

AMENDED IN ASSEMBLY JUNE 17, 2010
AMENDED IN ASSEMBLY MAY 20, 2010
AMENDED IN ASSEMBLY JULY 1, 2009
AMENDED IN ASSEMBLY JUNE 15, 2009
AMENDED IN SENATE MAY 14, 2009
AMENDED IN SENATE MAY 5, 2009
AMENDED IN SENATE APRIL 22, 2009

SENATE BILL

No. 202

Introduced by Senator Harman

February 23, 2009

An act to amend Sections 15408, 16061, 16061.5, 16061.7, 16061.8, ~~16061.9~~, 16064, 16336.4, and 17200 of, and to add Sections 16060.7, 16068, and 16069 to, the Probate Code, relating to probate.

LEGISLATIVE COUNSEL'S DIGEST

SB 202, as amended, Harman. Trustees: duties.

(1) Existing law regulates the administration of trusts by trustees on behalf of beneficiaries. Existing law provides that, if the principal of a trust does not exceed \$20,000 in value, the trustee has the power to terminate the trust.

This bill would provide, instead, that a trustee has the power to terminate a trust if the principal does not exceed ~~\$50,000~~ \$40,000 in value.

(2) Existing law provides that the trustee shall provide the beneficiary, upon reasonable request, information about the assets, liabilities, receipts and disbursements of the trust, acts of the trustee, and the administration

of the trust relevant to the beneficiary's interest. Existing law also allows the trust instrument to waive the report, as provided.

This bill would instead provide that on reasonable ~~written~~ request the trustee shall report to the beneficiary information relating to the administration of the trust, and on request of the beneficiary the trustee shall provide the terms of the trust, unless it is during the period when a revocable trust can be revoked, as provided, or if the beneficiary and the trustee are the same person. This bill would allow a beneficiary or trustee to petition the court to determine the existence of a trust if a trustee has failed to report the requested information within 60 days after written request. This bill would also require a court to compel the trustee to account, regardless of waiver by a beneficiary, upon a showing that it is reasonably likely that a material breach of the trust has occurred and would provide when a waiver is void as against public policy.

(3) Existing law requires, when a revocable trust or any portion of a revocable trust becomes irrevocable, as provided, the trustee to provide a copy of the trust to any beneficiary who requests it and to any heir of a deceased settlor who requests it. Existing law also requires a trustee to serve a notification, as provided, to specified persons including each beneficiary of an irrevocable trust, each heir of the deceased settlor, and to the Attorney General if the trust is a charitable trust.

This bill would revise and recast these provisions to require the trustee to provide a true and complete copy of the terms of an irrevocable trust, or the irrevocable portion of the trust, to any beneficiary or heir of a deceased settlor who requests it, as provided, including when the power of appointment is effective or lapses upon the death of a settlor, to any beneficiary whenever there is a change of trustee of an irrevocable trust, and if the trust is a charitable trust subject to the supervision of the Attorney General, to the Attorney General, as provided. This bill would also specify that the duty to serve the notification by the trustee is the duty of the continuing or successor trustee.

~~Existing law also provides that a trustee who fails, except after exercising reasonable diligence, to serve the notification, as required, shall be responsible for all damages, attorney's fees, and costs.~~

~~This bill would provide that a trustee exercises reasonable diligence in ascertaining the identity and mailing address of a beneficiary or heir by giving notice by first-class mail at the last mailing address known to the trustee, if notice is not returned as undelivered within 60 days, in which case the trustee must make investigative efforts, as provided, to locate the beneficiary.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 15408 of the Probate Code is amended
2 to read:

3 15408. (a) On petition by a trustee or beneficiary, if the court
4 determines that the fair market value of the principal of a trust has
5 become so low in relation to the cost of administration that
6 continuation of the trust under its existing terms will defeat or
7 substantially impair the accomplishment of its purposes, the court
8 may, in its discretion and in a manner that conforms as nearly as
9 possible to the intention of the settlor, order any of the following:

10 (1) Termination of the trust.
11 (2) Modification of the trust.
12 (3) Appointment of a new trustee.

13 (b) Notwithstanding subdivision (a), if the trust principal does
14 not exceed ~~fifty~~ *forty* thousand dollars ~~(\$50,000)~~ *(\$40,000)* in
15 value, the trustee has the power to terminate the trust.

