HOUSE BILL 83

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HB 437/13 – JUD (PRE–FILED) CF SB 240

By: **Delegate Simmons**
Requested: November 13, 2013
Introduced and read first time: January 8, 2014
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 12, 2014

CHAPTER _____

AN ACT concerning

Maryland Trust Act

FOR the purpose of repealing and revising certain provisions of law relating to trusts; providing that this Act may be cited as the Maryland Trust Act; providing for the scope of this Act; providing for the construction of this Act; providing for the designation of the principal place of administration for a trust; establishing a standard for whether notice to a person under this Act must be accomplished and how notice may be waived; providing for the role of a court in the administration of a trust; providing that a trustee and the beneficiaries of a trust are subject to the jurisdiction of the courts of this State under certain circumstances; establishing standards for judicial review of the discretion of a trustee; providing for the consent of a person that may represent and bind another person under this Act; providing that the holder of a certain qualified power of appointment may represent and bind a certain person; providing that a certain person may represent a certain other person with respect to a particular question or dispute; authorizing a court to appoint a representative for a certain interest in certain circumstances; providing methods and requirements for creating a trust under this Act; establishing the method by which a trust for care of an animal may be created; providing certain rules for a certain noncharitable trust; providing for the modification or termination of a trust; authorizing a court to reform the terms of a certain trust; authorizing a court to modify the terms of a trust in a certain manner; authorizing a court to authorize a creditor or assignee of a beneficiary to reach a certain beneficiary's interest by attachment of certain distributions; establishing the rights of a certain

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

beneficiary and a certain creditor to a trust interest that is subject to a discretionary distribution provision; providing that certain actions may not be taken with respect to a beneficial interest that is subject to a support provision; providing for the treatment of a spendthrift provision in a trust; authorizing a court to authorize a creditor or assignee of the beneficiary to attach certain distributions in certain circumstances; providing for circumstances to create a certain general power of appointment or a power of withdrawal; establishing rules for the claim of a certain creditor; establishing that trust property is not subject to certain personal obligations of a trustee; prohibiting a creditor from taking certain actions to compel a certain distribution; providing for the transfer to trust of property held by tenants by the entirety; establishing the capacity of a settlor of a revocable trust to take certain actions; providing the manner by which the settlor may revoke or amend a revocable trust; establishing the rights of certain beneficiaries; establishing the method by which a person designated as trustee accepts or rejects the trusteeship; requiring a trustee to give a certain bond under certain circumstances; providing for circumstances in which a vacancy occurs in a cotrusteeship; authorizing a trustee to resign in certain circumstances; providing grounds for the removal of a trustee; establishing the duties and powers of a trustee who has resigned or been removed; providing that certain trustees are entitled to certain commissions and certain reimbursements; authorizing certain persons to exercise certain trust and fiduciary powers; prohibiting a certain person from serving as a trustee in certain circumstances; requiring a certain trustee to perform certain duties; authorizing a trustee to delegate certain duties and powers in certain circumstances; authorizing a certain trustee to follow a certain direction of the settlor; establishing that certain persons shall be considered advisers and fiduciaries in certain circumstances; requiring a certain trustee to act in accordance with the directions of a certain adviser in certain circumstances; providing that a certain trustee does not have certain liabilities and duties; providing that a certain adviser has the power to perform certain actions; requiring a trustee to take certain steps to take control of and protect the trust property, with a certain exception; requiring a trustee to do certain record keeping and to keep certain property in a certain manner; requiring a trustee to take certain steps in certain circumstances; requiring a trustee to respond promptly to a certain request for information; requiring a trustee to provide certain notice to certain beneficiaries; requiring a trustee to send a certain report to certain persons; prohibiting a trustee from exercising certain powers; authorizing a trustee to exercise certain powers in certain circumstances; providing for damages for which a certain trustee is or is not liable; authorizing a court to award costs and expenses in a certain judicial proceeding; providing that a certain trustee is not liable for a certain loss; providing that a certain term of a trust is unenforceable in certain circumstances; providing for the effect of an exculpatory term in a trust; providing for the liability of a trustee for breach of trust in certain circumstances; establishing limitations of personal liability of a trustee in certain circumstances; authorizing a trustee to furnish a certification of trust in certain circumstances; providing that the provisions of this Act relating to the

use of electronic records and signatures conform to a certain federal statute; providing for the severability of provisions in this Act if held invalid; providing for the application of this Act to certain trusts and judicial proceedings; defining certain terms; providing for a delayed effective date; and generally relating to trusts.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 11–102(b)(12)
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

BY repealing
Article – Estates and Trusts
Section 14–101 through 14–116 and the subtitle "Subtitle 1. General Provisions"
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

BY adding to
Article – Estates and Trusts
Section 14.5–101 through 14.5–1006 to be under the new title "Title 14.5. Maryland Trust Act"
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 3–506(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Estates and Trusts

11–102.

(b) Subject to §§ 4–409 of this article and 11–103 of this subtitle, the common–law rule against perpetuities as now recognized in the State is preserved, but the rule does not apply to the following:

(12) A trust created under § **[**14–112**]** **14.5–407** of this article to provide for the care of an animal alive during the lifetime of the settlor; or

[Subtitle 1. General Provisions.**]**

[14–101.

A court having equity jurisdiction has general superintending power with respect to trusts. The provisions of Titles 1 through 13 of this article do not affect or supersede this power.**]**

[14–102.

In the absence of express language to the contrary, the rules contained in §§ 1–202, 1–203, 1–204, 1–205, 1–206, 1–207, 1–208, 1–209, and 1–210.1 of this article shall be applied in construing the terms of an inter vivos trust. Whenever any of those statutory sections refer to a "will," "estate," or similar terms relevant primarily to wills and estates or the takers under them, the terms shall be modified to mean "trust instrument," "trust," or similar terms to reflect the application of the principles of those sections to inter vivos trusts.**]**

[14–103.

(a) (1) A testamentary trustee and trustee of any other trust whose duties comprise the collection and distribution of income from property held under a trust agreement or the preservation and distribution of the property are entitled to commissions provided for in this section for their services in administering the trusts. The amount and source of payment of commissions are subject to the provisions of any valid agreement. Any court having jurisdiction over the administration of the trust may increase or diminish commissions for sufficient cause or may allow special commissions or compensation for services of an unusual nature.

(2) A schedule of increased rates of income commissions and corpus commissions may be charged by a trustee whose activities are subject to State or federal supervision or who is a member of the Maryland Bar and who has:

(i) Filed a schedule of the increased rates of commissions with an appropriate agency; and

(ii) Given notice of the scheduled rates or revisions to the ascertained beneficiaries of the affected trust.

(3) The notice required under paragraph (2) of this subsection shall be delivered to the beneficiaries personally or sent to the beneficiaries at their last known address by registered or certified mail, postage prepaid, return receipt requested.

(b) Accounting from July 1, 1981, whether or not the trust was in existence at that time, income commissions are:

(1) 6 percent upon all income from real estate, ground rents, and mortgages collected in each year; and

(2) 6 1/2 percent upon the first $10,000 of all other income collected in each year, 5 percent upon the next $10,000, 4 percent upon the next $10,000, and 3 percent upon any remainder.

Income commissions shall be paid from and chargeable against income. Income collected includes any portion of income payable to a trustee but withheld by the payor in compliance with any revenue law.

(c) Accounting from July 1, 1981, whether or not the trust was in existence at that time, commissions are payable at the end of each year upon the fair value of the corpus or principal held in trust at the end of each year as follows:

(1) Four tenths of one percent on the first $250,000;

(2) One fourth of one percent on the next $250,000;

(3) Three twentieths of one percent on the next $500,000; and

(4) One tenth of one percent upon any excess. Corpus commissions shall be paid out of and chargeable against the corpus.

If a trust terminates, with respect to all or any part of the corpus held in trust in the course of any year, the commission for that year shall be reduced or prorated according to the part of the year elapsed and the amount of corpus as to which the trust terminates, and be chargeable, for such part of a year (and with respect to any such part of the corpus) at such termination of the trust, upon the then value of the corpus.

(d) For selling real or leasehold property, a commission upon the proceeds of the sale is payable at the rate allowed by rule of court or statute to trustees appointed to make sales under decrees or orders of the circuit court for the county where the real or leasehold property is situated, or if the property is located outside Maryland, for selling similar property in the county where the trust is being administered. The commission is payable from the proceeds of the sale when collected.

(e) Upon the final distribution of any trust estate, or portion of it, an allowance is payable commensurate with the labor and responsibility involved in making the distribution, including the making of any division, the ascertainment of the parties entitled, the ascertainment and payment of taxes, and any necessary transfer of assets. The allowance is subject to revision or determination by any circuit court having jurisdiction. In the absence of special circumstances the allowance shall be equal to one half of one percent upon the fair value of the corpus distributed.

(f) In determining what is a single trust for the application of the rates provided in this section, all property held undivided under the terms of the will or other instrument creating the trust shall be considered as a single trust. After any

shares have been set apart or divided, to be held in separate trust, each separate trust set apart shall be considered as a single trust.

(g) (1) Instead of the rates of income commissions and corpus commissions provided in subsections (b) and (c) of this section, a trustee may charge reasonable compensation calculated in accordance with a schedule of rates previously filed by the trustee with the appropriate agency as specified in paragraph (2) of this subsection, if the trustee is:

(i) A financial institution whose activities are subject to supervision by this State or the federal government or which is an instrumentality of the United States; or

(ii) A member of the Bar of this State.

(2) A trustee shall file a schedule of rates under this subsection as follows:

(i) For a savings and loan association, with the State Director of the Division of Savings and Loan Associations;

(ii) For all other trustees, including attorneys and State chartered and national banks, with the Commissioner of Financial Regulation; and

(iii) For a trustee administering an estate under the jurisdiction of a court, also with the trust clerk of the court.

(3) In a trust involving multiple trustees and more than one of the trustees may be entitled to file a schedule of increased rates, the controlling schedule will be the schedule filed by the trustee having custody of the assets and maintaining records of the trust.

(4) Whenever a trustee files a schedule of increased rates under this subsection, the trustee shall give notice to the ascertained beneficiaries of each affected trust. The notice required under this paragraph shall be delivered to the beneficiaries personally or sent to the beneficiaries at their last known address by registered or certified mail, postage prepaid, return receipt requested. Any beneficiary of a trust who objects to the schedule of rates to be charged to that trust, after notifying the trustee of the objection, may petition the appropriate circuit court to review the reasonableness of the rates to be charged. The notice required by this paragraph shall include a clear statement of the rights and procedures available to beneficiaries under this subsection. If the court finds that the rates in the schedule are unreasonable for the current fiscal year of the particular trust, the trustee's commissions for that trust for that fiscal year shall be limited to the rates charged that trust during the previous fiscal year.

(5) If a trustee does not file a schedule of rates with the appropriate agency under paragraph (2)(i) or (ii) of this subsection and does not notify ascertained beneficiaries as provided in paragraph (4) of this subsection, the trustee is limited to charging the rates set forth in subsections (b) and (c) of this section.

(h) An individual trustee who is not authorized to file a schedule of increased rates under this section is limited to charging the rates set forth in subsections (b) and (c) of this section unless the trustee petitions the circuit court for the county where the trustee is located and obtains approval of an increase in fee after giving notice of such action to the ascertained beneficiaries of the trusts affected.

(i) The schedule of increased rates of income commissions and corpus commissions which trustees are authorized to charge as provided in subsection (g) of this section is not applicable to guardians.

(j) The legal and court costs incurred by the trustee pursuant to any court review under subsection (g)(4) or (h) of this section shall be charged against trustees' fees and may not be assumed by the trust or the beneficiaries.**]**

[14–104.

A judge of any court established under the laws of the State or the United States or any clerk of court or register of wills, unless he is the surviving spouse of the grantor of the trust, or is related to the grantor within the third degree, may not serve as a trustee of any inter vivos or testamentary trust created by an instrument and executed in Maryland by the grantor or any trustee, administered in the State or governed by the laws of the State, unless he was actually serving as a trustee of the trust on December 31, 1969.**]**

[14–105.

In the absence of actual knowledge or of reasonable cause to inquire as to whether a trustee is improperly exercising his power, a person dealing with a trustee need not inquire whether a trustee is properly exercising his power, and is protected as if the trustee properly exercised the power. A person need not see to the proper application of trust assets paid or delivered to a trustee.**]**

[14–106.

(a) In this section, "beneficiary" means a person in being who has a vested interest, whether:

(1) Possessory or not; and

(2) Subject to divestment or not.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, on petition by a trustee, personal representative, beneficiary, or a party in interest, after notice as the court may direct to the trustees, personal representatives, beneficiaries, and parties in interest, and for good cause shown, a court may:

(i) Divide a trust into 2 or more separate trusts; or

(ii) Consolidate 2 or more trusts into a single trust.

