

By Mr. Flaherty of Boston, petition of Michael F. Flaherty and another relative to the termination of small trusts. Banks and Banking.

---

---

**The Commonwealth of Massachusetts**

---

In the Year One Thousand Nine Hundred and Eighty-Seven.

---

AN ACT RELATING TO THE TERMINATION OF SMALL TRUSTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 203 of the General Laws, as appearing in the 1984  
2 Official Edition, is hereby amended by adding the following  
3 paragraph:

4 The court having jurisdiction of a trust under will or other  
5 instrument, upon petition and after such notice as it may direct,  
6 may order its termination and the distribution of the trust  
7 property, regardless of any spendthrift or similar protective  
8 provisions, if the court finds that the costs of administration  
9 thereof are such that the continuance of the trust, or the  
10 establishment of the trust if it is to be established on distribution  
11 from an estate, would be uneconomical or would defeat or  
12 substantially impair the purposes of the trust. Such petition may  
13 be filed by the trustee, by any person interested in such trust or  
14 by the personal representative of a decedent's estate. The order  
15 shall specify the appropriate share of each beneficiary who is to  
16 share in the proceeds of the trust, taking into account the interests  
17 of income beneficiaries and remaindermen so as to conform as  
18 nearly as possible to the intention of the trustor or testator, but  
19 a trust qualifying for the marital deduction for tax purposes shall  
20 be distributed only to the surviving spouse of the decedent. The  
21 order may direct that the interest of a minor beneficiary, or any  
22 portion thereof, be distributed to a custodian pursuant to the  
23 Uniform Transfer to Minors Act or as otherwise provided by law.  
24 The court in addition may make such other and further orders

25 as it deems proper or necessary to protect the interests of the  
26 beneficiaries and the trustee. In the event two or more petitions  
27 for the termination of such trusts are brought in the same division  
28 of the probate court, the court may, in order to reduce the  
29 expense of such petitions, consolidate such cases and hear them  
30 concurrently. Neither this nor the preceding paragraph shall limit  
31 the right of a trustee, acting alone, to terminate a trust without  
32 order of court in accordance with applicable provisions of the  
33 governing instrument.