

March 25, 1999

S 526. MOD. & TERM. OF IRREVOCABLE TRUSTS. TO PROVIDE FOR THE MODIFICATION AND TERMINATION OF IRREVOCABLE TRUSTS. Repeals Art. 11 of GS Ch. 36A (Termination of Small Trusts) and enacts new Article 11A. Includes in new article provision comparable to GS 36A-125 (which was the only section in the repealed article), but (1) raises threshold for termination by trustee from \$10,000 to \$50,000 and (2) adds provision permitting superior court to modify or terminate irrevocable trust if court determines that fair market value of assets is so low that continuance of trust would defeat or substantially impair accomplishment of trust's purposes. Adds new provisions permitting settlor (if sole beneficiary) or settlor and all beneficiaries to compel modification and termination of irrevocable trust without court approval, even though purpose of trust not accomplished; and permitting consenting beneficiaries to bring action before court compelling modification or partial termination if any beneficiary does not consent, as long as settlor approves and court finds that such modification or termination will not substantially impair interests of non-consenting beneficiaries. Permits all beneficiaries acting collectively to compel modification or termination of trust by court; court may not modify or terminate in manner that affects continuance of trust according to its terms, unless court finds that reason for modifying or terminating substantially outweighs interest in accomplishing material purpose of trust. Effective Jan. 1, 2000; applies to all trusts created before or after that date; provision permitting trustee to terminate trust with assets of under \$50,000 does not apply to trusts created before Oct. 1, 1991 if trust instrument contains spendthrift or similar protective provisions.

Intro. by Hagan.

Ref. to Judiciary II

GS 36A

April 15, 1999

S 526. MOD. & TERM. OF IRREVOCABLE TRUSTS. Intro. 3/25/99. Senate committee substitute makes the following changes to 1st edition. Makes technical changes only.

April 21, 1999

S 526. MOD. & TERM. OF IRREVOCABLE TRUSTS. Intro. 3/25/99. Senate amendment makes the following changes to 2nd edition. Adds new provision requiring court or trustee to consider tax consequences to beneficiaries in determining whether to terminate or modify trust.

June 14, 1999

S 526. MOD. AND TERM. OF IRREVOCABLE TRUSTS. Intro. 3/25/99. House committee substitute makes the following changes to 3rd edition. (1) Original bill contained a definition of "irrevocable trust," defined as an express noncharitable irrevocable trust. This committee substitute replaces that definition with a definition of "trust," defined to mean an express noncharitable trust. The new definition adds provisions specifying that it does not include constructive trusts, resulting trusts, conservatorships, personal representative, certain trust accounts, certain trust funds, certain custodial arrangements, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits, or any arrangement under which a person is nominee or escrowee for another. (2) Makes clarifying changes.