(2) A court may divide a trust or consolidate trusts:

(i) On terms and conditions as the court considers appropriate; and

(ii) If the court is satisfied that a division of a trust or consolidation of trusts will not defeat or materially impair:

1. The accomplishment of trust purposes; or

2. The interests of the beneficiaries.

(3) A court may pass orders that the court considers proper or necessary to protect the interests of a:

(i) Trustee;

(ii) Personal representative;

(iii) Beneficiary; or

(iv) Party in interest.

(c) This section applies to trusts:

(1) Whenever created;

(2) Whether inter vivos or testamentary;

(3) Created by the same or different instruments;

(4) Created by the same or different persons; and

(5) Regardless of where created or administered.

(d) This section may not be construed to limit the right of a trustee or personal representative to divide a trust or consolidate trusts, without an order of a court, in accordance with the applicable provisions of the governing instrument.**]**

[14–107.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Beneficiary" means an ascertainable person who has a present or future interest in a trust estate.

(ii) "Beneficiary" includes:

1. If the beneficiary is a minor, the beneficiary's natural or legal guardian; or

2. If the beneficiary is a disabled person, as defined in § 13–101 of this article, any person acting on behalf of the beneficiary under a guardianship, conservatorship, or committee.

(3) "Corporate fiduciary" has the meaning stated in § 15–1A–01 of this article.

(4) "Life expectancy" means the life expectancy published in the life tables issued by the U.S. Department of Health and Human Services from time to time.

(5) "Net annual income" means the gross income of a trust estate during a fiscal year minus trust commissions and expenses attributable to income for that fiscal year.

(b) Subject to the provisions of this section, a corporate fiduciary acting as a trustee may terminate a trust without an order of court if the fair market value of the trust as of the trust's last anniversary date is $100,000 or less.

(c) (1) A corporate fiduciary trustee proposing to terminate a trust under this section shall send notice of the proposed termination to each cotrustee and each beneficiary of the trust at the cotrustee's or beneficiary's last known address. The notice shall be:

(i) Personally delivered; or

(ii) Mailed by certified mail, postage prepaid, return receipt requested.

(2) The notice required under paragraph (1) of this subsection shall contain:

(i) The name of the trust;

(ii) The name of the person who created the trust;

(iii) The date on which the trust was established;

(iv) The name and address of the corporate fiduciary trustee seeking to terminate the trust;

(v) The name of any cotrustee;

(vi) A statement that the effective date of the termination shall be at least 90 days after the date on which notice under paragraph (1) of this subsection has been received by each cotrustee and each beneficiary;

(vii) A statement of the reasons for termination of the trust;

(viii) The approximate amount and the manner of calculation of each distribution of the trust estate; and

(ix) A statement of the right to object and the procedures to follow under subsection (d) of this section.

(d) (1) A person entitled to notice under subsection (c) of this section who objects to the termination of a trust shall send written objection to the termination.

(2) The written objection shall be personally delivered or mailed by certified mail, postage prepaid, return receipt requested, within 60 days after the date on which notice that is sent under subsection (c)(1) of this section is received by the objecting party, to the corporate fiduciary trustee proposing to terminate the trust at the address in the notice.

(e) (1) If no beneficiary or cotrustee delivers a timely objection in accordance with the provisions of subsection (d) of this section, the trust shall be terminated and the trust estate shall be distributed in accordance with the provisions of subsection (f) of this section.

(2) If a beneficiary or cotrustee delivers a timely written objection in accordance with the provisions of subsection (d) of this section, the trust shall not be terminated unless the objection is withdrawn in writing by the objecting party within 90 days after receipt of the notice by the objecting party.

(f) (1) A trust estate that is terminated under this section shall be distributed in any manner unanimously agreed upon by all beneficiaries.

(2) (i) If the beneficiaries do not unanimously agree to a manner of distribution, the distribution shall be made in accordance with the provisions of this paragraph.

(ii) A beneficiary who has a present interest in the trust estate shall receive an amount equal to the present value of an annuity equal to the beneficiary's proportionate share of the average net annual income of the trust as of its last 3 anniversary dates for a term equal to the life expectancy of the beneficiary, at the interest rate for valuing vested benefits provided by the Pension Benefit Guaranty Corporation for the month immediately preceding the date of which the notice under subsection (c)(1) of this section is sent.

(iii) The amount of the trust estate remaining after distribution to beneficiaries having a present interest in the trust estate shall be distributed to any beneficiaries having a future interest in the trust estate in whatever proportions are provided for under the terms of the governing instrument under which the trust was created.

(g) The existence of spendthrift or similar protective language in the governing instrument under which the trust was created may not prevent termination under this section.

(h) All expenses incurred by the trustee incident to the termination of a trust under this section shall be borne by the trust estate.

(i) A distribution to a minor beneficiary shall be made to the minor's custodian under the Maryland Uniform Gifts to Minors Act or the Maryland Uniform Transfers to Minors Act.

(j) This section may not be construed to limit the right of any trustee to terminate a trust in accordance with applicable provisions of the governing instrument under which the trust was created.

(k) A trust may be terminated under this section if:

(1) The trustee has determined that termination of the trust is in the best interests of the beneficiaries; and

(2) The governing instrument does not expressly prohibit termination of the trust regardless of its size.

(l) A trust may not be terminated under this section if:

(1) The provisions of the governing instrument make the trust eligible to qualify for the marital deduction for United States estate tax or for United States gift tax purposes under the Internal Revenue Code, unless all beneficiaries agree that all of the trust estate shall be distributed to the spouse of the creator of the trust; or

(2) The provisions of the governing instrument make the trust qualify, in whole or in part, for a charitable deduction for United States estate tax, United States gift tax, or United States income tax purposes under the Internal Revenue

Code, unless all beneficiaries agree that all of the trust estate shall be distributed to one or more beneficiaries that qualify for the charitable deduction under the Internal Revenue Code.**]**

[14–108.

(a) (1) In this section, "environmental law" means a federal, State, or local law, rule, regulation, or ordinance that relates to the protection of the environment.

(2) "Environmental law" includes Title 16 of the Environment Article.

(b) (1) To comply with an environmental law, a trustee may:

(i) Inspect property held by the trustee, including any type of interest in a sole proprietorship, partnership, limited liability company, or corporation, and any assets owned by a sole proprietorship, partnership, limited liability company, or corporation, to determine compliance with an environmental law and respond to an actual or potential environmental liability relating to the property;

(ii) Before or after the initiation of a claim or a governmental enforcement action, take action necessary to prevent, abate, or otherwise remedy an actual or potential environmental liability that affects a trust asset;

(iii) Settle or compromise at any time a claim against the trust based on an alleged environmental liability that may be asserted by any person; and

(iv) Pay from the trust the costs of an inspection, review, study, abatement, response, cleanup, or other remedial action that involves an environmental liability.

(2) If a trustee acts prudently and in good faith, the trustee is not liable to a person with an interest in assets of the trust held by the trustee for a decrease in the value of the assets for taking action under this subsection or otherwise taking action to comply with an environmental law or reporting requirement.

(3) Acceptance by the trustee of property or failure by the trustee to take action under this subsection does not imply that there is or may be liability under an environmental law with respect to any property.**]**

[14–109.

(a) None of the following powers conferred upon a trustee by the governing instrument may be exercised by that trustee:

(1) The power to make any discretionary distributions of either principal or income to or for the benefit of the trustee in the trustee's individual capacity, unless limited by an ascertainable standard relating to the trustee's health,

education, support and maintenance, as defined in 26 U.S.C. §§ 2041 and 2514 and the Treasury regulations promulgated under those sections;

(2) The power to make any discretionary distributions of either principal or income to satisfy any of the trustee's legal obligations in the trustee's individual capacity for support or other purposes;

(3) The power to make discretionary allocations in the trustee's favor of receipts or expenses as between income and principal;

(4) Any power, in whatever capacity held, to remove or replace any trustee who holds any of the powers proscribed in this subsection; or

(5) The power to exercise any of the powers proscribed in this subsection with regard to a beneficiary other than the trustee to the extent that such beneficiary could exercise a similar prohibited power in connection with a trust which benefits the trustee.

(b) If a trustee is prohibited by subsection (a)(1) of this section from exercising a power conferred upon the trustee, the trustee may nevertheless exercise the power except that the trustee's exercise of that power shall be limited by an ascertainable standard relating to the trustee's health, education, support and maintenance, as defined in 26 U.S.C. §§ 2041 and 2514 and the Treasury regulations promulgated under those sections.

(c) If the governing instrument contains a power described under subsection (a) of this section, and there is no trustee who can exercise such power, upon application of any party in interest, a court may appoint a trustee who is not otherwise disqualified under this section to exercise any such power during the period of time that the court designates.

(d) This section does not apply if:

(1) As a result of application of subsection (a) of this section, a marital deduction for the trust property would not be allowed to a spouse who is a trustee and to whom a marital deduction would otherwise be allowed under the Internal Revenue Code; or

(2) The trust is revocable or amendable, during the time that the trust remains revocable or amendable.

(e) (1) In this subsection, "parties in interest" means:

(i) Each trustee then serving; and

(ii) Each income beneficiary and remainder beneficiary then in existence or, if such beneficiary has not attained majority or is otherwise

incapacitated, the beneficiary's legal representative under applicable law or the beneficiary's donee under a durable power of attorney that is sufficient to grant such authority.

(2) Subject to the provisions of subsection (d) of this section, this section applies to:

(i) Any trust created under a governing instrument executed after September 30, 1995, unless the terms of the governing instrument provide expressly that this section does not apply; and

(ii) Any trust created under a governing instrument executed before October 1, 1995, unless all parties in interest elect affirmatively not to be subject to the application of this section on or before the later of October 1, 1998, or 3 years after the date on which the trust becomes irrevocable.

(f) The affirmative election required under subsection (e) of this section must be made through a written declaration signed by the interested person and delivered to the trustee.**]**

[14–110.

(a) The following persons may exercise trust or fiduciary powers in this State:

(1) An individual;

(2) A trust company as defined in § 1–101 of this article;

(3) An organization exempt from taxation under § 501(c) of the Internal Revenue Code; and

(4) Subject to subsection (b) of this section, a bank, trust company, or savings bank, other than one described in paragraph (2) of this subsection, that is:

(i) Organized under the laws of another state and authorized to exercise trust or fiduciary powers in the state where its principal place of business is located; or

(ii) Organized under the laws of the United States and authorized to exercise trust or fiduciary powers under federal law.

(b) (1) A bank, trust company, or savings bank described in subsection (a)(4) of this section may exercise trust or fiduciary powers in this State only if the laws of the state where its principal place of business is located authorize a bank, trust company, or savings bank from this State to exercise trust or fiduciary powers in that state.

(2) A bank, trust company, or savings bank authorized to exercise trust powers under subsection (a)(4) of this section shall file with the Commissioner of Financial Regulation, prior to exercising trust powers in this State, information sufficient to identify:

(i) The correct corporate name of the bank, trust company, or savings bank;

(ii) An address and telephone number of a contact person for the bank, trust company, or savings bank;

(iii) A resident agent; and

(iv) Any additional information considered necessary by the Commissioner for protection of the public.**]**

[14–111.

(a) (1) In this section, "beneficiary" means an ascertainable person who has a present or future interest in a trust estate.

(2) "Beneficiary" includes:

(i) If the beneficiary is a minor, the beneficiary's natural or legal guardian; or

(ii) If the beneficiary is a disabled person, as defined in § 13–101 of this article, any person acting on behalf of the beneficiary under a guardianship, conservatorship, or committee.

(b) A trustee may donate a conservation easement on any real property, or consent to the donation of a conservation easement on any real property by a personal representative of an estate of which the trustee is a legatee, in order to obtain the benefit of the estate tax exclusion allowed under § 2031(c) of the United States Internal Revenue Code of 1986, as amended, if:

(1) The governing instrument authorizes or directs the donation of a conservation easement on the real property; or

(2) Each beneficiary who has an interest in the real property that would be affected by the conservation easement consents in writing to the donation.**]**

[14–112.

(a) A trust may be created to provide for the care of an animal alive during the lifetime of the settlor.

(b) A trust authorized by this section terminates:

(1) If created to provide for the care of one animal alive during the lifetime of the settlor, on the death of the animal; or

(2) If created to provide for the care of more than one animal alive during the lifetime of the settlor, on the death of the last surviving animal.

(c) (1) A trust authorized by this section may be enforced by a person appointed under the terms of the trust or, if no person is appointed, by a person appointed by the court.

(2) A person having an interest in the welfare of an animal the care for which a trust is established may request the court to appoint a person to enforce the trust or to remove a person appointed.

(d) (1) Except to the extent that the court may determine that the value of a trust authorized by this section exceeds the amount required for the use intended by the trust, the property of the trust may be applied only to the intended use of the trust.