16 (c) The existence of a trust provision restraining transfer of the
17 beneficiary's interest does not prevent application of this section.

18 SEC. 2. Section 16060.7 is added to the Probate Code, to read:
19 16060.7. On the request of a beneficiary, the trustee shall
20 provide the terms of the trust to the beneficiary, ~~if~~ *unless* the trustee
21 is not required to provide the terms of the trust to the beneficiary
22 in accordance with Section 16069.

23 SEC. 3. Section 16061 of the Probate Code is amended to read:
24 16061. Except as provided in Section 16069, on reasonable
25 ~~written~~ request by a beneficiary, the trustee shall report to the
26 beneficiary by providing requested information to the beneficiary
27 relating to the administration of the trust relevant to the
28 beneficiary's interest.

29 SEC. 4. Section 16061.5 of the Probate Code is amended to
30 read:

31 16061.5. (a) A trustee shall provide a true and complete copy
32 of the terms of the irrevocable trust, or irrevocable portion of the
33 trust, to each of the following:

34 (1) Any beneficiary of the trust who requests it, and to any heir
35 of a deceased settlor who requests it, when a revocable trust or

1 any portion of a revocable trust becomes irrevocable because of
2 the death of one or more of the settlors of the trust, when a power
3 of appointment is effective or lapses upon the death of a settlor
4 under the circumstances described in paragraph (3) of subdivision
5 (a) of Section 16061.7, or because, by the express terms of the
6 trust, the trust becomes irrevocable within one year of the death
7 of a settlor because of a contingency related to the death of one or
8 more of the settlors of the trust.

9 (2) Any beneficiary of the trust who requests it, whenever there
10 is a change of trustee of an irrevocable trust.

11 (3) If the trust is a charitable trust subject to the supervision of
12 the Attorney General, to the Attorney General, if requested, when
13 a revocable trust or any portion of a revocable trust becomes
14 irrevocable because of the death of one or more of the settlors of
15 the trust, when a power of appointment is effective or lapses upon
16 the death of a settlor under the circumstances described in
17 paragraph (3) of subdivision (a) of Section 16061.7, or because,
18 by the express terms of the trust, the trust becomes irrevocable
19 within one year of the death of a settlor because of a contingency
20 related to the death of one or more of the settlors of the trust, and
21 whenever there is a change of trustee of an irrevocable trust.

22 (b) The trustee shall, for purposes of this section, rely upon any
23 final judicial determination of heirship. However, the trustee shall
24 have discretion to make a good faith determination by any
25 reasonable means of the heirs of a deceased settlor in the absence
26 of a final judicial determination of heirship known to the trustee.

27 SEC. 5. Section 16061.7 of the Probate Code is amended to
28 read:

29 16061.7. (a) A trustee shall serve a notification by the trustee
30 as described in this section in the following events:

31 (1) When a revocable trust or any portion thereof becomes
32 irrevocable because of the death of one or more of the settlors of
33 the trust, or because, by the express terms of the trust, the trust
34 becomes irrevocable within one year of the death of a settlor
35 because of a contingency related to the death of one or more of
36 the settlors of the trust.

37 (2) Whenever there is a change of trustee of an irrevocable trust.

38 (3) Whenever a power of appointment retained by a settlor is
39 effective or lapses upon death of the settlor with respect to an inter

1 vivos trust which was, or was purported to be, irrevocable upon
2 its creation.

3 (4) The duty to serve the notification by the trustee pursuant to
4 this subdivision is the duty of the continuing or successor trustee,
5 and any one cotrustee may serve the notification.

6 (b) The notification by the trustee required by subdivision (a)
7 shall be served on each of the following:

8 (1) Each beneficiary of the irrevocable trust or irrevocable
9 portion of the trust, subject to the limitations of Section 15804.

10 (2) Each heir of the deceased settlor, if the event that requires
11 notification is the death of a settlor or irrevocability within one
12 year of the death of the settlor of the trust by the express terms of
13 the trust because of a contingency related to the death of a settlor.

14 (3) If the trust is a charitable trust subject to the supervision of
15 the Attorney General, to the Attorney General.

