

REFERENCE TITLE: trusts; creation; qualifications

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

## **SB 1536**

Introduced by  
Senator Melvin

AN ACT

AMENDING SECTION 14-10402, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA TRUST CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 14-10402, Arizona Revised Statutes, is amended to  
3 read:

4 14-10402. Requirements for creation

5 A. Except as provided in section 14-5409, a trust is created only if  
6 all of the following are true:

7 1. The settlor has capacity to create a trust.

8 2. The settlor indicates an intention to create the trust.

9 3. The trust has a definite beneficiary or is:

10 (a) A charitable trust.

11 (b) A trust for the care of an animal, as provided in section  
12 14-10408.

13 (c) A trust for a noncharitable purpose, as provided in section  
14 14-10409.

15 4. The trustee has duties to perform.

16 5. The same person is not the sole trustee and sole beneficiary.

17 B. A beneficiary is definite if the beneficiary can be ascertained now  
18 or in the future, subject to any applicable rule against perpetuities.

19 C. A power in a trustee or other person to select a beneficiary from  
20 an indefinite class is valid. If the power is not exercised within a  
21 reasonable time, the power fails and the property subject to the power passes  
22 to the persons who would have taken the property had the power not been  
23 conferred.

24 D. IF A TRUST IS CREATED IN THIS STATE, THE TRUST DOCUMENTS MUST BE  
25 DRAFTED BY A PERSON WHO IS AN ACTIVE MEMBER OF THE STATE BAR OF ARIZONA AND  
26 WHO HAS A CURRENT SECURITIES AND EXCHANGE COMMISSION SERIES 6 OR HIGHER  
27 LICENSE THAT ALLOWS THE PERSON TO REMOVE ASSETS FROM THIS STATE OR TO WRITE  
28 EQUITY INDEXED ANNUITIES, OR BOTH.