(2) Except as otherwise provided under the terms of the trust, property not required for the intended use of the trust shall be distributed:

(i) To the settlor, if living; or

(ii) If the settlor is deceased, to the successors in interest of the settlor.**]**

[14–113.

(a) In this section, "proceeds" means:

(1) Property acquired by the trustee upon the sale, lease, license, exchange, or other disposition of property originally conveyed by a husband and wife to a trustee or trustees;

(2) Property collected by the trustee on, or distributed on account of, property originally conveyed by a husband and wife to a trustee or trustees;

(3) Rights arising out of property originally conveyed by a husband and wife to a trustee;

(4) Claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, property originally conveyed by a husband and wife to a trustee;

(5) Insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, property originally conveyed by a husband and wife to a trustee; or

(6) Property held by the trustee that is otherwise traceable to property originally conveyed by a husband and wife to a trustee or the property proceeds described in items (1) through (5) of this subsection.

(b) Any property of a husband and wife that was held by them as tenants by the entirety and subsequently conveyed to the trustee or trustees of one or more trusts, and the proceeds of that property, shall have the same immunity from the claims of their separate creditors as would exist if the husband and wife had continued to hold the property or its proceeds as tenants by the entirety, as long as:

(1) The husband and wife remain married;

(2) The property or its proceeds continues to be held in trust by the trustee or trustees or their successors in trust;

(3) Both the husband and the wife are beneficiaries of the trust or trusts; and

(4) The trust instrument, deed, or other instrument of conveyance provides that this section shall apply to the property or its proceeds.

(c) (1) After the death of the first of the husband and wife to die, all property held in trust that was immune from the claims of their separate creditors under subsection (b) of this section immediately prior to the individual's death shall continue to have the same immunity from the claims of the decedent's separate creditors as would have existed if the husband and wife had continued to hold the property conveyed in trust, or its proceeds, as tenants by the entirety.

(2) To the extent that the surviving spouse remains a beneficiary of the trust, the property that was immune from the claims of the separate creditors of the decedent under paragraph (1) of this subsection shall be subject to the claims of the separate creditors of the surviving spouse.

(d) The immunity from the claims of separate creditors under subsections (b) and (c) of this section may be waived as to any specific creditor or any specifically described trust property, including all separate creditors of a husband and wife or all former tenancy by the entirety property conveyed to the trustee or trustees, by:

(1) The express provisions of a trust instrument; or

(2) The written consent of both the husband and the wife.

(e) (1) Except as provided in paragraph (2) of this subsection, immunity from the claims of separate creditors under subsections (b) and (c) of this section shall be waived if a trustee executes and delivers a financial statement for the trust that fails to disclose the requested identity of property held in trust that is immune from the claims of separate creditors.

(2) Immunity is not waived under this subsection if the identity of the property that is immune from the claims of separate creditors is otherwise reasonably disclosed by:

(i) A publicly recorded deed or other instrument of conveyance by the husband and wife to the trustee;

(ii) A written memorandum by the husband and wife, or by a trustee, that is recorded among the land records or other public records in the county or other jurisdiction where the records of the trust are regularly maintained; or

(iii) The terms of the trust instrument, including any schedule or exhibit attached to the trust instrument, if a copy of the trust instrument is provided with the financial statement.

(3) A waiver under this subsection shall be effective only as to:

(i) The person to whom the financial statement is delivered by the trustee;

(ii) The particular trust property held in trust for which the immunity from the claims of separate creditors is insufficiently disclosed on the financial statement; and

(iii) The transaction for which the disclosure was sought.

(f) In any dispute relating to the immunity of trust property from the claims of a separate creditor of a husband or wife, the trustee has the burden of proving the immunity of the trust property from the creditor's claims.

(g) After a conveyance to a trustee described in subsection (b) of this section, the property transferred shall no longer be held by the husband and wife as tenants by the entirety.

(h) This section may not be construed to affect existing State law with respect to tenancies by the entirety.

(i) This section applies only to tenancy by the entirety property conveyed to a trustee or trustees on or after October 1, 2010.**]**

[14–114.

(a) (1) In this section the following words have the meanings indicated.

(2) "Consideration" does not include the amount of any obligation under a mortgage or deed of trust encumbering the transferred property.

(3) "Trust" does not include:

(i) A real estate investment trust as defined in § 8–101 of the Corporations and Associations Article; or

(ii) A statutory trust as defined in § 12–101 of the Corporations and Associations Article.

(b) A recordation tax, transfer tax, or any other State or local excise tax may not be imposed on the transfer of real property or an interest in real property without consideration or on the recordation of an instrument that transfers real property or an interest in real property without consideration if:

(1) The transfer is to a trust; or

(2) The transfer is from a trust to one or more beneficiaries and:

(i) The transfer is made to a person who would be exempt from tax under Title 12 or Title 13 of the Tax – Property Article if the transfer had been made to that person directly by the grantor; or

(ii) The transfer is made during the life of the grantor of the trust and the trustee of the trust originally acquired the real property for adequate consideration.**]**

[14–115.

(a) In this section, "special needs trust" and "supplemental needs trust" include a trust funded by a trust beneficiary or by a third party.

(b) It is the policy of the State to encourage the use of a special needs trust or supplemental needs trust by an individual of any age with disabilities to preserve funds to provide for the needs of the individual not met by public benefits and to enhance quality of life.

(c) (1) Each State agency that provides public benefits to individuals of any age with disabilities through means–tested programs, including the Medical Assistance Program, shall adopt regulations that:

(i) Are not more restrictive than existing federal law, regulations, or policies with regard to the treatment of a special needs trust or

supplemental needs trust, including a trust defined in 42 U.S.C. § 1396p(c)(2) and (d)(4);

(ii) Are not more restrictive than any State law regarding trusts, including any State law regarding the reasonable exercise of discretion by a trustee, guardian, or conservator in the best interests of the beneficiary; and

(iii) Do not require disclosure of a beneficiary's personal or confidential information without the consent of the beneficiary.

(2) The regulations described in paragraph (1) of this subsection shall allow:

(i) An individual account in a pooled asset special needs trust to be funded without financial limit;

(ii) A fund in a special needs trust, supplemental needs trust, or pooled asset special needs trust to be used for the sole benefit of the beneficiary including, at the discretion of the trustee, distributions for food, shelter, utilities, and transportation;

(iii) An individual to establish or fund an individual account in a pooled asset special needs trust without an age limit or a transfer penalty;

(iv) An individual to fund a special needs trust or supplemental needs trust for the individual's child with disabilities without a transfer penalty and regardless of the child's age; and

(v) All legally assignable income or resources to be assigned to a special needs trust, supplemental needs trust, or pooled asset special needs trust without limit.

(3) Nothing in this subsection may be interpreted to require a court order to authorize a disbursement from a special or supplemental needs trust.

(d) (1) A determination of the Internal Revenue Service regarding the nonprofit status of an organization operating a pooled asset special needs trust shall be sufficient to satisfy the nonprofit requirement of 42 U.S.C. § 1396p(d)(4)(C).

(2) A State agency may not impose additional requirements on an organization described in paragraph (1) of this subsection for the purpose of qualifying or disqualifying the organization from offering a pooled asset special needs trust.

(e) A regulation adopted by a State agency regarding pooled special needs trusts shall apply only to those trust beneficiaries who are State residents or who receive public benefits funded by the State.**]**

[14–116.

(a) An individual who creates a trust may not be considered the settlor of that trust with regard to the individual's interest in the trust if:

(1) That interest is the authority of the trustee under the trust instrument or any other provision of law to pay or reimburse the individual for any tax on trust income or trust principal that is payable by the individual under the law imposing that tax; or

(2) All of the following apply:

(i) The individual creates or has created the trust for the benefit of the individual's spouse;

(ii) The trust is treated as qualified terminable interest property under § 2523(f) of the Internal Revenue Code of 1986; and

(iii) The individual's interest in the trust income, trust principal, or both follows the termination of the spouse's prior interest in the trust.

(b) A creditor of an individual described in subsection (a) of this section may not attach, exercise, reach, or otherwise compel distribution of:

(1) Any principal or income of the trust;

(2) Any principal or income of any other trust to the extent that the property held in the other trust is attributable to a trust described in subsection (a)(2) of this section;

(3) The individual's interest in the trust; or

(4) The individual's interest in any other trust to the extent that the property held in the other trust is attributable to a trust described in subsection (a)(2) of this section.

(c) This section may not be construed to affect any State law with respect to a fraudulent transfer by an individual to a trustee.**]**

TITLE 14.5. MARYLAND TRUST ACT.

SUBTITLE 1. IN GENERAL.

14.5–101.

THIS TITLE MAY BE CITED AS THE MARYLAND TRUST ACT.

14.5–102.

THIS TITLE APPLIES TO EXPRESS CHARITABLE OR NONCHARITABLE TRUSTS AND TRUSTS CREATED IN ACCORDANCE WITH A STATUTE (INCLUDING THE MARYLAND DISCRETIONARY TRUST ACT, UNLESS OTHERWISE PROVIDED BY THE STATUTE), JUDGMENT, OR DECREE THAT REQUIRES THE TRUST TO BE ADMINISTERED IN THE MANNER OF AN EXPRESS TRUST.

14.5–103.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ACTION", WITH RESPECT TO AN ACT OF A TRUSTEE, INCLUDES A FAILURE TO ACT.

(C) "ASCERTAINABLE STANDARD" MEANS A STANDARD RELATING TO AN INDIVIDUAL'S HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE WITHIN THE MEANING OF § 2041(B)(1)(A) OR § 2514(C)(1) OF THE INTERNAL REVENUE CODE OF 1986, AS IN EFFECT ON ~~OCTOBER 1, 2014~~ JANUARY 1, 2015.

(D) "BENEFICIARY" MEANS A PERSON THAT HAS A PRESENT OR FUTURE BENEFICIAL INTEREST IN A TRUST, VESTED OR CONTINGENT.

(E) "CHARITABLE TRUST" MEANS A TRUST, OR PORTION OF A TRUST, CREATED FOR A CHARITABLE PURPOSE DESCRIBED IN § 14–301(B) OF THIS ARTICLE.

(F) (1) "DISCRETIONARY DISTRIBUTION PROVISION" MEANS A PROVISION IN A TRUST THAT PROVIDES THAT THE TRUSTEE HAS DISCRETION, OR WORDS OF SIMILAR IMPORT, TO DETERMINE ONE OR MORE OF THE FOLLOWING:

(I) WHETHER TO DISTRIBUTE TO OR FOR THE BENEFIT OF AN INDIVIDUAL OR A CLASS OF BENEFICIARIES THE INCOME OR PRINCIPAL OR BOTH OF THE TRUST;

(II) THE AMOUNT, IF ANY, OF THE INCOME OR PRINCIPAL OR BOTH OF THE TRUST TO DISTRIBUTE TO OR FOR THE BENEFIT OF AN INDIVIDUAL OR A CLASS OF BENEFICIARIES;

(III) WHICH, IF ANY, AMONG A CLASS OF BENEFICIARIES WILL RECEIVE INCOME OR PRINCIPAL OR BOTH OF THE TRUST;

(IV) WHETHER THE DISTRIBUTION OF TRUST ASSETS IS FROM INCOME OR PRINCIPAL OR BOTH OF THE TRUST; OR

(V) WHEN TO PAY INCOME OR PRINCIPAL, EXCEPT THAT A POWER TO DETERMINE WHEN TO DISTRIBUTE INCOME OR PRINCIPAL WITHIN OR WITH RESPECT TO A CALENDAR OR TAXABLE YEAR OF THE TRUST IS NOT A DISCRETIONARY DISTRIBUTION PROVISION IF THE DISTRIBUTION MUST BE MADE.

(2) "DISCRETIONARY DISTRIBUTION PROVISION" INCLUDES A PROVISION IN A TRUST INSTRUMENT THAT:

(I) PROVIDES ONE OR MORE STANDARDS OR OTHER GUIDANCE FOR THE EXERCISE OF THE DISCRETION OF THE TRUSTEE; OR

(II) CONTAINS A SPENDTHRIFT PROVISION.

(G) (1) "ENVIRONMENTAL LAW" MEANS A FEDERAL, STATE, OR LOCAL LAW, RULE, REGULATION, OR ORDINANCE THAT RELATES TO THE PROTECTION OF THE ENVIRONMENT.

(2) "ENVIRONMENTAL LAW" INCLUDES TITLE 16 OF THE ENVIRONMENT ARTICLE.