16 (c) A trustee shall, for purposes of this section, rely upon any
17 final judicial determination of heirship, known to the trustee, but
18 the trustee shall have discretion to make a good faith determination
19 by any reasonable means of the heirs of a deceased settlor in the
20 absence of a final judicial determination of heirship known to the
21 trustee.

22 (d) The trustee need not provide a copy of the notification by
23 trustee to any beneficiary or heir (1) known to the trustee but who
24 cannot be located by the trustee after reasonable diligence or (2)
25 unknown to the trustee.

26 (e) The notification by trustee shall be served by mail to the last
27 known address, pursuant to Section 1215, or by personal delivery.

28 (f) The notification by trustee shall be served not later than 60
29 days following the occurrence of the event requiring service of the
30 notification by trustee, or 60 days after the trustee became aware
31 of the existence of a person entitled to receive notification by
32 trustee, if that person was not known to the trustee on the
33 occurrence of the event requiring service of the notification. If
34 there is a vacancy in the office of the trustee on the date of the
35 occurrence of the event requiring service of the notification by
36 trustee, or if that event causes a vacancy, then the 60-day period
37 for service of the notification by trustee commences on the date
38 the new trustee commences to serve as trustee.

39 (g) The notification by trustee shall contain the following
40 information:

1 (1) The identity of the settlor or settlors of the trust and the date
2 of execution of the trust instrument.

3 (2) The name, mailing address and telephone number of each
4 trustee of the trust.

5 (3) The address of the physical location where the principal
6 place of administration of the trust is located, pursuant to Section
7 17002.

8 (4) Any additional information that may be expressly required
9 by the terms of the trust instrument.

10 (5) A notification that the recipient is entitled, upon reasonable
11 request to the trustee, to receive from the trustee a true and
12 complete copy of the terms of the trust.

13 (h) If the notification by the trustee is served because a revocable
14 trust or any portion of it has become irrevocable because of the
15 death of one or more settlors of the trust, or because, by the express
16 terms of the trust, the trust becomes irrevocable within one year
17 of the death of a settlor because of a contingency related to the
18 death of one or more of the settlors of the trust, the notification by
19 the trustee shall also include a warning, set out in a separate
20 paragraph in not less than 10-point boldface type, or a reasonable
21 equivalent thereof, that states as follows:

22 “You may not bring an action to contest the trust more than 120
23 days from the date this notification by the trustee is served upon
24 you or 60 days from the date on which a copy of the terms of the
25 trust is mailed or personally delivered to you during that 120-day
26 period, whichever is later.”

27 (i) Any waiver by a settlor of the requirement of serving the
28 notification by trustee required by this section is against public
29 policy and shall be void.

30 (j) A trustee may serve a notification by trustee in the form
31 required by this section on any person in addition to those on whom
32 the notification by trustee is required to be served. A trustee is not
33 liable to any person for serving or for not serving the notice on
34 any person in addition to those on whom the notice is required to
35 be served. A trustee is not required to serve a notification by trustee
36 if the event that otherwise requires service of the notification by
37 trustee occurs before January 1, 1998.

38 SEC. 6. Section 16061.8 of the Probate Code is amended to
39 read:

1 16061.8. No person upon whom the notification by the trustee
2 is served pursuant to this chapter, whether the notice is served on
3 him or her within or after the time period set forth in subdivision
4 (f) of Section 16061.7, may bring an action to contest the trust
5 more than 120 days from the date the notification by the trustee is
6 served upon him or her, or 60 days from the day on which a copy
7 of the terms of the trust is mailed or personally delivered to him
8 or her during that 120-day period, whichever is later.

9 ~~SEC. 7. Section 16061.9 of the Probate Code is amended to~~
10 ~~read:~~

11 ~~16061.9. (a) Except as provided in subdivision (b), a trustee~~
12 ~~who fails to comply with Section 16061.7 shall be responsible for~~
13 ~~all damages caused by the failure, including, but not limited to,~~
14 ~~reasonable attorney's fees and costs incurred by or on behalf of~~
15 ~~the beneficiary or heir.~~

16 ~~(b) (1) The trustee's exercise of reasonable diligence in~~
17 ~~ascertaining the identity and mailing address of the beneficiary or~~
18 ~~heir and otherwise complying with Section 16061.7 shall constitute~~
19 ~~a complete defense to any action based on the beneficiary's or~~
20 ~~heir's failure to receive the notification required by Section~~
21 ~~16061.7.~~

