

House Bill 1047

By: Representative Hatchett of the 150<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 12 of Title 53 of the Official Code of Georgia Annotated,  
2 relating to reformation, modification, division, consolidation, and termination of trusts, so  
3 as to revise certain requirements for modifying or terminating a noncharitable irrevocable  
4 trust; to provide for a definition; to provide for exceptions; to provide for related matters; to  
5 provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 4 of Chapter 12 of Title 53 of the Official Code of Georgia Annotated, relating to  
9 reformation, modification, division, consolidation, and termination of trusts, is amended by  
10 revising subsection (c) of the Code Section 53-12-61, relating to power to direct  
11 modification, consolidation, division, or termination, petition to modify or terminate  
12 noncharitable irrevocable trust, proceeding to approve proposed modification or termination,  
13 and distribution of trust property under order for termination, as follows:

14 "(c)(1) As used in this subsection, the term 'noncharitable trust' means a trust, no more  
15 than 5 percent of the value of which is owned by charitable organizations.

16 (2) Except as provided for under paragraph (3) of this subsection, following ~~Following~~  
17 the settlor's death the court shall approve a petition to:

18 ~~(1)(A)~~ (A) Modify a noncharitable irrevocable trust if all the beneficiaries consent, the  
19 trustee has received notice of the proposed modification, and the court concludes that  
20 modification is not inconsistent with any material purpose of such trust; and

21 ~~(2)(B)~~ (B) Terminate a noncharitable irrevocable trust if all the beneficiaries consent, the  
22 trustee has received notice of the proposed termination, and the court concludes that  
23 continuance of such trust is not necessary to achieve any material purpose of such trust.

24 (3)(A) No modification described under paragraph (2) of this subsection may increase  
25 the duties or liabilities, decrease the compensation, or otherwise affect the rights and

26 obligations of the trustee under the trust instrument without the trustee's consent thereto,  
27 or upon a hearing with good cause shown.

28 (B) Nothing in this subsection may be deemed to waive or abrogate the other  
29 provisions of this chapter, including, but not limited to, any requirement of any other  
30 provision of this chapter that a petition be granted only for good cause shown."

31 **SECTION 2.**

32 This Act shall become effective upon its approval by the Governor or upon its becoming law  
33 without such approval.

34 **SECTION 3.**

35 All laws and parts of laws in conflict with this Act are repealed.