(H) "GENERAL POWER OF APPOINTMENT", SUBJECT TO § 14.5–507(B)(7) OF THIS TITLE, MEANS A POWER OF APPOINTMENT THAT:

(1) BY THE TERMS OF THE TRUST SPECIFICALLY AUTHORIZES THE HOLDER TO DIRECT TRUST PROPERTY TO THE HOLDER, THE ESTATE OF THE HOLDER, OR THE CREDITORS OF THE HOLDER;

(2) IS HELD IN A CAPACITY OTHER THAN AS A TRUSTEE;

(3) IS NOT LIMITED BY AN ASCERTAINABLE STANDARD; AND

(4) IS EXERCISABLE BY THE HOLDER OR HOLDERS WITHOUT THE CONSENT OF ANOTHER PERSON.

(I) (1) "GUARDIAN OF THE PERSON" MEANS A PERSON APPOINTED BY THE COURT OR, IN THE CASE OF A MINOR WITH NO LIVING PARENT, BY THE PROBATED WILL OF A PARENT OF THE MINOR, TO MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF A MINOR OR AN ADULT INDIVIDUAL.

(2) "GUARDIAN OF THE PERSON" DOES NOT INCLUDE A GUARDIAN AD LITEM.

(J) "GUARDIAN OF THE PROPERTY" MEANS A PERSON APPOINTED BY THE COURT TO ADMINISTER THE ESTATE OF A MINOR OR AN ADULT INDIVIDUAL.

(K) "INTERESTS OF THE BENEFICIARIES" MEANS THE BENEFICIAL INTERESTS PROVIDED IN THE TERMS OF THE TRUST.

(L) "JURISDICTION", WITH RESPECT TO A GEOGRAPHIC AREA, INCLUDES A STATE OR COUNTRY.

(M) (1) "MANDATORY DISTRIBUTION PROVISION" MEANS A PROVISION IN A TRUST THAT REQUIRES THE TRUSTEE TO MAKE A DISTRIBUTION OF INCOME OR PRINCIPAL TO A BENEFICIARY, INCLUDING A DISTRIBUTION ON TERMINATION OF THE TRUST.

(2) "MANDATORY DISTRIBUTION PROVISION" DOES NOT INCLUDE A PROVISION IN A TRUST THAT ALLOWS THE TRUSTEE TO MAKE A DISTRIBUTION SUBJECT TO THE EXERCISE OF THE DISCRETION OF THE TRUSTEE EVEN IF:

(I) THE DISCRETION IS EXPRESSED IN THE FORM OF A STANDARD OF DISTRIBUTION; OR

(II) THE TERMS OF THE TRUST AUTHORIZING A DISTRIBUTION COUPLE LANGUAGE OF DISCRETION WITH LANGUAGE OF DIRECTION.

(N) "PERSON" MEANS:

(1) AN INDIVIDUAL;

(2) A CORPORATION;

(3) A BUSINESS TRUST;

(4) AN ESTATE;

(5) A TRUST;

(6) A PARTNERSHIP;

(7) A LIMITED LIABILITY COMPANY;

(8) AN ASSOCIATION;

(9) A JOINT VENTURE;

(10) A GOVERNMENT;

(11) A GOVERNMENTAL SUBDIVISION;

(12) AN AGENCY;

(13) AN INSTRUMENTALITY;

(14) A PUBLIC CORPORATION; OR

(15) ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(O) "POWER OF APPOINTMENT" MEANS THE AUTHORITY TO DESIGNATE THE RECIPIENT OR RECIPIENTS OF BENEFICIAL INTERESTS IN PROPERTY.

(P) "POWER OF WITHDRAWAL", SUBJECT TO § 14.5–507(B) OF THIS TITLE, MEANS A PRESENTLY EXERCISABLE POWER TO WITHDRAW TRUST PROPERTY FROM A TRUST FOR THE USE OR BENEFIT OF THE POWER HOLDER, OTHER THAN A POWER:

(1) EXERCISABLE BY A TRUSTEE AND LIMITED BY AN ASCERTAINABLE STANDARD;

(2) EXERCISABLE BY ANOTHER PERSON ONLY ON CONSENT OF THE TRUSTEE OR A PERSON HOLDING AN ADVERSE INTEREST; OR

(3) EXERCISABLE ONLY WITH RESPECT TO TRUST PROPERTY HAVING A VALUE THAT IS LESS THAN OR EQUAL TO THE GREATEST OF:

(I) THE AMOUNT SPECIFIED IN § 2041(B)(2) OR § 2514(E) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED;

(II) THE AMOUNT SPECIFIED IN § 2503(B) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, IF THE DONOR OF THE PROPERTY SUBJECT TO THE POWER OF WITHDRAWAL IS UNMARRIED AT THE TIME OF THE TRANSFER OF THE PROPERTY TO THE TRUST; OR

(III) TWICE THE AMOUNT SPECIFIED IN § 2503(B) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, IF THE DONOR OF THE

PROPERTY SUBJECT TO THE POWER OF WITHDRAWAL IS MARRIED AT THE TIME OF THE TRANSFER OF THE PROPERTY TO THE TRUST.

(Q) "PROPERTY" MEANS ANYTHING THAT MAY BE THE SUBJECT OF OWNERSHIP, WHETHER REAL OR PERSONAL, LEGAL OR EQUITABLE, OR AN INTEREST IN THE THING.

(R) (1) "QUALIFIED BENEFICIARY" MEANS A BENEFICIARY THAT ON THE DATE THE QUALIFICATION OF THE BENEFICIARY IS DETERMINED:

(I) IS A DISTRIBUTEE OR PERMISSIBLE DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL;

(II) WOULD BE A DISTRIBUTEE OR PERMISSIBLE DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL IF THE INTERESTS OF THE DISTRIBUTEES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH TERMINATED ON THAT DATE WITHOUT CAUSING THE TRUST TO TERMINATE; OR

(III) WOULD BE A DISTRIBUTEE OR PERMISSIBLE DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON THAT DATE AND NO POWER OF APPOINTMENT WAS EXERCISED.

(2) "QUALIFIED BENEFICIARY" DOES NOT INCLUDE AN APPOINTEE UNDER THE WILL OF A LIVING PERSON OR THE OBJECT OF AN UNEXERCISED INTER VIVOS POWER OF APPOINTMENT.

(S) "REVOCABLE", AS APPLIED TO A TRUST, MEANS REVOCABLE BY THE SETTLOR WITHOUT THE CONSENT OF THE TRUSTEE OR A PERSON HOLDING AN ADVERSE INTEREST.

(T) (1) "SETTLOR" MEANS A PERSON, INCLUDING A TESTATOR, THAT CREATES OR CONTRIBUTES PROPERTY TO A TRUST.

(2) "SETTLOR" INCLUDES A PERSON THAT, WITH OTHER SETTLORS, CREATES OR CONTRIBUTES PROPERTY TO A TRUST IN WHICH CASE EACH SUCH PERSON IS A SETTLOR OF THE PORTION OF THE TRUST PROPERTY ATTRIBUTABLE TO THE CONTRIBUTION OF THAT PERSON EXCEPT TO THE EXTENT ANOTHER PERSON HAS THE POWER TO REVOKE OR WITHDRAW THAT PORTION.

(U) "SPENDTHRIFT PROVISION" MEANS A TERM OF A TRUST THAT:

(1) RESTRAINS BOTH VOLUNTARY AND INVOLUNTARY TRANSFER OF THE INTEREST OF A BENEFICIARY; OR

(2) RESTRAINS INVOLUNTARY TRANSFER OF THE INTEREST OF A BENEFICIARY AND PERMITS VOLUNTARY TRANSFER OF THE INTEREST OF A BENEFICIARY ONLY WITH THE CONSENT OF A PERSON THAT IS NOT A BENEFICIARY.

(V) (1) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(2) "STATE" INCLUDES A NATIVE AMERICAN TRIBE OR BAND RECOGNIZED BY FEDERAL LAW OR FORMALLY ACKNOWLEDGED BY A STATE.

(W) (1) "SUPPORT PROVISION" MEANS A MANDATORY DISTRIBUTION PROVISION IN A TRUST THAT PROVIDES THAT THE TRUSTEE SHALL DISTRIBUTE INCOME OR PRINCIPAL OR BOTH FOR THE HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE OF A BENEFICIARY, OR LANGUAGE OF SIMILAR IMPORT.

(2) "SUPPORT PROVISION" DOES NOT INCLUDE A PROVISION IN A TRUST THAT PROVIDES THAT A TRUSTEE HAS DISCRETION WHETHER TO DISTRIBUTE INCOME OR PRINCIPAL OR BOTH FOR THE PURPOSES UNDER PARAGRAPH (1) OF THIS SUBSECTION OR TO SELECT FROM AMONG A CLASS OF BENEFICIARIES TO RECEIVE DISTRIBUTIONS IN ACCORDANCE WITH THE TRUST PROVISION.

(X) "TERMS OF A TRUST" MEANS THE MANIFESTATION OF THE INTENT OF THE SETTLOR REGARDING THE PROVISIONS OF A TRUST AS EXPRESSED IN THE TRUST INSTRUMENT OR AS MAY BE ESTABLISHED BY OTHER EVIDENCE THAT WOULD BE ADMISSIBLE IN A JUDICIAL PROCEEDING.

(Y) "TRUST INSTRUMENT" MEANS AN INSTRUMENT EXECUTED BY THE SETTLOR THAT CONTAINS TERMS OF THE TRUST, INCLUDING AMENDMENTS TO THE TRUST.

(Z) "TRUSTEE" INCLUDES AN ORIGINAL, AN ADDITIONAL, AND A SUCCESSOR TRUSTEE AND A COTRUSTEE.

14.5–104.

A PERSON HAS KNOWLEDGE OF A FACT IF THE PERSON:

(1) HAS ACTUAL KNOWLEDGE OF THE FACT;

(2) HAS RECEIVED A NOTICE OR NOTIFICATION OF THE FACT; OR

(3) FROM ALL THE FACTS AND CIRCUMSTANCES KNOWN TO THE PERSON AT THE TIME, KNOWS OR SHOULD KNOW THE FACT.

14.5–105.

THE TERMS OF A TRUST PREVAIL OVER A PROVISION OF THIS TITLE, EXCEPT:

(1) THE REQUIREMENTS FOR CREATING A TRUST;

(2) THE DUTY OF A TRUSTEE TO ACT REASONABLY UNDER THE CIRCUMSTANCES AND IN ACCORDANCE WITH THE TERMS AND PURPOSES OF THE TRUST AND THE INTERESTS OF THE BENEFICIARIES;

(3) THE REQUIREMENT THAT A TRUST AND THE TERMS OF THE TRUST BE FOR THE BENEFIT OF THE BENEFICIARIES OF THE TRUST AND THAT THE TRUST HAVE A PURPOSE THAT IS LAWFUL AND POSSIBLE TO ACHIEVE;

(4) THE POWER OF THE COURT TO MODIFY OR TERMINATE A TRUST UNDER §§ 14.5–410, 14.5–411, 14.5–413, AND 14.5–414 OF THIS TITLE;

(5) THE RIGHTS OF CERTAIN CREDITORS AND ASSIGNEES TO REACH A TRUST AS PROVIDED IN SUBTITLE 5 OF THIS TITLE;

(6) THE POWER OF THE COURT UNDER § 14.5–702 OF THIS TITLE TO REQUIRE, DISPENSE WITH, MODIFY OR TERMINATE A BOND;

(7) THE SUBJECT MATTER JURISDICTION AND VENUE FOR COMMENCING A PROCEEDING AS PROVIDED BY THE LAWS OF THIS STATE;

(8) THE POWER OF THE COURT UNDER § 14.5–708(A) OF THIS TITLE TO INCREASE OR DECREASE THE COMMISSIONS OF A TRUSTEE;

(9) THE DUTIES TO PROVIDE INFORMATION, COPIES, AND NOTICES SPECIFIED UNDER § 14.5–813(A) AND (C) OF THIS TITLE;

(10) THE EFFECT OF AN EXCULPATORY TERM UNDER § 14.5–906 OF THIS TITLE;

(11) THE RIGHTS UNDER §§ 14.5–908 THROUGH 14.5–910 OF THIS TITLE OF A PERSON OTHER THAN A TRUSTEE OR BENEFICIARY; AND

~~(12) PERIODS OF LIMITATION FOR COMMENCING A JUDICIAL PROCEEDING; AND~~

~~(13)~~ (12) THE POWER OF THE COURT TO TAKE AN ACTION AND EXERCISE JURISDICTION AS MAY BE NECESSARY IN THE INTERESTS OF JUSTICE.

14.5–106.

THE COMMON LAW OF TRUSTS AND PRINCIPLES OF EQUITY SUPPLEMENT THIS TITLE, EXCEPT TO THE EXTENT MODIFIED BY THIS TITLE OR ANOTHER STATUTE OF THIS STATE.

14.5–107. RESERVED.

14.5–108. RESERVED.

14.5–109.

