

SHORT TITLE: Trusts; changing determination of necessary parties to trust actions; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 535

By: Hendrick

AS INTRODUCED

An Act relating to trusts; amending 60 O.S. 1991, Section 175.23, as amended by Section 14, Chapter 345, O.S.L. 1993 (60 O.S. Supp. 1994, Section 175.23), which relates to jurisdiction, venue, necessary parties, and procedures relating to trust actions; clarifying language; changing determination of necessary parties to trust actions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 1991, Section 175.23, as amended by Section 14, Chapter 345, O.S.L. 1993 (60 O.S. Supp. 1994, Section 175.23), is amended to read as follows:

Section 175.23 A. 1. The district court shall have original jurisdiction to:

- a. construe the provisions of any trust instrument; and to determine the law applicable thereto; and
- b. determine the powers, duties, and liability of a trustee; and
- c. determine the existence or nonexistence of facts affecting the administration of the trust estate; and
- d. require accounting by trustees; and
- e. surcharge a trustee; and

f. supervise, in its discretion ~~to supervise,~~ the administration of trusts; ~~and all.~~

2. All actions hereunder are declared to be proceedings in rem.

B. The venue of ~~such~~ actions shall be in the county where the trustees or any cotrustee resides. Upon obtaining jurisdiction ~~the same,~~ jurisdiction shall not be divested by the removal of the trustee from the county where ~~such~~ the action is commenced.

C. Actions hereunder may be brought by a trustee, beneficiary, or any person affected by the administration of the trust estate. If the action is predicated upon any act or obligation of any beneficiary, ~~such~~ the beneficiary shall be a necessary party to the proceedings. The only necessary parties to ~~such~~ the actions shall be those persons designated as beneficiaries by name or class in the instrument creating the trust and who have a ~~current~~ vested interest in the trust which is the subject of the action, those persons currently serving as trustees of ~~said~~ the trust, and any persons who may be actually receiving distributions from the trust estate at the time the action is filed; provided, contingent beneficiaries designated ~~as a~~ by name or by class shall not be necessary parties ~~if their interests in the subject trust are contingent upon another named person's predeceasing the grantor of the trust.~~

D. The provisions of the statutes governing civil procedure, commencement of action, process, process by publication, appointment of guardians ad litem, supersedeas, and appeal, shall govern all actions and proceedings brought under ~~provisions of this act~~ the Oklahoma Trust Act, Section 175.1 et seq. of this title.

E. A court of competent jurisdiction may, for cause shown and upon notice to the beneficiaries, relieve a trustee from any or all of the duties and restrictions which would otherwise be placed upon ~~him~~ the trustee by ~~this act~~ the Oklahoma Trust Act, or wholly or partly excuse a trustee who has acted honestly and reasonably from liability for violations of the provisions of this act.

SECTION 2. This act shall become effective November 1, 1995.

45-1-0475            KSM