

2022 Regular Session

HOUSE BILL NO. 172

BY REPRESENTATIVE GREGORY MILLER

(On Recommendation of the Louisiana State Law Institute)

TRUSTS: Provides relative to revocable trusts

1 AN ACT

2 To amend and reenact R.S. 9:2061, relative to revocable trusts; to provide for the duties of
3 the trustee to the settlor; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 9:2061 is hereby amended and reenacted to read as follows:

6 §2061. General rule

7 The nature and extent of the duties and powers of a trustee are determined
8 from the provisions of the trust instrument, except as otherwise expressly provided
9 in this Code, and, in the absence of any provisions of the trust instrument, by the
10 provisions of this Part and by law. Unless the trust instrument provides otherwise,
11 the duties of the trustee are owed exclusively to the settlor while a trust is revocable.

12 Revision Comments - 2022

13 This revision is consistent with provisions of law in other states, which treat
14 revocable trusts as substitutes for wills and which provide that the trustee's duties are
15 owed not to the beneficiaries but to the settlor while the settlor is alive and the trust
16 is revocable. The Uniform Trust Code provides that "[w]hile a trust is revocable...,
17 rights of the beneficiaries are subject to the control of, and the duties of the trustee
18 are owed exclusively to, the settlor." Unif. Trust Code § 603(a); Restatement (Third)
19 of Trusts § 74 cmt (e) (2003) ("For as long as, and to the extent that, the trust is
20 revocable by the settlor and the settlor is legally competent, the settlor may enforce
21 the trust on behalf of all the beneficiaries, and the trustee's duties are owed primarily
22 to the settlor, or solely to the settlor insofar as the rights of other beneficiaries are
23 preempted by the conduct of the settlor."). Other provisions of the Louisiana Trust
24 Code contain specific examples of this principle. See, e.g., R.S. 9:2088(A) ("If the
25 trust is revocable, the trustee has a duty to account to the settlor only.").

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 172 Original

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Gregory Miller

Abstract: Provides that the duties of a trustee are owed to the settlor while a trust is revocable.

Present law (R.S. 9:2061) provides that the duties of a trustee are determined from the provisions of the trust instrument and by law.

Proposed law retains present law and provides that the duties of the trustee are owed exclusively to the settlor while a trust is revocable, unless otherwise provided by the trust instrument.

(Amends R.S. 9:2061)