(A) (1) NOTICE TO A PERSON UNDER THIS TITLE OR THE SENDING OF A DOCUMENT TO A PERSON UNDER THIS TITLE SHALL BE ACCOMPLISHED IN A MANNER REASONABLY SUITABLE UNDER THE CIRCUMSTANCES AND LIKELY TO RESULT IN RECEIPT OF THE NOTICE OR DOCUMENT.

(2) PERMISSIBLE METHODS OF NOTICE TO A PERSON OR FOR SENDING A DOCUMENT TO A PERSON UNDER THIS TITLE INCLUDE FIRST–CLASS MAIL, PERSONAL DELIVERY, OR DELIVERY TO THE LAST KNOWN PLACE OF RESIDENCE OR PLACE OF BUSINESS OF THE PERSON.

(3) (I) THIS PARAGRAPH APPLIES TO:

1. THE PROPOSED TERMINATION OF A TRUST;

2. THE PROPOSED MODIFICATION OF THE ADMINISTRATIVE OR DISPOSITIVE TERMS OF A TRUST;

3. THE PROPOSED COMBINATION OF TWO OR MORE TRUSTS INTO A SINGLE TRUST;

4. THE PROPOSED DIVISION OF A TRUST INTO TWO OR MORE SEPARATE TRUSTS;

5. THE PROPOSED RESIGNATION OF A TRUSTEE OR COTRUSTEE; OR

6. THE PROPOSED TRANSFER OF THE PRINCIPAL PLACE OF ADMINISTRATION OF A TRUST.

(II) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, A TRUSTEE SHALL PROVIDE NOTICE TO A PERSON UNDER THIS TITLE:

1. BY PERSONAL SERVICE; OR

2. BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED.

(B) NOTICE OTHERWISE REQUIRED UNDER THIS TITLE OR A DOCUMENT OTHERWISE REQUIRED TO BE SENT UNDER THIS TITLE NEED NOT BE PROVIDED TO A PERSON WHOSE IDENTITY OR LOCATION IS UNKNOWN TO AND NOT REASONABLY ASCERTAINABLE BY THE TRUSTEE.

(C) NOTICE UNDER THIS TITLE OR THE SENDING OF A DOCUMENT UNDER THIS TITLE MAY BE WAIVED IN WRITING BY THE PERSON TO BE NOTIFIED OR SENT THE DOCUMENT.

(D) NOTICE OF A JUDICIAL PROCEEDING UNDER THIS TITLE SHALL BE GIVEN AS PROVIDED IN THE APPLICABLE RULES OF CIVIL PROCEDURE.

14.5–110.

(A) WHENEVER NOTICE TO QUALIFIED BENEFICIARIES OF A TRUST IS REQUIRED UNDER THIS TITLE, THE TRUSTEE SHALL ALSO GIVE NOTICE TO ANY OTHER BENEFICIARY THAT HAS SENT THE TRUSTEE A REQUEST FOR NOTICE.

(B) A CHARITABLE ORGANIZATION EXPRESSLY DESIGNATED TO RECEIVE DISTRIBUTIONS UNDER THE TERMS OF A CHARITABLE TRUST HAS THE RIGHTS OF A QUALIFIED BENEFICIARY UNDER THIS TITLE IF THE CHARITABLE ORGANIZATION ON THE DATE THE QUALIFICATION OF THE CHARITABLE ORGANIZATION IS BEING DETERMINED:

(1) IS A DISTRIBUTEE OR PERMISSIBLE DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL;

(2) WOULD BE A DISTRIBUTEE OR PERMISSIBLE DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL ON THE TERMINATION OF THE INTERESTS OF OTHER DISTRIBUTEES OR PERMISSIBLE DISTRIBUTEES THEN RECEIVING OR ELIGIBLE TO RECEIVE DISTRIBUTIONS; OR

(3) WOULD BE A DISTRIBUTEE OR PERMISSIBLE DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON THAT DATE.

(C) A PERSON APPOINTED TO ENFORCE A TRUST CREATED FOR THE CARE OF AN ANIMAL AS PROVIDED IN § 14.5–407 OF THIS TITLE OR ANOTHER NONCHARITABLE PURPOSE AS PROVIDED IN § 14.5–408 OF THIS TITLE HAS THE RIGHTS OF A QUALIFIED BENEFICIARY UNDER THIS TITLE.

(D) THE STATE'S ATTORNEY GENERAL HAS THE RIGHTS OF A QUALIFIED BENEFICIARY WITH RESPECT TO A CHARITABLE TRUST HAVING THE PRINCIPAL PLACE OF ADMINISTRATION OF THE CHARITABLE TRUST IN THIS STATE.

14.5–111. RESERVED.

14.5–112.

(A) IN THE ABSENCE OF EXPRESS LANGUAGE TO THE CONTRARY, THE RULES CONTAINED IN §§ 1–202, 1–203, 1–204, 1–205, 1–206, 1–207, 1–208, 1–209, AND 1–210.1 OF THIS ARTICLE SHALL BE APPLIED IN CONSTRUING THE TERMS OF AN INTER VIVOS TRUST.

(B) WHENEVER A PROVISION IN §§ 1–202, 1–203, 1–204, 1–205, 1–206, 1–207, 1–208, 1–209, AND 1–210.1 OF THIS ARTICLE REFERS TO A "WILL", "ESTATE", OR A SIMILAR TERM RELEVANT PRIMARILY TO WILLS AND ESTATES OR A TAKER UNDER A WILL OR AN ESTATE, THE TERM SHALL BE MODIFIED TO MEAN "TRUST INSTRUMENT", "TRUST", OR A SIMILAR TERM TO REFLECT THE APPLICATION OF THE PRINCIPLES OF THOSE PROVISIONS TO AN INTER VIVOS TRUST.

SUBTITLE 2. JUDICIAL PROCEEDINGS.

14.5–201.

(A) THE COURT MAY INTERVENE IN THE ADMINISTRATION OF A TRUST TO THE EXTENT THE JURISDICTION OF THE COURT IS INVOKED BY AN INTERESTED PERSON OR AS PROVIDED BY LAW.

(B) A TRUST IS NOT SUBJECT TO CONTINUING JUDICIAL SUPERVISION UNLESS ORDERED BY THE COURT.

(C) A JUDICIAL PROCEEDING INVOLVING A TRUST MAY RELATE TO A MATTER INVOLVING THE ADMINISTRATION OF THE TRUST, INCLUDING A REQUEST FOR INSTRUCTIONS AND AN ACTION TO DECLARE RIGHTS.

(D) (1) A COURT HAVING EQUITY JURISDICTION HAS GENERAL SUPERINTENDING POWER WITH RESPECT TO TRUSTS.

(2) THE PROVISIONS OF TITLES 1 THROUGH 13 OF THIS ARTICLE DO NOT AFFECT OR SUPERSEDE THE POWER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

14.5–202.

(A) BY ACCEPTING THE TRUSTEESHIP OF A TRUST HAVING THE PRINCIPAL PLACE OF ADMINISTRATION FOR THE TRUST IN THE STATE OR BY MOVING THE PRINCIPAL PLACE OF ADMINISTRATION TO THE STATE, THE TRUSTEE SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURTS OF THE STATE REGARDING A MATTER INVOLVING THE TRUST.

(B) (1) WITH RESPECT TO THE INTERESTS OF A BENEFICIARY OF A TRUST HAVING THE PRINCIPAL PLACE OF ADMINISTRATION OF THE TRUST IN THE STATE, THE BENEFICIARY IS SUBJECT TO THE JURISDICTION OF THE COURTS OF THE STATE REGARDING A MATTER INVOLVING THE TRUST.

(2) BY ACCEPTING A DISTRIBUTION FROM A TRUST DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE RECIPIENT SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURTS OF THE STATE REGARDING A MATTER INVOLVING THE TRUST.

(C) THIS SECTION DOES NOT PRECLUDE OTHER METHODS OF OBTAINING JURISDICTION OVER A TRUSTEE, A BENEFICIARY, OR ANY OTHER PERSON RECEIVING PROPERTY FROM THE TRUST.

14.5–203.

(A) (1) A DISCRETIONARY POWER CONFERRED ON THE TRUSTEE TO DETERMINE THE BENEFITS OF A BENEFICIARY IS SUBJECT TO JUDICIAL CONTROL ONLY TO PREVENT MISINTERPRETATION OR ABUSE OF THE DISCRETION OF THE TRUSTEE.

(2) THE BENEFITS TO WHICH A BENEFICIARY OF A DISCRETIONARY DISTRIBUTION PROVISION IS ENTITLED, AND WHAT MAY CONSTITUTE AN ABUSE OF DISCRETION BY THE TRUSTEE, DEPEND ON THE TERMS OF THE DISCRETION, INCLUDING THE PROPER CONSTRUCTION OF ACCOMPANYING STANDARDS, AND ON THE SETTLOR'S PURPOSES IN GRANTING THE DISCRETIONARY POWER AND IN CREATING THE TRUST.

(3) NOTWITHSTANDING THE BREADTH OF DISCRETION GRANTED TO A TRUSTEE BY THE TERMS OF A TRUST, INCLUDING THE USE OF THE TERMS "ABSOLUTE", "SOLE", OR "UNCONTROLLED", A TRUSTEE ABUSES THE DISCRETION OF THE TRUSTEE IN EXERCISING OR FAILING TO EXERCISE A DISCRETIONARY POWER IF THE TRUSTEE:

(I) ACTS DISHONESTLY;

(II) ACTS WITH AN IMPROPER MOTIVE, EVEN THOUGH NOT A DISHONEST MOTIVE;

(III) FAILS TO EXERCISE THE JUDGMENT OF THE TRUSTEE IN ACCORDANCE WITH THE TERMS AND PURPOSES OF THE TRUST; OR

(IV) ACTS BEYOND THE BOUNDS OF REASONABLE JUDGMENT.

(B) A COURT MAY REVIEW AN ACTION BY A TRUSTEE UNDER A SUPPORT PROVISION OR A MANDATORY DISTRIBUTION PROVISION IN THE TRUST.

SUBTITLE 3. REPRESENTATION.

14.5–301.

(A) EXCEPT AS REQUIRED BY THE APPLICABLE RULES OF CIVIL PROCEDURE IN A JUDICIAL PROCEEDING, NOTICE TO A PERSON THAT IS AUTHORIZED TO REPRESENT AND BIND ANOTHER PERSON UNDER THIS SUBTITLE HAS THE SAME EFFECT AS IF NOTICE WERE GIVEN DIRECTLY TO THE OTHER PERSON UNLESS THE PERSON REPRESENTED OBJECTS TO THE REPRESENTATION BY NOTIFYING THE TRUSTEE AND THE REPRESENTATIVE BEFORE THE NOTICE WOULD OTHERWISE HAVE BECOME EFFECTIVE.

(B) THE CONSENT OF A PERSON THAT IS AUTHORIZED TO REPRESENT AND BIND ANOTHER PERSON UNDER THIS SUBTITLE IS BINDING ON THE PERSON REPRESENTED UNLESS THE PERSON REPRESENTED OBJECTS TO THE REPRESENTATION BY NOTIFYING THE TRUSTEE AND THE REPRESENTATIVE BEFORE THE CONSENT WOULD OTHERWISE HAVE BECOME EFFECTIVE.

(C) EXCEPT AS OTHERWISE PROVIDED IN § 14.5–602 OF THIS TITLE, A PERSON THAT UNDER THIS SUBTITLE IS AUTHORIZED TO REPRESENT A SETTLOR THAT LACKS CAPACITY MAY RECEIVE NOTICE AND GIVE A BINDING CONSENT ON BEHALF OF THE SETTLOR.

(D) A REPRESENTATIVE MAY ACT ON BEHALF OF THE INDIVIDUAL REPRESENTED WITH RESPECT TO A MATTER ARISING UNDER THIS TITLE, WHETHER OR NOT A JUDICIAL PROCEEDING CONCERNING THE TRUST IS PENDING.

(E) IN MAKING DECISIONS AS A REPRESENTATIVE OF AN INDIVIDUAL, THE REPRESENTATIVE MAY CONSIDER THE GENERAL BENEFIT ACCRUING TO THE LIVING MEMBERS OF THE FAMILY OF THE INDIVIDUAL.

14.5–302.

(A) THE HOLDER OF A QUALIFIED POWER OF APPOINTMENT MAY REPRESENT AND BIND PERSONS WHOSE INTERESTS AS PERMISSIBLE APPOINTEES OR TAKERS IN DEFAULT ARE SUBJECT TO THE POWER.

(B) A QUALIFIED POWER OF APPOINTMENT IS:

(1) A GENERAL POWER OF APPOINTMENT; OR

(2) A POWER OF APPOINTMENT EXERCISABLE IN FAVOR OF ALL PERSONS OTHER THAN THE POWER HOLDER, THE ESTATE OF THE POWER HOLDER, THE CREDITORS OF THE POWER HOLDER, AND THE CREDITORS OF THE ESTATE OF THE POWER HOLDER.

