

2020 Regular Session

HOUSE BILL NO. 75

BY REPRESENTATIVE ROBBY CARTER

TRUSTS: Provides relative to the term of trusts

1 AN ACT

2 To amend and reenact R.S. 9:1803, 1831, and 1832 and to repeal R.S. 9:1833, relative to
3 trusts; to provide relative to the term of trusts; to provide for certain beneficiaries not
4 in existence at the date of the creation of the trust; to provide for an indefinite term
5 for trusts; to provide for a maximum term for trusts in certain circumstances; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:1803, 1831, and 1832 are hereby amended and reenacted to read
9 as follows:

10 §1803. Requirement that beneficiary be in being and ascertainable

11 A. A beneficiary must be in being and ascertainable on the date of the
12 creation of the trust, except as otherwise provided in this Code. An unborn child is
13 deemed a person in being and ascertainable, if he is born alive.

14 B. Notwithstanding any other provision of law to the contrary, a successive
15 or substitute beneficiary of principal or interest is not required to be in being on the
16 date of the creation of the trust.

17 * * *

18 §1831. Limitations ~~upon stipulated term~~ when term not stipulated

19 A. A trust shall terminate upon the term stipulated by the trust instrument.

1 B. If the trust instrument stipulates a no term and unless an earlier
2 termination is required ~~by the trust instrument, or~~ by the proper court, a trust shall
3 terminate at:

4 (1) The death of the last surviving income beneficiary or the expiration of
5 twenty years from the death of the settlor last to die, whichever last occurs, if at least
6 one settlor and one income beneficiary are natural persons;

7 (2) The death of the last surviving income beneficiary or the expiration of
8 twenty years from the creation of the trust, whichever last occurs, if none of the
9 settlors is a natural person but at least one income beneficiary is a natural person;

10 (3) The expiration of twenty years from the death of the settlor last to die,
11 if at least one settlor is a natural person but none of the income beneficiaries is a
12 natural person;

13 (4) The expiration of fifty years from the creation of the trust, if none of the
14 settlors and none of the income beneficiaries is a natural person.

15 §1832. ~~Effect of stipulation of excessive term~~ Term of trust

16 A trust instrument ~~that stipulates a longer term than is permitted shall be~~
17 ~~enforced as though the maximum allowable term had been stipulated~~ may be created
18 for any term and may stipulate an indefinite term.

19 Section 2. R.S. 9:1833 is hereby repealed in its entirety.

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)]

HB 75 Original

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Robby Carter

Abstract: Removes maximum terms for trusts when a term is specified and authorizes trusts to specify an indefinite term.

Present law provides that a beneficiary must be in being and ascertainable on the date of the creation of the trust, except as otherwise provided by law. An unborn child is deemed a person in being and ascertainable if he is born alive.

Proposed law retains present law and provides that a successive or substitute beneficiary of principal or interest is not required to be in being on the date of the creation of the trust.

Present law provides limitations for the maximum term of a trust, when a term is stipulated, based on certain criteria such as the timing of the death of the settlor and the beneficiary and whether or not a party is a natural person.

Proposed law provides that if the trust instrument stipulates no term, the trust shall terminate based on criteria prescribed by present law.

Proposed law provides that a trust shall terminate upon the term stipulated by the trust instrument, and that the trust may be created for any term, including an indefinite term.

Present law provides that if the stipulated term of the trust exceeds the maximum allowable term provided by law, the term of the trust shall be deemed the maximum allowable term as provided by present law.

Proposed law repeals this provision of present law.

(Amends R.S. 9:1803, 1831, and 1832; Repeals R.S. 9:1833)