22 ~~(2) For purposes of this subdivision, a trustee exercises~~
23 ~~reasonable diligence in ascertaining the identity and mailing~~
24 ~~address of a beneficiary or heir as follows:~~

25 ~~(A) By giving notice by first-class mail to the beneficiary or~~
26 ~~heir at the beneficiary's or heir's last mailing address known to~~
27 ~~the trustee, provided the notice is not returned to the trustee as~~
28 ~~undelivered mail within 60 days from the date the notification by~~
29 ~~the trustee is served.~~

30 ~~(B) If the notice described in subparagraph (A) is returned to~~
31 ~~the trustee as undeliverable within 60 days from the date the~~
32 ~~notification by the trustee is served, either by the trustee's retention~~
33 ~~of an investigative service at the expense of the trust or by the~~
34 ~~trustee making the following efforts to locate the beneficiary:~~

35 ~~(i) Reviewing city telephone directories, calling directory~~
36 ~~assistance, and searching Internet telephone directories for the last~~
37 ~~county of residence for the beneficiary or heir known to the trustee.~~

38 ~~(ii) Inquiring of a beneficiary's or an heir's relatives, friends,~~
39 ~~acquaintances, or employers whose identity and contact information~~
40 ~~is known to the trustee.~~

1 (iii) Mailing by first-class mail of a request to the current
2 occupant of the beneficiary's or heir's last known residence for
3 the beneficiary's or heir's present address.

4 (e) A trustee, in exercising discretion with respect to the timing
5 and nature of distributions of trust assets, may consider the fact
6 that the period in which a beneficiary or heir could bring an action
7 to contest the trust has not expired.

8 ~~SEC. 8.~~

9 *SEC. 7.* Section 16064 of the Probate Code is amended to read:
10 16064. The trustee is not required to account to a beneficiary
11 as described in subdivision (a) of Section 16062, in any of the
12 following circumstances:

13 (a) To the extent the trust instrument waives the account, except
14 that no waiver described in subdivision (e) of Section 16062 shall
15 be valid or enforceable. Regardless of a waiver of accounting in
16 the trust instrument, upon a showing that it is reasonably likely
17 that a material breach of the trust has occurred, the court may
18 compel the trustee to account.

19 (b) As to a beneficiary who has waived in writing the right to
20 an account. A waiver of rights under this subdivision may be
21 withdrawn in writing at any time as to accounts for transactions
22 occurring after the date of the written withdrawal. Regardless of
23 a waiver of accounting by a beneficiary, upon a showing that is
24 reasonably likely that a material breach of the trust has occurred,
25 the court may compel the trustee to account.

26 (c) In any of the circumstances set forth in Section 16069.

27 ~~SEC. 9.~~

28 *SEC. 8.* Section 16068 is added to the Probate Code, to read:
29 16068. Any waiver by a settlor of the obligation of the trustee
30 of either of the following is against public policy and shall be void:

31 (a) To provide the terms of the trust to the beneficiary as
32 required by Sections 16060.7 and 16061.5.

33 (b) To provide requested information to the beneficiary as
34 required by Section 16061.

35 ~~SEC. 10.~~

36 *SEC. 9.* Section 16069 is added to the Probate Code, to read:
37 16069. The trustee is not required to account to the beneficiary,
38 provide the terms of the trust to a beneficiary, or provide requested
39 information to the beneficiary pursuant to Section 16061, in any
40 of the following circumstances:

1 (a) In the case of a beneficiary of a revocable trust, as provided
2 in Section 15800, for the period when the trust may be revoked.

3 (b) If the beneficiary and the trustee are the same person.

4 ~~SEC. 11.~~

5 *SEC. 10.* Section 16336.4 of the Probate Code is amended to
6 read:

7 16336.4. (a) Unless expressly prohibited by the governing
8 instrument, a trustee may convert a trust into a unitrust, as
9 described in this section. A trust that limits the power of the trustee
10 to make an adjustment between principal and income or modify
11 the trust does not affect the application of this section unless it is
12 clear from the governing instrument that it is intended to deny the
13 trustee the power to convert into a unitrust.

