

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

SECOND REGULAR SESSION-2018

Legislative Document

No. 1827

H.P. 1269

House of Representatives, February 7, 2018

**An Act To Amend the Maine Uniform Trust Code Regarding
Reporting by Trustees and the Duties of Trustees to Settlers**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R(t) B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative CARDONE of Bangor.
Cosponsored by Senator HILL of York and
Representative: BAILEY of Saco.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 18-B MRSA §105, sub-§3**, as amended by PL 2011, c. 42, §4, is further
3 amended to read:

4 **3. Waiver or modification.** The settlor, in the trust instrument or in another writing
5 delivered to the trustee, may waive or modify the duties of a trustee under section 813,
6 subsection 1 ~~or~~ 2 or 3 to give notice, information and reports to qualified beneficiaries in
7 either or both of the following ways:

8 A. Waiving or modifying such duties as to all qualified beneficiaries except the
9 settlor's surviving spouse during the lifetime of the settlor or the lifetime of the
10 settlor's surviving spouse; and

11 B. With respect to one or more of the current beneficiaries as to whom the settlor has
12 waived or modified such duties, designating a person or persons, any of whom may
13 or may not be a beneficiary, to act in good faith to protect the interests of the current
14 beneficiaries who are not receiving notice, information or reports and to receive any
15 notice, information or reports required under section 813, subsection 1 ~~or~~ 2 or 3 in
16 lieu of providing such notice, information or reports to the current beneficiaries. The
17 person or persons designated under this paragraph are deemed to be representatives
18 of the current beneficiaries not receiving notice, information or reports for the
19 purposes of the time limitation for a beneficiary to commence an action against the
20 trustee for breach of trust as provided in section 1005, subsection 1.

21 **Sec. 2. 18-B MRSA §813, sub-§6**, as enacted by PL 2011, c. 42, §7, is amended
22 to read:

23 **6. Duty to settlor of revocable trust.** During the lifetime of the settlor of a
24 revocable trust, whether or not the settlor has capacity to revoke the trust, the trustee's
25 duties under this section are owed exclusively to the settlor and the trustee has no duty to
26 provide information or reports to distributees, permissible distributees or qualified
27 beneficiaries. If the settlor lacks capacity to revoke the trust, a trustee may satisfy the
28 trustee's duties under this section by providing information and reports to any one or more
29 of the following in the order of preference listed:

30 A. The person or persons designated by the settlor in the trust to receive information
31 and reports on the settlor's behalf;

32 B. The settlor's spouse or registered domestic partner under Title 22, section 2710;

33 C. The settlor's agent under a durable power of attorney;

34 D. The settlor's court-appointed conservator; or

35 E. The settlor's court-appointed guardian.

36 If the settlor lacks capacity to revoke the trust and there are no persons listed in this
37 subsection to whom the trustee may provide information and reports, the trustee shall
38 satisfy its duties under this section by providing information and reports to the qualified
39 beneficiaries.

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SUMMARY

This bill amends the Maine Uniform Trust Code in 2 ways. First, it corrects a gap in the statute governing a trustee's duties with regard to reporting to a beneficiary or another person designated by the trust's settlor. The correction allows the trustee to carry out the settlor's directions without violating the duty established by statute. Second, this bill corrects an ambiguity with regard to the duty the trustee owes to the settlor of a revocable trust during the settlor's lifetime, clarifying that the trustee has no duty to provide information and reports to distributees, permissible distributees or qualified beneficiaries while the settlor is alive.