14.5–303.

TO THE EXTENT THERE IS NO CONFLICT OF INTEREST BETWEEN THE REPRESENTATIVE AND THE PERSON REPRESENTED OR AMONG THOSE BEING REPRESENTED WITH RESPECT TO A PARTICULAR QUESTION OR DISPUTE:

(1) A GUARDIAN OF THE PROPERTY MAY REPRESENT AND BIND THE MINOR OR DISABLED PERSON;

(2) A GUARDIAN OF THE PERSON MAY REPRESENT AND BIND THE MINOR OR DISABLED PERSON IF A GUARDIAN OF THE PROPERTY HAS NOT BEEN APPOINTED;

(3) AN AGENT HAVING SPECIFIC AUTHORITY TO ACT WITH RESPECT TO TRUST MATTERS MAY REPRESENT AND BIND THE PRINCIPAL;

(4) A TRUSTEE OF A TRUST THAT IS A BENEFICIARY OF ANOTHER TRUST MAY REPRESENT AND BIND THE BENEFICIARIES OF THE TRUST THAT IS THE BENEFICIARY OF THE OTHER TRUST;

(5) A PERSONAL REPRESENTATIVE OF THE ESTATE OF A DECEDENT THAT IS A BENEFICIARY OF A TRUST MAY REPRESENT AND BIND INTERESTED PERSONS IN THE ESTATE; AND

(6) A PARENT MAY REPRESENT AND BIND THE MINOR, INCAPACITATED, UNBORN, OR UNKNOWN CHILD OF THE PARENT OR CHILD OF THE PARENT WHOSE LOCATION IS UNKNOWN AND NOT REASONABLY ASCERTAINABLE IF A GUARDIAN OF THE PROPERTY OR GUARDIAN OF THE PERSON FOR THE CHILD HAS NOT BEEN APPOINTED.

14.5–304. RESERVED.

14.5–305.

(A) IF THE COURT DETERMINES THAT AN INTEREST IS NOT REPRESENTED UNDER THIS SUBTITLE OR THAT THE OTHERWISE AVAILABLE REPRESENTATION MIGHT BE INADEQUATE, THE COURT MAY APPOINT A REPRESENTATIVE TO RECEIVE NOTICE, GIVE CONSENT, AND OTHERWISE REPRESENT, BIND, AND ACT ON BEHALF OF A MINOR, AN INCAPACITATED INDIVIDUAL, AN UNBORN INDIVIDUAL, OR A PERSON WHOSE IDENTITY OR LOCATION IS UNKNOWN OR IS NOT REASONABLY ASCERTAINABLE AS LONG AS THERE IS NO CONFLICT OF INTEREST BETWEEN THE REPRESENTATIVE AND THE PERSON REPRESENTED OR AMONG THOSE BEING REPRESENTED WITH RESPECT TO A PARTICULAR QUESTION OR DISPUTE.

(B) A REPRESENTATIVE MAY BE APPOINTED TO REPRESENT SEVERAL PERSONS OR INTERESTS UNDER THIS TITLE.

SUBTITLE 4. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF TRUST.

14.5–401.

A TRUST MAY BE CREATED BY:

(1) TRANSFER OF PROPERTY TO ANOTHER PERSON AS TRUSTEE DURING THE LIFETIME OF THE SETTLOR OR BY WILL OR OTHER DISPOSITION TAKING EFFECT ON THE DEATH OF THE SETTLOR;

(2) DECLARATION BY THE OWNER OF PROPERTY THAT THE OWNER HOLDS IDENTIFIABLE PROPERTY AS TRUSTEE; OR

(3) EXERCISE OF A POWER OF APPOINTMENT IN FAVOR OF A TRUSTEE.

14.5–402.

(A) A TRUST IS CREATED ONLY IF:

(1) THE SETTLOR HAS CAPACITY TO CREATE A TRUST;

(2) THE SETTLOR INDICATES AN INTENTION TO CREATE THE TRUST;

(3) THE TRUST HAS A DEFINITE BENEFICIARY OR IS:

(I) A CHARITABLE TRUST;

(II) A TRUST FOR THE CARE OF AN ANIMAL, AS PROVIDED IN § 14.5–407 OF THIS SUBTITLE; OR

(III) A TRUST FOR A NONCHARITABLE PURPOSE, AS PROVIDED IN § 14.5–408 OF THIS SUBTITLE; AND

(4) THE TRUSTEE HAS DUTIES TO PERFORM.

(B) A BENEFICIARY IS DEFINITE IF THE BENEFICIARY CAN BE ASCERTAINED NOW OR IN THE FUTURE, SUBJECT TO ANY APPLICABLE RULE AGAINST PERPETUITIES.

(C) (1) A POWER IN A TRUSTEE OR IN ANOTHER PERSON UNDER THE TERMS OF THE TRUST TO SELECT A BENEFICIARY FROM AN INDEFINITE CLASS IS VALID.

(2) IF THE POWER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS NOT EXERCISED WITHIN A REASONABLE TIME, THE POWER FAILS AND THE PROPERTY SUBJECT TO THE POWER PASSES TO THE PERSONS THAT WOULD HAVE TAKEN THE PROPERTY HAD THE POWER NOT BEEN CONFERRED.

14.5–403.

A TRUST NOT CREATED BY WILL IS VALIDLY CREATED IF THE CREATION OF THE TRUST COMPLIES WITH:

(1) THE LAW OF THE JURISDICTION IN WHICH THE TRUST INSTRUMENT WAS EXECUTED; OR

(2) THE LAW OF THE JURISDICTION IN WHICH, AT THE TIME OF CREATION:

(I) THE SETTLOR WAS DOMICILED OR WAS A NATIONAL;

(II) A TRUSTEE OF THE TRUST WAS DOMICILED OR HAD A PLACE OF BUSINESS; OR

(III) ANY TRUST PROPERTY WAS LOCATED.

14.5–404.

(A) A TRUST MAY BE CREATED ONLY TO THE EXTENT THAT THE PURPOSES OF THE TRUST ARE LAWFUL AND POSSIBLE TO ACHIEVE.

(B) A TRUST AND THE TERMS OF THE TRUST SHALL BE FOR THE BENEFIT OF THE BENEFICIARIES OF THE TRUST.

14.5–405.

A TRUST IS VOID TO THE EXTENT THAT THE CREATION OF THE TRUST WAS INDUCED BY FRAUD, DURESS, OR UNDUE INFLUENCE.

14.5–406.

EXCEPT AS REQUIRED BY A PROVISION OTHER THAN THIS TITLE, A TRUST NEED NOT BE EVIDENCED BY A TRUST INSTRUMENT, BUT THE CREATION OF AN ORAL TRUST AND THE TERMS OF THE ORAL TRUST MAY BE ESTABLISHED ONLY BY CLEAR AND CONVINCING EVIDENCE.

14.5–407.

(A) A TRUST MAY BE CREATED TO PROVIDE FOR THE CARE OF AN ANIMAL ALIVE DURING THE LIFETIME OF THE SETTLOR.

(B) A TRUST AUTHORIZED BY THIS SECTION TERMINATES:

(1) IF CREATED TO PROVIDE FOR THE CARE OF ONE ANIMAL ALIVE DURING THE LIFETIME OF THE SETTLOR, ON THE DEATH OF THE ANIMAL; OR

(2) IF CREATED TO PROVIDE FOR THE CARE OF MORE THAN ONE ANIMAL ALIVE DURING THE LIFETIME OF THE SETTLOR, ON THE DEATH OF THE LAST SURVIVING ANIMAL.

(C) (1) A TRUST AUTHORIZED BY THIS SECTION MAY BE ENFORCED BY A PERSON APPOINTED UNDER THE TERMS OF THE TRUST OR, IF NO PERSON IS APPOINTED, BY A PERSON APPOINTED BY THE COURT.

(2) A PERSON HAVING AN INTEREST IN THE WELFARE OF AN ANIMAL, THE CARE FOR WHICH A TRUST HAS BEEN ESTABLISHED, MAY REQUEST THE COURT TO APPOINT A PERSON TO ENFORCE THE TRUST OR TO REMOVE A PERSON APPOINTED.

(D) (1) EXCEPT TO THE EXTENT THAT THE COURT MAY DETERMINE THAT THE VALUE OF A TRUST AUTHORIZED BY THIS SECTION EXCEEDS THE AMOUNT REQUIRED FOR THE USE INTENDED BY THE TRUST, THE PROPERTY OF THE TRUST MAY BE APPLIED ONLY TO THE INTENDED USE OF THE TRUST.

(2) EXCEPT AS OTHERWISE PROVIDED UNDER THE TERMS OF THE TRUST, PROPERTY NOT REQUIRED FOR THE INTENDED USE OF THE TRUST SHALL BE DISTRIBUTED:

(I) TO THE SETTLOR, IF LIVING; OR

(II) IF THE SETTLOR IS DECEASED, TO THE SUCCESSORS IN INTEREST OF THE SETTLOR.

14.5–408.

EXCEPT AS OTHERWISE PROVIDED IN § 14.5–407 OF THIS SUBTITLE OR BY ANOTHER STATUTE, THE FOLLOWING RULES APPLY:

(1) (I) A TRUST MAY BE CREATED FOR A NONCHARITABLE PURPOSE WITHOUT A DEFINITE OR DEFINITELY ASCERTAINABLE BENEFICIARY OR FOR A NONCHARITABLE BUT OTHERWISE VALID PURPOSE TO BE SELECTED BY THE TRUSTEE; AND

(II) A TRUST DESCRIBED IN ITEM (I) OF THIS ITEM MAY NOT BE ENFORCED FOR MORE THAN 21 YEARS UNLESS THE SETTLOR ELECTS OTHERWISE;

(2) A TRUST AUTHORIZED BY THIS SECTION MAY BE ENFORCED BY A PERSON APPOINTED IN THE TERMS OF THE TRUST OR, IF NO PERSON IS SO APPOINTED, BY A PERSON APPOINTED BY THE COURT; AND

(3) (I) PROPERTY OF A TRUST AUTHORIZED BY THIS SECTION MAY BE APPLIED ONLY TO THE INTENDED USE OF THE TRUST, EXCEPT TO THE

EXTENT THAT THE COURT DETERMINES THAT THE VALUE OF THE TRUST PROPERTY EXCEEDS THE AMOUNT REQUIRED FOR THE INTENDED USE; AND

(II) EXCEPT AS OTHERWISE PROVIDED IN THE TERMS OF A TRUST DESCRIBED IN ITEM (I) OF THIS ITEM, PROPERTY NOT REQUIRED FOR THE INTENDED USE SHALL BE DISTRIBUTED TO THE SETTLOR, IF THEN LIVING, OR TO THE SUCCESSORS IN INTEREST OF THE SETTLOR, IF THE SETTLOR IS NOT THEN LIVING.

14.5–409.

(A) IN ADDITION TO THE METHODS OF TERMINATION PRESCRIBED BY §§ 14.5–410 THROUGH 14.5–412 OF THIS SUBTITLE, A TRUST TERMINATES TO THE EXTENT:

(1) THE TRUST IS REVOKED OR EXPIRES IN ACCORDANCE WITH THE TERMS OF THE TRUST; OR

(2) THE PURPOSES OF THE TRUST HAVE BECOME UNLAWFUL OR IMPOSSIBLE TO ACHIEVE.

(B) A PROCEEDING TO APPROVE OR DISAPPROVE A PROPOSED MODIFICATION OR TERMINATION UNDER §§ 14.5–410 THROUGH 14.5–414 OF THIS SUBTITLE, OR COMBINATION OR DIVISION OF A TRUST UNDER § 14.5–415 OF THIS SUBTITLE, MAY BE COMMENCED BY A TRUSTEE OR BENEFICIARY.

14.5–410.

(A) (1) A NONCHARITABLE IRREVOCABLE TRUST MAY BE TERMINATED ON CONSENT OF ALL BENEFICIARIES IF THE COURT CONCLUDES THAT CONTINUANCE OF THE TRUST IS NOT NECESSARY TO ACHIEVE ANY MATERIAL PURPOSE OF THE TRUST.

(2) A NONCHARITABLE IRREVOCABLE TRUST MAY BE MODIFIED ON CONSENT OF ALL BENEFICIARIES IF THE COURT CONCLUDES THAT MODIFICATION IS NOT INCONSISTENT WITH A MATERIAL PURPOSE OF THE TRUST.

(B) THE EXISTENCE OF A SPENDTHRIFT PROVISION OR SIMILAR PROTECTIVE LANGUAGE IN THE TERMS OF THE TRUST DOES NOT PREVENT A TERMINATION OF A TRUST UNDER SUBSECTION (A)(1) OF THIS SECTION.

