

Assembly Bill No. 1883

CHAPTER 75

An act to amend Section 15602 of the Probate Code, relating to trusts.

[Approved by Governor June 25, 2004. Filed with
Secretary of State June 28, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1883, Harman. Trustees: bonds.

Existing law regulates trusts and provides that a trustee is not required to give a performance bond unless a bond is required by the trust, a bond is found to be necessary by the court to protect the interests of the beneficiaries, or a person who is not named as a trustee in the trust instrument is appointed as a trustee by the court. Existing law permits a court, notwithstanding the requirement of a bond in the trust, to excuse the requirement of a bond, to change its amount, release a surety, or permit the substitution of another bond with the same or different sureties.

This bill would permit a court to require a bond when it is necessary to protect the interests of persons having an interest in the trust estate. The bill would also permit a court to excuse the requirement of a bond notwithstanding specified provisions that would otherwise require a bond. The bill would prohibit the court from excusing certain individuals from that bond requirement, except under compelling circumstances, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 15602 of the Probate Code is amended to read:
15602. (a) A trustee is not required to give a bond to secure performance of the trustee's duties, unless any of the following circumstances occurs:

- (1) A bond is required by the trust instrument.
 - (2) Notwithstanding a waiver of a bond in the trust instrument, a bond is found by the court to be necessary to protect the interests of beneficiaries or other persons having an interest in the trust.
 - (3) An individual who is not named as a trustee in the trust instrument is appointed as a trustee by the court.
- (b) Notwithstanding paragraphs (1) and (3) of subdivision (a), the court may excuse a requirement of a bond, reduce or increase the amount of a bond, release a surety, or permit the substitution of another bond

with the same or different sureties. The court may not, however, excuse the requirement of a bond for an individual described in paragraph (3) of subdivision (a), except under compelling circumstances. For the purposes of this section, a request by all the adult beneficiaries of a trust that bond be waived for an individual described in paragraph (3) of subdivision (a) for their trust is deemed to constitute a compelling circumstance.

(c) If a bond is required, it shall be filed or served and shall be in the amount and with sureties and liabilities ordered by the court.

(d) Except as otherwise provided in the trust instrument or ordered by the court, the cost of the bond shall be charged against the trust.

(e) A trust company may not be required to give a bond, notwithstanding a contrary provision in the trust instrument.

