

Amendment No. \_\_\_\_\_

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Signature of Sponsor

<b>FILED</b>
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**AMEND Senate Bill No. 492\***

**House Bill No. 1185**

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 35-15-303, is amended by deleting subdivisions (5)-(8) and substituting:

(5) When a trust is a beneficiary of another trust, the beneficiary trust may be represented by its trustee or, if the beneficiary trust has not yet been created, has previously terminated, or is otherwise not then in existence, or the trustee is unwilling or unable to represent the trust, the beneficiary trust may be represented by those persons who are qualified beneficiaries or who would be qualified beneficiaries of the beneficiary trust if the beneficiary trust were then in existence;

(6) A personal representative of a decedent's estate may represent and bind persons interested in the estate;

(7) A person may represent and bind the person's minor or unborn descendant if a guardian for the descendant has not been appointed. If a disagreement or material conflict of interest arises between persons seeking to represent the same minor descendant or unborn descendant, representation is determined as follows:

(A) If only one (1) person is a beneficiary of the trust that is the subject of the representation, that person may represent the minor descendant or unborn descendant;

(B) If both persons are beneficiaries of the trust that is the subject of the representation, then the person who is related to the settlor, other than by reason



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of being married to the other person, may represent the minor descendant or unborn descendant;

(C) Subject to subdivision (7)(D), if neither person is a beneficiary of the trust that is the subject of the representation, then the person who is the settlor of the trust that is the subject of the representation may represent the minor descendant or unborn descendant; or

(D) If neither person is a beneficiary or settlor of the trust that is the subject of the representation, then the person who is related to the settlor, other than by reason of being married to the other person, may represent the minor descendant or unborn descendant;

(8) A person designated by the settlor in the trust instrument or in a writing delivered to the trustee to represent the beneficiaries of the trust may represent and bind the beneficiaries;

(9) A person designated by the beneficiaries of the trust to represent them may represent and bind the beneficiaries; and

(10) A parent or spouse of an incapacitated adult who has assumed responsibility for the adult, may represent and bind the incapacitated adult if no conservator or guardian has been appointed and no agent has authority to act with respect to the matter in question.

SECTION 2. Tennessee Code Annotated, Section 35-15-303, is amended by designating the existing language as subsection (a) and adding the following as a new subsection (b):

(b) As used in subdivision (5), "beneficiary trust" means a trust that is a beneficiary of another trust.

SECTION 3. Tennessee Code Annotated, Section 35-15-604(c), is amended by adding the language ", or if a distribution is adjudged to have been made in error," after the language "adjudged to be invalid".

SECTION 4. Tennessee Code Annotated, Title 30, Chapter 2, Part 6, is amended by adding the following as a new section:

(a) The personal representative and all persons whose consent is required to reach a binding settlement to be approved by the court may enter into a binding nonjudicial settlement agreement regarding any matter involving estate administration.

(b) A nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose or intention of the testator and includes terms and conditions that could be properly approved by the court under this section or other applicable law.

(c) Matters that may be resolved by a nonjudicial settlement agreement include:

(1) The interpretation or construction of the terms of the will;

(2) Liability of a personal representative for an action relating to the administration of the estate;

(3) The approval of an investment decision, delegation, policy, plan, or program occurring during estate administration;

(4) Appointment of a trustee of a trust established by the will in the event of a vacancy in the office of the designated trustee;

(5) Change of principal place of administration of a trust established by the will;

(6) Change of governing law of a trust established by the will;

(7) Approval of attorney and personal representative fees; and

(8) Directing the decedent's real property to be administered as part of the estate that is subject to the control of the personal representative.

(d) A nonjudicial settlement agreement entered into pursuant to this section is final and binding on all parties to the agreement, including individuals validly represented as provided by title 35, chapter 15, part 3.

(e) Any party to the nonjudicial settlement agreement may request the court to:

(1) Approve a nonjudicial settlement agreement;