14 (b) The trustee may convert a trust into a unitrust without a court
15 order if all of the following apply:

16 (1) The conditions set forth in subdivision (a) of Section 16336
17 are satisfied.

18 (2) The unitrust proposed by the trustee conforms to the
19 provisions of paragraphs (1) to (8), inclusive, of subdivision (e).

20 (3) The trustee gives written notice of the trustee's intention to
21 convert the trust into a unitrust and furnishes the information
22 required by subdivision (c). The notice shall comply with the
23 requirements of Chapter 5 (commencing with Section 16500),
24 including notice to a beneficiary who is a minor and to the minor's
25 guardian, if any.

26 (4) No beneficiary objects to the proposed action in a writing
27 delivered to the trustee within the period prescribed by subdivision
28 (d) of Section 16502 or a longer period as is specified in the notice
29 described in subdivision (c).

30 (c) The notice described in paragraph (3) of subdivision (b)
31 shall include a copy of Sections 16336.4 to 16336.7, inclusive,
32 and all of the following additional information:

33 (1) A statement that the trust shall be administered in accordance
34 with the provisions of subdivision (e) and the effective date of the
35 conversion.

36 (2) A description of the method to be used for determining the
37 fair market value of trust assets.

38 (3) The amount actually distributed to the income beneficiary
39 during the previous accounting year of the trust.

1 (4) The amount that would have been distributed to the income
2 beneficiary during the previous accounting year of the trust had
3 the trustee's proposed changes been in effect during that entire
4 year.

5 (5) The discretionary decisions the trustee proposes to make
6 as of the conversion date pursuant to subdivision (f).

7 (d) In deciding whether to exercise the power conferred by this
8 section, a trustee may consider, among other things, the factors
9 set forth in subdivision (g) of Section 16336.

10 (e) Except to the extent that the court orders otherwise or the
11 parties agree otherwise pursuant to Section 16336.5 after a trust
12 is converted to a unitrust, all of the following shall apply:

13 (1) The trustee shall make regular distributions in accordance
14 with the governing instrument construed in accordance with the
15 provisions of this section.

16 (2) The term "income" in the governing instrument shall mean
17 an annual distribution, the unitrust amount, equal to 4 percent,
18 which is the payout percentage, of the net fair market value of the
19 trust's assets, whether those assets would be considered income
20 or principal under other provisions of this chapter, averaged over
21 the lesser of the following:

22 (A) The three preceding years.

23 (B) The period during which the trust has been in existence.

24 (3) During each accounting year of the trust following its
25 conversion into a unitrust, the trustee shall, as early in the year as
26 is practicable, furnish each income beneficiary with a statement
27 describing the computation of the unitrust amount for that
28 accounting year.

29 (4) The trustee shall determine the net fair market value of each
30 asset held in the trust no less often than annually. However, the
31 following property shall not be included in determining the unitrust
32 amount:

33 (A) Any residential property or any tangible personal property
34 that, as of the first business day of the current accounting year,
35 one or more current beneficiaries of the trust have or have had the
36 right to occupy, or have or have had the right to possess or control,
37 other than in his or her capacity as trustee of the trust, which
38 property shall be administered according to other provisions of
39 this chapter as though no conversion to a unitrust had occurred.

1 (B) Any asset specifically devised to a beneficiary to the extent
2 necessary, in the trustee’s reasonable judgment, to avoid a material
3 risk of exhausting other trust assets prior to termination of the trust.
4 All net income generated by a specifically devised asset excluded
5 from the unitrust computation pursuant to this subdivision shall
6 be accumulated or distributed by the trustee according to the rules
7 otherwise applicable to that net income pursuant to other provisions
8 of this chapter.

9 (C) Any asset while held in a testator’s estate or a terminating
10 trust.

