

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

# HOUSE BILL 2512

AN ACT

AMENDING TITLE 14, CHAPTER 11, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 14-10206; RELATING TO THE TRUST CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 14, chapter 11, article 2, Arizona Revised Statutes,  
3 is amended by adding section 14-10206, to read:

4 14-10206. Beneficiary suits against family grantor, trustee or  
5 agent; damages by beneficiary; alternative dispute  
6 resolution; definitions

7 A. A BENEFICIARY MAY NOT CLAIM DAMAGES FROM A GIFT OF PROPERTY THAT IS  
8 MADE THROUGH A GOVERNING INSTRUMENT BY A GRANTOR WHO IS A MEMBER OF THE  
9 BENEFICIARY'S FAMILY.

10 B. PROPERTY THAT IS OBTAINED BY A BENEFICIARY THROUGH A GOVERNING  
11 INSTRUMENT FROM A GRANTOR WHO IS A MEMBER OF THE BENEFICIARY'S FAMILY IS  
12 PRESUMED TO BE A GIFT. THIS PRESUMPTION MAY BE REBUTTED BY CLEAR AND  
13 CONVINCING EVIDENCE.

14 C. A BENEFICIARY'S CLAIM ARISING FROM A GOVERNING INSTRUMENT AGAINST A  
15 GRANTOR WHO IS A MEMBER OF THE BENEFICIARY'S FAMILY IS LIMITED TO THE VALUE  
16 OF PROPERTY, IF ANY, THE BENEFICIARY CONTRIBUTED TO THE GOVERNING INSTRUMENT.

17 D. UNLESS IT IS FOUND BY CLEAR AND CONVINCING EVIDENCE TO BE CONTRARY  
18 TO THE GRANTOR'S INTENT, A BENEFICIARY WHO VIOLATES SUBSECTION A OF THIS  
19 SECTION:

20 1. IS DEEMED TO HAVE PREDECEASED THE GRANTOR FOR THE PURPOSES OF ALL  
21 GOVERNING INSTRUMENTS BETWEEN THE GRANTOR AND BENEFICIARY.

22 2. SHALL PAY ALL DAMAGES CAUSED BY THE CIVIL ACTION, INCLUDING  
23 REASONABLE ATTORNEY FEES AND COSTS.

24 E. THIS SECTION APPLIES TO A CIVIL ACTION BROUGHT BY A BENEFICIARY  
25 AGAINST THE GRANTOR'S TRUSTEE OR AGENT WHO IS ACTING IN GOOD FAITH TO CARRY  
26 OUT THE INSTRUCTIONS OF THE GRANTOR.

27 F. A DISPUTE CONCERNING A GOVERNING INSTRUMENT IN WHICH THE GRANTOR IS  
28 A MEMBER OF THE BENEFICIARY'S FAMILY MAY BE RESOLVED AT ANY TIME BY MANDATORY  
29 ALTERNATIVE DISPUTE RESOLUTION PROCEDURES THAT ARE CONSISTENT WITH THE  
30 GRANTOR'S INTENT WITHOUT THE CONSENT OF THE BENEFICIARY.

31 G. FOR THE PURPOSES OF THIS SECTION:

32 1. "GOVERNING INSTRUMENT" MEANS A DEED, A WILL, A TRUST, A  
33 CUSTODIANSHIP, AN INSURANCE OR ANNUITY POLICY, AN ACCOUNT WITH PAY ON DEATH  
34 DESIGNATION, A SECURITY REGISTERED IN BENEFICIARY FORM, A PENSION, A PROFIT  
35 SHARING, RETIREMENT OR SIMILAR BENEFIT PLAN, A FAMILY LIMITED PARTNERSHIP, AN  
36 INSTRUMENT CREATING OR EXERCISING A POWER OF APPOINTMENT, A POWER OF  
37 ATTORNEY, AN ESTATE PLANNING DOCUMENT OR A DISPOSITIVE, APPOINTIVE OR  
38 NOMINATIVE INSTRUMENT OF ANY SIMILAR TYPE.

39 2. "GRANTOR" MEANS AN INDIVIDUAL WHO TRANSFERS PROPERTY TO A  
40 BENEFICIARY THROUGH A GOVERNING INSTRUMENT.

41 Sec. 2. Applicability

42 Section 14-10206, Arizona Revised Statutes, as added by this act,  
43 applies to any governing instrument regardless of whether it was executed  
44 before or after the effective date of this act.