person designated in the terms of the trust or selected
20 through a process provided in the terms of the trust;

1 (ii) by a person appointed by unanimous agreement of the trust
2 enforcers; or

3 (iii) by a person appointed by the court.

4 (3) Unless the terms of the trust provide otherwise and except as
5 provided in subdivision (4)(D) of this subsection or in subsection (f) of this
6 section, the trust stewardship committee may take action by a majority vote of
7 its members.

8 (4) Unless the terms of the trust provide otherwise, and in order to carry
9 out the purposes of the trust, the trust stewardship committee may, after notice
10 to the trust enforcers:

11 (A) remove a trustee, with or without cause;

12 (B) appoint one or more successor trustees or cotrustees;

13 (C) remove a trust enforcer, with or without cause;

14 (D) remove a member of the stewardship committee, by unanimous
15 vote of all other members of the trust stewardship committee;

16 (E) direct distributions from the trust; and

17 (F) exercise all rights belonging to the trustee, including the right to
18 vote stock owned by the trust.

19 (5) Unless the trust agreement provides otherwise, a member of the trust
20 stewardship committee or a trust enforcer may resign:

1 (A) after at least 30 days' notice to the trustee, all trust enforcers, and
2 all members of the trust stewardship committee; or

3 (B) at any time with approval of the court.

4 (6) The trust stewardship committee shall submit a report to the trustee
5 and to the trust enforcers at least annually showing receipts and disbursements
6 and listing trust property and liabilities. The trust stewardship committee shall
7 keep the trustee and the trust enforcers reasonably informed about the
8 administration of the trust and of the material facts necessary for the trustee to
9 comply with the trustee's duties under section 813 of this title and for the trust
10 enforcers to protect the purposes of the trust.

11 (e)(1) A trustee of a stewardship trust shall act in accordance with a
12 direction from the trust stewardship committee unless the action is manifestly
13 contrary to the terms of the trust or the trustee knows that the action would
14 constitute a serious breach of a fiduciary duty that the trust stewardship
15 committee, the trust enforcer, or the trustee owes to the trust.

16 (2) A trustee shall be liable only for willful misconduct and shall not be
17 liable for reliance on documents provided by the trust stewardship committee
18 or the trust enforcer.

19 (f) Unless the terms of the trust provide otherwise, the trust stewardship
20 committee and the trust enforcers, acting together, may modify or terminate a

1 stewardship trust by unanimous agreement of the members of the trust

2 stewardship committee and unanimous agreement of the trust enforcers.

3 (g) Upon termination of a stewardship trust, the trustee shall distribute all
4 remaining trust property as the terms of the trust provide, or if the terms of the
5 trust do not provide for complete distribution of the property, as the court
6 determines to be consistent with the purposes for which the trust was created.

7 (h)(1) A person serving as a trustee shall not serve as a trust enforcer or as
8 a member of the trust stewardship committee.

9 (2) A person serving as a trust enforcer shall not serve as a member of
10 the trust stewardship committee.

11 (i) This section shall not apply to a trust created pursuant to 11A V.S.A.
12 § 7.30.

13 Sec. 3. EFFECTIVE DATE

14 This act shall take effect on passage.