11 (5) The unitrust amount, as otherwise computed pursuant to this
12 subdivision, shall be reduced proportionately for any material
13 distribution made to accomplish a partial termination of the trust
14 required by the governing instrument or made as a result of the
15 exercise of a power of appointment or withdrawal, other than
16 distributions of the unitrust amount, and shall be increased
17 proportionately for the receipt of any material addition to the trust,
18 other than a receipt that represents a return on investment, during
19 the period considered in paragraph (2) in computing the unitrust
20 amount. For the purpose of this paragraph, a distribution or an
21 addition shall be “material” if the net value of the distribution or
22 addition, when combined with all prior distributions made or
23 additions received during the same accounting year, exceeds 10
24 percent of the value of the assets used to compute the unitrust
25 amount as of the most recent prior valuation date. The trustee may,
26 in the reasonable exercise of his or her discretion, adjust the unitrust
27 amount pursuant to this subdivision even if the distributions or
28 additions are not sufficient to meet the definition of materiality set
29 forth in the preceding sentence.

30 (6) In the case of a short year in which a beneficiary’s right to
31 payments commences or ceases, the trustee shall prorate the
32 unitrust amount on a daily basis.

33 (7) Unless otherwise provided by the governing instrument or
34 determined by the trustee, the unitrust amount shall be considered
35 paid in the following order from the following sources:

36 (A) From the net taxable income, other than capital gains,
37 determined as if the trust were other than a unitrust.

38 (B) From net realized short-term capital gains.

39 (C) From net realized long-term capital gains.

40 (D) From tax-exempt and other income.

1 (E) From principal of the trust.

2 (8) Expenses that would be deducted from income if the trust
3 were not a unitrust may not be deducted from the unitrust amount.

4 (f) The trustee shall determine, in the trustee's discretion, all of
5 the following matters relating to administration of a unitrust created
6 pursuant to this section:

7 (1) The effective date of a conversion to a unitrust.

8 (2) The frequency of payments in satisfaction of the unitrust
9 amount.

10 (3) Whether to value the trust's assets annually or more
11 frequently.

12 (4) What valuation dates to use.

13 (5) How to value nonliquid assets.

14 (6) The characterization of the unitrust payout for income tax
15 reporting purposes. However, the trustee's characterization shall
16 be consistent.

17 (7) Any other matters that the trustee deems appropriate for the
18 proper functioning of the unitrust.

19 (g) A conversion into a unitrust does not affect a provision in
20 the governing instrument directing or authorizing the trustee to
21 distribute principal or authorizing the exercise of a power of
22 appointment over or withdrawal of all or a portion of the principal.

23 (h) A trustee may not convert a trust into a unitrust in any of
24 the following circumstances:

25 (1) If payment of the unitrust amount would change the amount
26 payable to a beneficiary as a fixed annuity or a fixed fraction of
27 the value of the trust assets.

28 (2) If the unitrust distribution would be made from any amount
29 that is permanently set aside for charitable purposes under the
30 governing instrument and for which a federal estate or gift tax
31 deduction has been taken, unless both income and principal are
32 set aside.

33 (3) If possessing or exercising the power to convert would cause
34 an individual to be treated as the owner of all or part of the trust
35 for federal income tax purposes, and the individual would not be
36 treated as the owner if the trustee did not possess the power to
37 convert.

38 (4) If possessing or exercising the power to convert would cause
39 all or part of the trust assets to be subject to federal estate or gift
40 tax with respect to an individual, and the assets would not be

1 subject to federal estate or gift tax with respect to the individual
2 if the trustee did not possess the power to convert.

3 (5) If the conversion would result in the disallowance of a
4 federal estate tax or gift tax marital deduction that would be
5 allowed if the trustee did not have the power to convert.

6 (i) If paragraph (3) or (4) of subdivision (h) applies to a trustee
7 and there is more than one trustee, a cotrustee to whom the
8 provision does not apply may convert the trust unless the exercise
9 of the power by the remaining trustee or trustees is prohibited by
10 the governing instrument. If paragraph (3) or (4) of subdivision
11 (h) applies to all of the trustees, the court may order the conversion
12 as provided in subdivision (b) of Section 16336.5.

13 (j) (1) A trustee may release the power conferred by this section
14 to convert to a unitrust if either of the following circumstances
15 exist:

16 (A) The trustee is uncertain about whether possessing or
17 experiencing the power will cause a result described in paragraph
18 (3), (4), or (5) of subdivision (h).

19 (B) The trustee determines that possessing or exercising the
20 power will or may deprive the trust of a tax benefit or impose a
21 tax burden not described in subdivision (h).

22 (2) A release pursuant to paragraph (1) may be permanent or
23 for a specified period, including a period measured by the life of
24 an individual.

