

Regular Session, 2012

HOUSE BILL NO. 476

BY REPRESENTATIVE ABRAMSON

(On Recommendation of the Louisiana State Law Institute)

TRUSTS: Provides for the revision of the La. Trust Code

1 AN ACT

2 To amend and reenact R.S. 9:1951 and to enact R.S. 9:1953, relative to the Louisiana Trust  
3 Code; to provide for the general rule for trusts created for mixed private and  
4 charitable purposes; to provide for the assignment of interest in a trust created for  
5 mixed private and charitable purposes; to provide for the termination of a trust  
6 created for mixed private and charitable purposes; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:1951 is hereby amended and reenacted and R.S. 9:1953 is hereby  
9 enacted to read as follows:

10 SUBPART O. TRUSTS FOR MIXED PRIVATE AND  
11 CHARITABLE PURPOSES

12 §1951. General rule

13 A trust may be created for mixed private and ~~educational~~, charitable, ~~or~~  
14 ~~religious~~ purposes. The ~~dispositions~~ dispositive provisions of such a trust in favor  
15 of private beneficiaries are governed by the provisions of this Code; those in favor  
16 of ~~other~~ charitable beneficiaries are governed by ~~R.S. 9:2271 through 9:2337 relating~~  
17 ~~to trusts for educational, charitable, or religious purposes~~ Parts I through IV of  
18 Chapter 2 of Code Title II of Code Book III of this Title. As long as there remains  
19 a private beneficiary, the trust shall be administered in accordance with the

1 provisions of ~~R.S. 9:2061 through 9:2173~~ this Code. ~~Unitrusts and annuity trusts as~~  
2 ~~defined in the United States Internal Revenue Code are mixed trusts.~~

3 \* \* \*

4 §1953. Assignment of interest in trust and termination of trust for mixed private and  
5 charitable purposes

6 A. A private beneficiary of a trust for mixed private and charitable purposes,  
7 including a spendthrift trust, may at any time assign to a charitable principal  
8 beneficiary of the trust a fraction or all of his private interest in the trust, only if the  
9 trust instrument specifically provides for it. An interest that is assignable only to a  
10 charitable principal beneficiary of the trust shall not be deemed to be subject to  
11 voluntary alienation for purposes of R.S. 9:2004.

12 B. If the trust instrument provides for the termination of the trust at the end  
13 of the specified term of the private interests, the trust may be terminated early as to  
14 the portion of the trust that, for any reason, no longer has a private beneficiary.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Abramson

HB No. 476

**Abstract:** Provides for the revision of the La. Trust Code.

Present law (R.S. 9:1951) provides that a trust may be created for mixed private and educational, charitable, or religious purposes.

Proposed law (R.S. 9:1951) simplifies the wording by using only a reference to private and charitable purposes. This is consistent with the way R.S. 9:2271 was modified by Act No. 637 of 2008, to use the term "charitable trust" rather than establishing a variety of possible charitable purposes.

Present law (R.S. 9:1951) provides that the dispositions of such a trust in favor of private beneficiaries are governed by the provisions of present law; those in favor of other beneficiaries are governed by R.S. 9:2271 through 2337 relating to trusts for educational, charitable, or religious purposes.

Proposed law (R.S. 9:1951) clarifies present law and provides that the dispositive provisions of such a trust in favor of private beneficiaries are governed by the provisions of this Code; those in favor of charitable beneficiaries are governed by Parts I through IV of Chapter 2 of Title II of this Code.

Present law (R.S. 9:1951) provides that as long as there remains a private beneficiary, the trust shall be administered in accordance with the provisions of R.S. 9:2061 through 2173.

Proposed law (R.S. 9:1951) replaces the reference to specific statutes with a reference to "this Code".

Present law (R.S. 9:1951) provides that unitrusts and annuity trusts as defined in the U.S. Internal Revenue Code are mixed trusts.

Proposed law (R.S. 9:1951) deletes this provision because it is unnecessary.

Proposed law (R.S. 9:1953) is new. Authorizes the private beneficiary of a mixed private and charitable trust to assign some or all of his private interest to a charitable beneficiary of the trust if expressly provided for by the trust instrument and even if the trust is a spendthrift trust that otherwise prohibits assignments by the beneficiary. An interest that is assignable only to a charitable principal beneficiary of the trust shall not be deemed to be subject to a voluntary alienation by the beneficiary; thus the interest would not be subject to seizure by the beneficiary's creditor. Further provides for early termination of the private interest when there is no longer a private beneficiary of that interest.

(Amends R.S. 9:1951; Adds R.S. 9:1953)

#### Summary of Amendments Adopted by House

##### House Floor Amendments to the engrossed bill.

1. Required trust instrument to expressly provide the private beneficiary the ability to assign his private interest to a charitable beneficiary.