(C) ON TERMINATION OF A TRUST UNDER SUBSECTION (A)(1) OF THIS SECTION, THE TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY AS AGREED BY THE BENEFICIARIES.

(D) IF NOT ALL BENEFICIARIES CONSENT TO A PROPOSED MODIFICATION OR TERMINATION OF THE TRUST UNDER SUBSECTION (A) OF THIS SECTION, THE MODIFICATION OR TERMINATION MAY BE APPROVED BY THE COURT IF THE COURT IS SATISFIED THAT:

(1) IF ALL BENEFICIARIES HAD CONSENTED, THE TRUST COULD HAVE BEEN MODIFIED OR TERMINATED UNDER THIS SECTION; AND

(2) THE INTERESTS OF A BENEFICIARY THAT DOES NOT CONSENT WILL BE ADEQUATELY PROTECTED.

14.5–411.

(A) (1) THE COURT MAY MODIFY THE ADMINISTRATIVE OR DISPOSITIVE TERMS OF A TRUST OR TERMINATE THE TRUST IF, BECAUSE OF CIRCUMSTANCES NOT ANTICIPATED BY THE SETTLOR, MODIFICATION OR TERMINATION WILL FURTHER THE PURPOSES OF THE TRUST.

(2) TO THE EXTENT PRACTICABLE, THE MODIFICATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE IN ACCORDANCE WITH THE PROBABLE INTENTION OF THE SETTLOR.

(B) THE COURT MAY MODIFY THE ADMINISTRATIVE TERMS OF A TRUST IF CONTINUATION OF THE TRUST ON ITS EXISTING TERMS WOULD BE IMPRACTICABLE OR WASTEFUL OR IMPAIR THE ADMINISTRATION OF THE TRUST.

(C) ON TERMINATION OF A TRUST UNDER SUBSECTION (A) OF THIS SECTION, THE TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY IN A MANNER CONSISTENT WITH THE PURPOSES OF THE TRUST AS ORDERED BY THE COURT.

14.5–412.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "LIFE EXPECTANCY" MEANS THE LIFE EXPECTANCY PUBLISHED FROM TIME TO TIME IN THE LIFE TABLES ISSUED BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(3) "NET ANNUAL INCOME" MEANS THE GROSS INCOME OF A TRUST ESTATE DURING A FISCAL YEAR MINUS TRUST COMMISSIONS AND EXPENSES ATTRIBUTABLE TO INCOME FOR THAT FISCAL YEAR.

(B) SUBJECT TO THE PROVISIONS OF THIS SECTION, A TRUSTEE MAY TERMINATE A TRUST WITHOUT AN ORDER OF COURT IF THE FAIR MARKET VALUE OF THE TRUST AS OF THE LAST ANNIVERSARY DATE OF THE TRUST IS $100,000 OR LESS.

(C) (1) (I) A TRUSTEE PROPOSING TO TERMINATE A TRUST UNDER THIS SECTION SHALL SEND NOTICE OF THE PROPOSED TERMINATION TO EACH COTRUSTEE AND EACH QUALIFIED BENEFICIARY OF THE TRUST AT THE LAST KNOWN ADDRESS OF THE COTRUSTEE OR QUALIFIED BENEFICIARY.

(II) THE NOTICE DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE:

1. PERSONALLY DELIVERED; OR

2. MAILED BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL CONTAIN:

(I) THE NAME OF THE TRUST;

(II) THE NAME OF THE PERSON WHO CREATED THE TRUST;

(III) THE DATE ON WHICH THE TRUST WAS ESTABLISHED;

(IV) THE NAME AND ADDRESS OF THE TRUSTEE SEEKING TO TERMINATE THE TRUST;

(V) THE NAME OF ANY COTRUSTEE;

(VI) A STATEMENT THAT THE EFFECTIVE DATE OF THE TERMINATION SHALL BE AT LEAST 90 DAYS AFTER THE DATE ON WHICH NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION HAS BEEN RECEIVED BY EACH COTRUSTEE AND EACH QUALIFIED BENEFICIARY;

(VII) A STATEMENT OF THE REASONS FOR TERMINATION OF THE TRUST;

(VIII) THE APPROXIMATE AMOUNT AND THE MANNER OF CALCULATION OF EACH DISTRIBUTION OF THE TRUST ESTATE; AND

(IX) A STATEMENT OF THE RIGHT TO OBJECT AND THE PROCEDURES TO FOLLOW UNDER SUBSECTION (D) OF THIS SECTION.

(D) (1) A PERSON ENTITLED TO NOTICE UNDER SUBSECTION (C) OF THIS SECTION THAT OBJECTS TO THE TERMINATION OF A TRUST SHALL SEND WRITTEN OBJECTION TO THE TERMINATION.

(2) THE WRITTEN OBJECTION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PERSONALLY DELIVERED OR MAILED BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, WITHIN 60 DAYS AFTER THE DATE ON WHICH NOTICE THAT IS SENT UNDER SUBSECTION (C)(1) OF THIS SECTION IS RECEIVED BY THE OBJECTING PARTY, TO THE TRUSTEE PROPOSING TO TERMINATE THE TRUST AT THE ADDRESS IN THE NOTICE.

(E) (1) IF NO QUALIFIED BENEFICIARY OR COTRUSTEE DELIVERS A TIMELY OBJECTION IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE TRUST SHALL BE TERMINATED AND THE TRUST ESTATE SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (F) OF THIS SECTION.

(2) IF A QUALIFIED BENEFICIARY OR COTRUSTEE DELIVERS A TIMELY WRITTEN OBJECTION IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE TRUST MAY NOT BE TERMINATED UNLESS THE OBJECTION IS WITHDRAWN IN WRITING BY THE OBJECTING PARTY WITHIN 90 DAYS AFTER RECEIPT OF THE NOTICE BY THE OBJECTING PARTY.

(F) (1) A TRUST ESTATE THAT IS TERMINATED UNDER THIS SECTION SHALL BE DISTRIBUTED IN ANY MANNER UNANIMOUSLY AGREED ON BY ALL QUALIFIED BENEFICIARIES.

(2) (I) IF THE QUALIFIED BENEFICIARIES DO NOT UNANIMOUSLY AGREE TO A MANNER OF DISTRIBUTION, THE DISTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE PROVISIONS OF THIS PARAGRAPH.

(II) A QUALIFIED BENEFICIARY THAT HAS A PRESENT INTEREST IN THE TRUST ESTATE SHALL RECEIVE AN AMOUNT EQUAL TO THE PRESENT VALUE OF AN ANNUITY EQUAL TO THE PROPORTIONATE SHARE OF THE QUALIFIED BENEFICIARY OF THE AVERAGE NET ANNUAL INCOME OF THE TRUST AS OF THE LAST THREE ANNIVERSARY DATES OF THE TRUST FOR A TERM

EQUAL TO THE LIFE EXPECTANCY OF THE QUALIFIED BENEFICIARY, AT THE INTEREST RATE FOR VALUING VESTED BENEFITS PROVIDED BY THE PENSION BENEFIT GUARANTY CORPORATION FOR THE MONTH IMMEDIATELY PRECEDING THE DATE ON WHICH THE NOTICE UNDER SUBSECTION (C)(1) OF THIS SECTION IS SENT.

(III) THE AMOUNT OF THE TRUST ESTATE REMAINING AFTER DISTRIBUTION TO QUALIFIED BENEFICIARIES HAVING A PRESENT INTEREST IN THE TRUST ESTATE SHALL BE DISTRIBUTED TO QUALIFIED BENEFICIARIES HAVING A FUTURE INTEREST IN THE TRUST ESTATE IN WHATEVER PROPORTIONS ARE PROVIDED FOR UNDER THE TERMS OF THE GOVERNING INSTRUMENT UNDER WHICH THE TRUST WAS CREATED.

(G) THE EXISTENCE OF SPENDTHRIFT OR SIMILAR PROTECTIVE LANGUAGE IN THE GOVERNING INSTRUMENT UNDER WHICH THE TRUST WAS CREATED MAY NOT PREVENT TERMINATION UNDER THIS SECTION.

(H) ALL EXPENSES INCURRED BY THE TRUSTEE INCIDENT TO THE TERMINATION OF A TRUST UNDER THIS SECTION SHALL BE PAID BY THE TRUST ESTATE.

(I) A DISTRIBUTION TO A MINOR QUALIFIED BENEFICIARY SHALL BE MADE TO THE CUSTODIAN OF THE MINOR UNDER THE MARYLAND UNIFORM TRANSFERS TO MINORS ACT.

(J) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF A TRUSTEE TO TERMINATE A TRUST IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE GOVERNING INSTRUMENT UNDER WHICH THE TRUST WAS CREATED.

(K) A TRUST MAY BE TERMINATED UNDER THIS SECTION IF:

(1) THE TRUSTEE HAS DETERMINED THAT TERMINATION OF THE TRUST IS IN THE BEST INTERESTS OF THE QUALIFIED BENEFICIARIES; AND

(2) THE GOVERNING INSTRUMENT DOES NOT EXPRESSLY PROHIBIT TERMINATION OF THE TRUST REGARDLESS OF THE SIZE OF THE TRUST.

(L) A TRUST MAY NOT BE TERMINATED UNDER THIS SECTION IF:

(1) THE PROVISIONS OF THE GOVERNING INSTRUMENT MAKE THE TRUST ELIGIBLE TO QUALIFY FOR THE MARITAL DEDUCTION FOR UNITED STATES ESTATE TAX OR FOR UNITED STATES GIFT TAX PURPOSES UNDER THE

INTERNAL REVENUE CODE OF 1986, AS AMENDED, UNLESS ALL QUALIFIED BENEFICIARIES AGREE THAT ALL OF THE TRUST ESTATE SHALL BE DISTRIBUTED TO THE SPOUSE OF THE CREATOR OF THE TRUST; OR

(2) THE PROVISIONS OF THE GOVERNING INSTRUMENT MAKE THE TRUST QUALIFY, IN WHOLE OR IN PART, FOR A CHARITABLE DEDUCTION FOR UNITED STATES ESTATE TAX, UNITED STATES GIFT TAX, OR UNITED STATES INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, UNLESS ALL QUALIFIED BENEFICIARIES AGREE THAT ALL OF THE TRUST ESTATE SHALL BE DISTRIBUTED TO ONE OR MORE QUALIFIED BENEFICIARIES THAT QUALIFY FOR THE CHARITABLE DEDUCTION UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

14.5–413.

THE COURT MAY REFORM THE TERMS OF A TRUST, EVEN IF UNAMBIGUOUS, TO CONFORM THE TERMS TO THE INTENTION OF THE SETTLOR IF IT IS PROVED BY CLEAR AND CONVINCING EVIDENCE THAT BOTH THE INTENT OF THE SETTLOR AND THE TERMS OF THE TRUST WERE AFFECTED BY A MISTAKE OF FACT OR LAW, WHETHER IN EXPRESSION OR INDUCEMENT.

14.5–414.

(A) TO ACHIEVE THE TAX OBJECTIVES OF THE SETTLOR, THE COURT MAY MODIFY THE TERMS OF A TRUST IN A MANNER THAT IS NOT CONTRARY TO THE PROBABLE INTENTION OF THE SETTLOR.

(B) THE COURT MAY PROVIDE THAT THE MODIFICATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION HAS RETROACTIVE EFFECT.

14.5–415.

(A) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION, ON PETITION BY A TRUSTEE, PERSONAL REPRESENTATIVE, BENEFICIARY, OR PARTY IN INTEREST, AFTER NOTICE AS THE COURT MAY DIRECT TO THE TRUSTEES, PERSONAL REPRESENTATIVES, BENEFICIARIES, AND PARTIES IN INTEREST, AND FOR GOOD CAUSE SHOWN, A COURT MAY:

(I) DIVIDE A TRUST INTO TWO OR MORE SEPARATE TRUSTS; OR

(II) CONSOLIDATE TWO OR MORE TRUSTS INTO A SINGLE TRUST.

(2) A COURT MAY DIVIDE A TRUST OR CONSOLIDATE TRUSTS:

(I) ON TERMS AND CONDITIONS AS THE COURT CONSIDERS APPROPRIATE; AND

(II) IF THE COURT IS SATISFIED THAT A DIVISION OF A TRUST OR CONSOLIDATION OF TRUSTS WILL NOT DEFEAT OR MATERIALLY IMPAIR:

1. THE ACCOMPLISHMENT OF TRUST PURPOSES; OR

2. THE INTERESTS OF THE BENEFICIARIES.

(3) A COURT MAY PASS ORDERS THAT THE COURT CONSIDERS PROPER OR NECESSARY TO PROTECT THE INTERESTS OF:

(I) A TRUSTEE;

(II) A PERSONAL REPRESENTATIVE;

(III) A BENEFICIARY; OR

(IV) A PARTY IN INTEREST.