25 ~~SEC. 12.~~

26 *SEC. 11.* Section 17200 of the Probate Code is amended to
27 read:

28 17200. (a) Except as provided in Section 15800, a trustee or
29 beneficiary of a trust may petition the court under this chapter
30 concerning the internal affairs of the trust or to determine the
31 existence of the trust.

32 (b) Proceedings concerning the internal affairs of a trust include,
33 but are not limited to, proceedings for any of the following
34 purposes:

35 (1) Determining questions of construction of a trust instrument.

36 (2) Determining the existence or nonexistence of any immunity,
37 power, privilege, duty, or right.

38 (3) Determining the validity of a trust provision.

39 (4) Ascertaining beneficiaries and determining to whom property
40 shall pass or be delivered upon final or partial termination of the

- 1 trust, to the extent the determination is not made by the trust
- 2 instrument.
- 3 (5) Settling the accounts and passing upon the acts of the trustee,
- 4 including the exercise of discretionary powers.
- 5 (6) Instructing the trustee.
- 6 (7) Compelling the trustee to do any of the following:
- 7 (A) Provide a copy of the terms of the trust.
- 8 (B) Report information about the trust under Section 16061 if
- 9 the trustee has failed to report the requested information within 60
- 10 days after written request of the beneficiary, and the beneficiary
- 11 has not received the requested information from the trustee within
- 12 the six months preceding the request.
- 13 (C) Account to the beneficiary, subject to the provisions of
- 14 Section 16064, if the trustee has failed to submit a requested
- 15 account within 60 days after written request of the beneficiary and
- 16 no report or account has been made within six months preceding
- 17 the request.
- 18 (8) Granting powers to the trustee.
- 19 (9) Fixing or allowing payment of the trustee’s compensation
- 20 or reviewing the reasonableness of the trustee’s compensation.
- 21 (10) Appointing or removing a trustee.
- 22 (11) Accepting the resignation of a trustee.
- 23 (12) Compelling redress of a breach of the trust by any available
- 24 remedy.
- 25 (13) Approving or directing the modification or termination of
- 26 the trust.
- 27 (14) Approving or directing the combination or division of
- 28 trusts.
- 29 (15) Amending or conforming the trust instrument in the manner
- 30 required to qualify a decedent’s estate for the charitable estate tax
- 31 deduction under federal law, including the addition of mandatory
- 32 governing instrument requirements for a charitable remainder trust
- 33 as required by final regulations and rulings of the United States
- 34 Internal Revenue Service.
- 35 (16) Authorizing or directing transfer of a trust or trust property
- 36 to or from another jurisdiction.
- 37 (17) Directing transfer of a testamentary trust subject to
- 38 continuing court jurisdiction from one county to another.
- 39 (18) Approving removal of a testamentary trust from continuing
- 40 court jurisdiction.

1 (19) Reforming or excusing compliance with the governing
2 instrument of an organization pursuant to Section 16105.

3 (20) Determining the liability of the trust for any debts of a
4 deceased settlor. However, nothing in this paragraph shall provide
5 standing to bring an action concerning the internal affairs of the
6 trust to a person whose only claim to the assets of the decedent is
7 as a creditor.

8 (21) Determining petitions filed pursuant to Section 15687 and
9 reviewing the reasonableness of compensation for legal services
10 authorized under that section. In determining the reasonableness
11 of compensation under this paragraph, the court may consider,
12 together with all other relevant circumstances, whether prior
13 approval was obtained pursuant to Section 15687.

14 (22) If a member of the State Bar of California has transferred
15 the economic interest of his or her practice to a trustee and if the
16 member is a deceased member under Section 9764, a petition may
17 be brought to appoint a practice administrator. The procedures,
18 including, but not limited to, notice requirements, that apply to the
19 appointment of a practice administrator for a deceased member
20 shall apply to the petition brought under this section.

21 (23) If a member of the State Bar of California has transferred
22 the economic interest of his or her practice to a trustee and if the
23 member is a disabled member under Section 2468, a petition may
24 be brought to appoint a practice administrator. The procedures,
25 including, but not limited to, notice requirements, that apply to the
26 appointment of a practice administrator for a disabled member
27 shall apply to the petition brought under this section.