

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE DRS85100-LL-39 (2/19)

Short Title: Clarify Irrevocable Trust Law.

(Public)

Sponsors: Senator Hartsell.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW GOVERNING THE MODIFICATION AND
TERMINATION OF IRREVOCABLE TRUSTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 36A-125.4(b) reads as rewritten:

"(b) Where the beneficiaries of an irrevocable trust seek to compel a termination of the trust ~~or modify it in a manner that affects its continuance according to its terms,~~ and ~~if~~ the continuance of the trust is necessary to carry out a material purpose of the trust, or where the beneficiaries seek to compel a modification of the trust in a manner that is inconsistent with its material purpose, the trust cannot be modified or terminated unless the court in its discretion determines that the reason for modifying or terminating the trust under the circumstances substantially outweighs the interest in accomplishing a material purpose of the trust."

SECTION 2. G.S. 36A-125.11 reads as rewritten:

"§ 36A-125.11. Procedure.

(a) A proceeding under this Article may be brought under the Uniform Declaratory Judgment Act, Article 26 of Chapter 1 of the General Statutes, the provisions of which shall apply to that proceeding to the extent not inconsistent with this Article.

(b) A proceeding under this Article to approve or disapprove a proposed modification or termination under the provisions of G.S. 36A-125.3, 36A-125.4, 36A-125.6(a), and 36A-125.7 may be commenced by a trustee or beneficiary. The trustee shall be a necessary party to all proceedings under this Article commenced by a beneficiary."

SECTION 3. This act is effective when it becomes law.