Bill as Introduced

HB 160 – AS INTRODUCED

2003 SESSION

03-0424
01/09

HOUSE BILL ***160***

AN ACT relative to removal or replacement of trustees.

SPONSORS: Rep. Hunt, Ches 28; Sen. Kenney, Dist 3

COMMITTEE: Commerce

ANALYSIS

This bill clarifies the law relative to removal or replacement of trustees.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 160 – AS INTRODUCED

03-0424
01/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to removal or replacement of trustees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraph; Removal or Replacement of a Trustee; Application. Amend RSA 564:9 by inserting after paragraph II the following new paragraph:

III. This section shall apply to a trust or trustee of a trust, as defined in RSA 564-A:1.

2 Effective Date. This act shall take effect January 1, 2004.

Committee Minutes

Date: May 13,
Time: 1:15 p.m.
Room: 1:35

The Senate Committee on Banks held a hearing on the following:

HB 160 relative to removal or replacement of trustees.

Members of Committee present: Senator Flanders
Senator Barnes

The Chair, Senator Robert B. Flanders, opened the hearing.

I'd like to open up the hearing on HB 160. I recognize either one or both of you.

Robert Gerseny, manager of Personal Trust Department, Citizen's Bank: I am testifying on behalf of the New Hampshire Banker's Association in favor of this bill. In 1998 the legislature passed a law which expanded and clarified the grounds and the conditions under which a probate judge could or can remove a trustee. The provision that was amended in the statutes related only to probate trust, testamentary trusts under the terms of a will. The intent was to imply the removal powers to all trusts. What this bill does is amend the second provision of the statute, of the statutes so that both testamentary trusts and intervivous trusts are subject to the probate courts power of removal. The power of removal, which is actually articulated in the probate code, has been utilized by the courts to remove trustees of intervivous trusts already. It's already practice in place. This would provide them with appropriate legal authority. Does that make sense?

Senator Robert B. Flanders, D. 7: Any questions?

Senator John S. Barnes, Jr., D. 17: I see the House didn't change this at all.

Senator Robert B. Flanders, D. 7: What you're saying is that when they changed part of the bill they should have changed two parts.

Mr. Gerseny: The code treats trusts in two different sections. Testamentary trusts in one section and intervivous trusts in another. We changed the

provisions of the code in relation to testamentary trusts, we meant to get both of them and this cures that.

Senator Robert B. Flanders, D. 7: Thank you for your testimony. Anyone else wishing to speak? Do you wish to speak?

Ms. Diane Vickers: I'm in favor of this bill.

Senator Robert B. Flanders, D. 7: I'll close the hearing on HB 160.

Hearing closed at 1:40p.m.

Respectfully submitted,

Pamela Manocchi
May 21, 2003

attachment

SPONSOR EXPLANATION

Removal or Replacement of Trustees

This bill clarifies that the provision in state law allowing beneficiaries of a trust to petition the court for removal or replacement of an existing trustee applies to trustees of all trusts, as defined in the Uniform Trustees Powers Act, and not just trustees appointed by the probate court.

The bill would confirm that the state's trust portability provision does include trustees of trusts created by a trust instrument whereby a trustee has the duty to administer a trust asset for the benefit of a named or otherwise described income or principal beneficiary or both.

In 1998, lawmakers passed a bill to expand the circumstances under which beneficiaries or co-trustees could petition the probate court for the replacement or removal of an existing trustee. The bill was intended to apply to all trusts as defined in the Uniform Trustees' Powers Act, RSA 564-A, which is the chapter in state law that describes the powers conferred and exercised by trustees. The law that passed in 1998 amended an existing provision in RSA 564, which was the original New Hampshire statute governing the jurisdiction of the Probate Court as it applies to trusts and which contained a provision pertaining to the removal of a trustee.

At least one attorney has objected to a removal petition on the basis that the removal and replacement language only applied to a trustee appointed by the probate court. The intent of the bill passed in 1998 was the that removal and replacement provisions did apply to all trusts.

Speakers

SENATE BANKS

Date May 13, 2003 Time 1:35 Public Hearing on
Bill # HB 160 relative to removal or replacement of trustees.

(Please print) Please check box(es) at left that apply.

SPEAKING?	FAVOR	OPPOSED	NAME	REPRESENTING
☐	☑	☐	Senator Joseph Kenney	Dist 3
☒	☒	☐	Robert Hersey	NHBA
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Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: May 13, 2003

THE COMMITTEE ON Banks

to which was referred House Bill 160

AN ACT relative to removal or replacement of trustees.

VOTE: 2-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator John S. Barnes, Jr.
For the Committee

HB160 Docket

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Bill Title: relative to removal or replacement of trustees.

Date	Body	Description
1/9/2003	**H**	Introduced and ref to Commerce; HJ8, p109
1/9/2003	**H**	Copy to Chairman on 1/9/2003
1/9/2003	**H**	Hearing Jan 21 10:00 RM302,LOB
1/22/2003	**H**	Maj Report OTP for Jan 30 (Vote 16-0;CC)
1/30/2003	**H**	Passed; HJ 12, p215 + 231
4/24/2003	**S**	Introduced and Ref. to Banks; SJ 14, Pg.342
5/7/2003	**S**	Hearing; May 13, 2003, Room 103, LOB, 1:35 p.m.; SC22
5/15/2003	**S**	Committee Report; Ought to Pass , [05/22/03]; SC23
5/22/2003	**S**	Ought to Pass, MA, VV; OT3rdg; SJ 17, Pg.406
5/22/2003	**S**	Passed by 3rd Reading Resolution; SJ 17, Pg.479
5/29/2003	**S**	Enrolled;
6/5/2003	**H**	Enrolled; HJ 47, p1495
6/12/2003	**H**	Signed by the Governor on 6/12/2003 Eff: 1/1/2004 Chap: 0123

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Docket Abbreviations