- Trusts should be carefully monitored during difficult economic times, to ensure stability and quality of assets
- "Small Trust" statutes may provide a solution where a trust's value has decreased so significantly that the trust's original purpose is frustrated

Terminating a Small Trust

Difficult economic times do not only affect individuals. Difficult economic times can also affect trusts.

Like individuals, many trusts invest their assets. The forms of these investments vary, but may include cash assets, bonds, stocks, or real estate. At the present time, most of these investments have one thing in common: other than cash, their values have gone down in recent months.

A significant decrease in the value of a trust can have negative effects on the trust's operation. If a trust's assets decrease in value, the trust may earn less money. Less money means more difficulty paying debts and smaller payments to beneficiaries. It can also mean less money to pay the fees of a corporate trustee, such as a bank.

If your trust suffers from a significant decrease in value, a "small trust" statute may be of help. These statutes, found in many states, allow a trustee or a trust's beneficiary to change or terminate (i.e., "end") a trust that has become too small to administer. A trust can become too small to administer where the trust pays out more than it earns from investments over time. Or, a trust may become too small when the assets of the trust decrease significantly in value. The inability to pay a trust beneficiary may frustrate the trust's original stated purpose.

Many states have small trust statutes. Each state's statute may differ in certain respects. Some statutes may allow a trustee to modify or terminate a trust without court approval. Some may allow modification or termination only with the approval of a beneficiary or a court. Still others may allow termination only if the trust is under a certain value. That value is usually written into the statute.

For example, Florida's small trust statute allows both modification and termination of certain trusts. [§736.0414, Florida Statutes (2006)] This statute provides that trusts may be changed or terminated:

1. **If the trustee determines that the total value of the trust is less than $50,000.** The trustee must believe that the property of the trust is too small in value to justify continuing the trust. In this case, the trustee may terminate the trust without a court's approval; or

2. **If a court determines that the total value of the trust is too small to administer.** (This section usually applies if the trustee or a trust beneficiary applies to the court to have the trust modified or terminated.)

Modification of a trust may allow a useful trust to continue, but in a more financially stable way. By contrast, termination of a trust allows a trust to be ended. The trustee then usually distributes the trust's property according to the terms of the trust agreement.

If uncertain economic times have reduced the value of your trust, talk to your attorney. It may be that trust modification or termination is an available option for your trust. Or, your attorney may have other useful suggestions that you can consider.