EXHIBIT 1
DATE 2/17/15
HB 436

Amendments to House Bill No. 436
1st Reading Copy

Requested by Representative Kimberly Dudik

For the House Judiciary Committee

Prepared by Todd Everts
February 17, 2015 (6:40am)

1. Title, page 1, line 6.
Strike: "AND"
Following: "72-38-1008,"
Insert: "AND 72-38-1013,"

2. Page 4.
Following: line 18
Insert: "**Section 5.** Section 72-38-1013, MCA, is amended to read:

"**72-38-1013. Certification of trust.** (1) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

(a) that the trust exists and the date the trust instrument was executed;

(b) the identity of the settlor;

(c) the identity and address of the currently acting trustee;

(d) the relevant powers of the trustee;

(e) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust; ~~and~~

(f) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee; and

(g) if the governing law of the trust is not the law of Montana, the identity of the state whose laws govern the trust.

(2) A certification of trust may be signed or otherwise authenticated by any trustee. Upon request, the trustee shall acknowledge the certification in order that the certification may be recorded.

(3) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(4) A certification of trust need not contain the dispositive terms of a trust.

(5) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments that designate the trustee and confer upon the trustee the power to act in the pending transaction.

(6) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

(7) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(8) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.

(9) This section does not limit the right of a person to obtain a copy of the trust instrument when required to be furnished by law or in a judicial proceeding concerning the trust.

(10) A certification under subsection (1)(g) may not be construed as constituting consent by any person receiving a certification of trust to the jurisdiction or application of laws of any state."

{*Internal References to 72-38-1013:*
72-38-105x *72-38-802 x*}"

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