

Assembly Bill No. 1628

Passed the Assembly August 28, 2000

Chief Clerk of the Assembly

Passed the Senate August 18, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 16061.7 and 16061.8 of the Probate Code, relating to trusts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1628, Kaloogian. Trusts.

Existing law requires a trustee to serve a notification upon specified persons when a revocable trust becomes irrevocable, as specified, or when there is a change of trustee of an irrevocable trust, informing the recipient of specified information and that he or she is entitled to receive a true and complete copy of the terms of the trust upon request. Existing law provides that no person receiving this notification by a trustee may bring an action to contest the trust more than (1) 120 days from the date the notification by the trustee is served upon him or her, or (2) 60 days from the day on which a copy of the terms of the trust is mailed or personally delivered to him or her in response to his or her request during that 120-day period.

AB 460 (Ch. 34, Stats. 2000), among other things, proposes to make various changes in the requirements for notification, including revision of (2) above, to provide that an action may not be brought more than 60 days from the day on which a copy of the terms of the trust is mailed or personally delivered. It also would make a related change with respect to a warning required to be included in the notice in certain circumstances.

This bill would incorporate all of the changes proposed to be made by AB 460 with respect to notification other than the deletion of the reference to the 120-day period.

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

SECTION 1. Section 16061.7 of the Probate Code is amended to read:

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



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

(2) Whenever there is a change of trustee of an irrevocable trust. The duty to serve the notification by the trustee is the duty of the continuing or successor trustee, and any one cotrustee may serve the notification.

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

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

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

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

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

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

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

(f) The notification by trustee shall be served not later than 60 days following the occurrence of the event



requiring service of the notification by trustee, or 60 days after the trustee became aware of the existence of a person entitled to receive notification by trustee, if that person was not known to the trustee on the occurrence of the event requiring service of the notification. If there is a vacancy in the office of the trustee on the date of the occurrence of the event requiring service of the notification by trustee, or if that event causes a vacancy, then the 60-day period for service of the notification by trustee commences on the date the new trustee commences to serve as trustee.

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

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

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

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

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

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

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

“You may not bring an action to contest the trust more than 120 days from the date this notification by the trustee is served upon you or 60 days from the date on which a copy of the terms of the trust is mailed or personally



delivered to you during that 120-day period, whichever is later.”

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

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

SEC. 2. Section 16061.8 of the Probate Code is amended to read:

16061.8. No person upon whom the notification by the trustee is served pursuant to this chapter may bring an action to contest the trust more than 120 days from the date the notification by the trustee is served upon him or her, or 60 days from the day on which a copy of the terms of the trust is mailed or personally delivered to him or her during that 120-day period, whichever is later.



Approved _____, 2000

Governor

