

Act No. 71
Public Act of 1989
June 27, 1989
Filed by the Secretary of State
June 27, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Reps. Gire, Power, Joe Young, Jr., DeBeaussaert, Pitoniak, Gubow, Profit, Miller, Gilmer, Bandstra, Fitzgerald, Oxender, Jondahl and Perry Bullard

ENROLLED HOUSE BILL No. 4464

AN ACT to amend sections 2 and 4 of Act No. 185 of the Public Acts of 1966, entitled "An act to provide for the compromise, settlement or adjustment of any controversy concerning the interpretation, effect or validity of irrevocable inter vivos trust instruments or arising in the administration of any trust estate created by such irrevocable inter vivos trust agreement, when there is or may be any person interested who is a minor or otherwise without legal capacity to act in person or whose present existence or whereabouts cannot be ascertained, or when there is any estate or interest of any person not competent to act for himself which will or may be affected by such compromise, settlement or adjustment," being sections 555.82 and 555.84 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 2 and 4 of Act No. 185 of the Public Acts of 1966, being sections 555.82 and 555.84 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2. (1) The terms and conditions of a compromise, settlement, or adjustment made pursuant to this act shall be set forth in an agreement in writing which shall be executed by all competent persons, except persons whose present existence or whereabouts is unknown and whose presence cannot after diligent search and inquiry be ascertained, having estates, interests, or claims which may be limited, diminished, or changed by the compromise, settlement, or adjustment. The agreement shall be submitted to the probate court of the county in which the trustee or 1 of the trustees has his or her residence or principal place of business or to any other probate court otherwise having jurisdiction of the trust for the court's approval and the court's authorization that the agreement may be entered into and executed by the following:

(a) The qualified trustee of every trust created by the trust instrument which will be affected by the compromise, settlement, or adjustment.

(b) The guardian of each person who is an infant or otherwise incompetent to act in person for whom a guardian has been appointed and qualified and who shall have an estate or interest of any kind or nature which may be limited, diminished, or changed by the compromise, settlement, or adjustment.

(c) The persons named in the trust instrument as trustees of every trust that may be affected by the result of the compromise, settlement, or adjustment of which no trustee has as yet qualified or by a guardian ad litem appointed by the court to represent the trust.

(2) The probate court to which an agreement made pursuant to this act has been submitted shall appoint a guardian ad litem to represent the following person, estate, interest, or trust:

(a) A person who if living has an estate or interest of any kind or nature which may be limited, diminished, or changed by the agreement and the person's whereabouts or present existence cannot after diligent search and inquiry be ascertained.

(b) A minor or person otherwise without legal capacity to act who has no guardian and has an estate or interest of any kind or nature which may be limited, diminished, or changed by the agreement.

(c) An estate or interest, which might be taken by any person not then in being, which may be limited, diminished, or changed by the agreement.

(d) A trust created or purported to be created by a trust instrument which will be affected by the result of the compromise, settlement, or adjustment of which no trustee has qualified, and no person named in the trust instrument as trustee of the trust has joined in the petition for approval or otherwise voluntarily appeared in the proceeding for approval, and no person is named in the trust instrument as trustee of the trust, or the person or persons named in the trust instrument as trustees of the trust fail to appear after due notice of the proceeding.

(3) A guardian ad litem appointed pursuant to subsection (2) may be authorized to enter into and sign the agreement on behalf of the person, estate, interest, or trust.

Sec. 4. The provisions of sections 1 to 3 shall provide a definite method for the exercise of the existing power and jurisdiction of the probate court in addition to and not in exclusion of any other regular method or methods of exercising the court's power and jurisdiction. Sections 1 to 3 apply to cases where the decedent has died regardless of the date of death of the decedent. Any compromise, settlement, and adjustment made and approved by the circuit court of this state prior to the effective date of the 1989 amendatory act that amended this section, that was made and approved pursuant to this act or pursuant to a method substantially similar to the method provided in this act shall be valid and binding with like force and effect as provided in section 1. Any compromise, settlement, and adjustment made and approved by the probate court of this state pursuant to a method substantially similar to the method provided in this act shall be valid and binding with like force and effect as provided in section 1.

Section 2. This amendatory act shall take effect September 1, 1989.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

(a) House Bill No. 4462.

(b) House Bill No. 4463.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.