(B) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF A TRUSTEE OR PERSONAL REPRESENTATIVE TO DIVIDE A TRUST OR CONSOLIDATE TRUSTS, WITHOUT AN ORDER OF A COURT, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE GOVERNING INSTRUMENT.

SUBTITLE 5. CREDITOR'S CLAIMS; SPENDTHRIFT AND DISCRETIONARY TRUSTS.

14.5–501.

(A) A COURT MAY AUTHORIZE A CREDITOR OR AN ASSIGNEE OF A BENEFICIARY TO REACH THE INTEREST OF THE BENEFICIARY BY ATTACHMENT OF PRESENT OR FUTURE DISTRIBUTIONS TO OR FOR THE BENEFIT OF THE BENEFICIARY OR BY OTHER MEANS IF THAT INTEREST IS NOT SUBJECT TO A DISCRETIONARY DISTRIBUTION PROVISION, A SUPPORT PROVISION, OR A SPENDTHRIFT PROVISION.

(B) THE COURT MAY LIMIT THE AMOUNT, TIMING, OR OTHER TERMS AND CONDITIONS OF AN AWARD UNDER THIS SECTION TO RELIEF AS IS

APPROPRIATE UNDER THE CIRCUMSTANCES CONSIDERING, AMONG OTHER FACTORS:

(1) THE SUPPORT NEEDS OF THE BENEFICIARY, THE SPOUSE OF THE BENEFICIARY, THE FORMER SPOUSE OF THE BENEFICIARY, AND THE DEPENDENT CHILDREN OF THE BENEFICIARY;

(2) WITH RESPECT TO A BENEFICIARY THAT IS THE RECIPIENT OF PUBLIC BENEFITS, THE SUPPLEMENTAL NEEDS OF THE BENEFICIARY IF THE TRUST WAS NOT INTENDED TO PROVIDE FOR THE BASIC SUPPORT OF THE BENEFICIARY; AND

(3) THE AMOUNT OF THE CLAIM OF THE CREDITOR OR ASSIGNEE AND THE LIKELY PROCEEDS THAT A SALE WOULD PRODUCE AS COMPARED TO THE POTENTIAL VALUE OF THE INTEREST TO THE BENEFICIARY.

14.5–502.

(A) (1) A BENEFICIARY OF A DISCRETIONARY DISTRIBUTION PROVISION HAS NO PROPERTY RIGHT IN A TRUST INTEREST THAT IS SUBJECT TO A DISCRETIONARY DISTRIBUTION PROVISION.

(2) A BENEFICIAL INTEREST THAT IS SUBJECT TO A DISCRETIONARY DISTRIBUTION PROVISION MAY NOT BE JUDICIALLY FORECLOSED, ATTACHED BY A CREDITOR, OR TRANSFERRED BY THE BENEFICIARY.

(B) (1) THE CREDITOR OF THE BENEFICIARY OF A DISCRETIONARY DISTRIBUTION PROVISION CREATED BY SOMEONE OTHER THAN THAT BENEFICIARY HAS NO ENFORCEABLE RIGHT TO TRUST INCOME OR PRINCIPAL THAT MAY BE DISTRIBUTED ONLY IN THE EXERCISE OF THE DISCRETION OF THE TRUSTEE.

(2) TRUST PROPERTY THAT IS SUBJECT TO A DISCRETIONARY DISTRIBUTION PROVISION IS NOT SUBJECT TO THE ENFORCEMENT OF A JUDGMENT UNTIL INCOME OR PRINCIPAL OR BOTH IS DISTRIBUTED DIRECTLY TO THE BENEFICIARY.

(C) A CREDITOR OF A BENEFICIARY MAY NOT COMPEL A DISTRIBUTION THAT IS SUBJECT TO A DISCRETIONARY DISTRIBUTION PROVISION CREATED BY SOMEONE OTHER THAN THAT BENEFICIARY.

(D) A TRUST MAY CONTAIN A DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO ONE OR MORE BUT LESS THAN ALL BENEFICIARIES.

(E) IF A BENEFICIARY OF A DISCRETIONARY DISTRIBUTION PROVISION HAS A POWER OF WITHDRAWAL CREATED BY SOMEONE OTHER THAN THAT BENEFICIARY:

(1) DURING THE PERIOD THE POWER MAY BE EXERCISED, THE PORTION OF THE TRUST THE BENEFICIARY MAY WITHDRAW MAY NOT BE DEEMED TO BE SUBJECT TO THE DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT BENEFICIARY;

(2) DURING THE PERIOD THE POWER MAY BE EXERCISED, THE PORTION OF THE TRUST THE BENEFICIARY MAY NOT WITHDRAW SHALL BE DEEMED TO BE SUBJECT TO THE DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT BENEFICIARY; AND

(3) DURING PERIODS IN WHICH THE BENEFICIARY DOES NOT HAVE A POWER OF WITHDRAWAL, THE TRUST INTEREST OF THE BENEFICIARY SHALL BE DEEMED TO BE SUBJECT TO THE DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT BENEFICIARY.

(F) IF A BENEFICIARY AND ONE OR MORE OTHERS HAVE MADE CONTRIBUTIONS TO A TRUST SUBJECT TO A DISCRETIONARY DISTRIBUTION PROVISION, THE PORTION OF THE TRUST ATTRIBUTABLE TO THE CONTRIBUTIONS OF THE BENEFICIARY MAY NOT BE DEEMED TO BE SUBJECT TO THAT DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT BENEFICIARY, BUT THE PORTION OF THE TRUST ATTRIBUTABLE TO THE CONTRIBUTIONS OF OTHERS SHALL BE DEEMED TO BE SUBJECT TO THE DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT BENEFICIARY.

(G) THE INTEREST OF A BENEFICIARY WHO IS BLIND OR DISABLED AS DEFINED IN 42 U.S.C. § 1382C(A)(3) MAY BE SUBJECT TO A DISCRETIONARY DISTRIBUTION PROVISION NOTWITHSTANDING:

(1) PRECATORY LANGUAGE IN THE TRUST INSTRUMENT REGARDING THE INTENDED PURPOSE OF THE TRUST OF PROVIDING SUPPLEMENTAL GOODS AND SERVICES TO OR FOR THE BENEFIT OF THE BENEFICIARY, AND NOT TO SUPPLANT BENEFITS FROM PUBLIC ASSISTANCE PROGRAMS; OR

(2) A PROHIBITION AGAINST PROVIDING FOOD, CLOTHING, AND SHELTER TO THE BENEFICIARY.

14.5–503.

(A) EXCEPT AS PROVIDED IN §§ 14.5–505 AND 14.5–506(B) OF THIS SUBTITLE:

(1) A BENEFICIAL INTEREST THAT IS SUBJECT TO A SUPPORT PROVISION MAY NOT BE JUDICIALLY FORECLOSED, ATTACHED BY A CREDITOR, OR TRANSFERRED BY THE BENEFICIARY; AND

(2) TRUST PROPERTY THAT IS SUBJECT TO A SUPPORT PROVISION IS NOT SUBJECT TO THE ENFORCEMENT OF A JUDGMENT UNTIL INCOME OR PRINCIPAL OR BOTH IS DISTRIBUTED DIRECTLY TO THE BENEFICIARY.

(B) (1) THE USE, OCCUPANCY, AND ENJOYMENT OF A SINGLE PARCEL OF RESIDENTIAL REAL PROPERTY, AS DESIGNATED BY THE TRUSTEE, AND TANGIBLE PERSONAL PROPERTY BY A BENEFICIARY WHOSE INTEREST IS SUBJECT TO A SUPPORT PROVISION MAY NOT BE TRANSFERRED BY THE BENEFICIARY OF THE USE, OCCUPANCY, OR ENJOYMENT.

(2) THE USE, OCCUPANCY, AND ENJOYMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ARE NOT SUBJECT TO THE ENFORCEMENT OF A JUDGMENT AGAINST THE BENEFICIARY.

14.5–504.

(A) A SPENDTHRIFT PROVISION IS VALID AND ENFORCEABLE.

(B) A PROVISION OF A TRUST PROVIDING THAT THE INTEREST OF A BENEFICIARY IS HELD SUBJECT TO A "SPENDTHRIFT TRUST", OR WORDS OF SIMILAR IMPORT, RESTRAINS BOTH VOLUNTARY AND INVOLUNTARY TRANSFER OF THE BENEFICIARY'S INTEREST.

(C) A BENEFICIAL INTEREST THAT IS SUBJECT TO A SPENDTHRIFT PROVISION MAY NOT BE JUDICIALLY FORECLOSED OR ATTACHED BY A CREDITOR.

(D) (1) A BENEFICIARY MAY NOT TRANSFER AN INTEREST IN A TRUST IN VIOLATION OF A VALID SPENDTHRIFT PROVISION AND, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A CREDITOR OR AN ASSIGNEE OF THE BENEFICIARY MAY NOT REACH THE INTEREST OR A DISTRIBUTION BY THE

TRUSTEE BEFORE THE RECEIPT BY THE BENEFICIARY OF THE INTEREST OR DISTRIBUTION.

(2) AN ATTEMPT BY A BENEFICIARY TO TRANSFER AN INTEREST IN A TRUST IN VIOLATION OF A VALID SPENDTHRIFT PROVISION SHALL BE VOID AND OF NO EFFECT.

(E) (1) THE USE, OCCUPANCY, AND ENJOYMENT OF A SINGLE PARCEL OF RESIDENTIAL REAL PROPERTY, AS DESIGNATED BY THE TRUSTEE, AND TANGIBLE PERSONAL PROPERTY BY A BENEFICIARY WHOSE INTEREST IS SUBJECT TO A SPENDTHRIFT PROVISION MAY NOT BE TRANSFERRED.

(2) THE USE, OCCUPANCY, AND ENJOYMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ARE NOT SUBJECT TO THE ENFORCEMENT OF A JUDGMENT AGAINST THE BENEFICIARY.

14.5–505.

(A) IN THIS SECTION, "CHILD" INCLUDES ANY PERSON FOR WHOM AN ORDER OR A JUDGMENT FOR CHILD SUPPORT HAS BEEN ENTERED IN THIS STATE OR ANOTHER STATE.

(B) SUBJECT TO THE PROVISIONS OF § 14.5–502 OF THIS SUBTITLE, THE INTEREST OF A BENEFICIARY THAT IS SUBJECT TO EITHER A SPENDTHRIFT PROVISION OR A SUPPORT PROVISION OR BOTH CAN BE REACHED IN SATISFACTION OF AN ENFORCEABLE CLAIM AGAINST THE BENEFICIARY BY THE FOLLOWING:

(1) A CHILD, SPOUSE, OR FORMER SPOUSE OF THE BENEFICIARY THAT HAS A JUDGMENT OR COURT ORDER AGAINST THE BENEFICIARY FOR SUPPORT OR MAINTENANCE;

(2) A JUDGMENT CREDITOR THAT HAS PROVIDED SERVICES FOR THE PROTECTION OF THE INTEREST OF A BENEFICIARY IN THE TRUST; OR

(3) A CLAIM OF THIS STATE OR THE UNITED STATES TO THE EXTENT A STATUTE OF THIS STATE OR FEDERAL LAW SO PROVIDES.

(C) (1) A CLAIMANT DESCRIBED IN SUBSECTION (B) OF THIS SECTION MAY OBTAIN FROM A COURT AN ORDER ATTACHING PRESENT OR FUTURE DISTRIBUTIONS TO OR FOR THE BENEFIT OF THE BENEFICIARY.

(2) THE COURT MAY ONLY ORDER THE TRUSTEE TO SATISFY ALL OR PART OF THE JUDGMENT OUT OF PAYMENTS OF INCOME OR PRINCIPAL AS THEY BECOME DUE.

(3) THE COURT MAY LIMIT THE AWARD TO SUCH RELIEF AS IS APPROPRIATE UNDER THE CIRCUMSTANCES, CONSIDERING AMONG ANY OTHER FACTORS DETERMINED APPROPRIATE BY THE COURT:

(I) THE SUPPORT NEEDS OF THE BENEFICIARY'S SPOUSE, FORMER SPOUSE, AND DEPENDENT CHILDREN;

(II) THE SUPPORT NEEDS OF THE BENEFICIARY; OR

(III) WITH RESPECT TO A BENEFICIARY THAT IS THE RECIPIENT OF PUBLIC BENEFITS, THE SUPPLEMENTAL NEEDS OF THE BENEFICIARY IF THE TRUST WAS NOT INTENDED TO PROVIDE FOR THE BASIC SUPPORT OF THE BENEFICIARY.

14.5–506.

(A) TO THE EXTENT THAT THE INTEREST OF A BENEFICIARY SUBJECT TO A MANDATORY DISTRIBUTION PROVISION, OTHER THAN A SUPPORT PROVISION, DOES NOT CONTAIN A SPENDTHRIFT PROVISION, THE COURT MAY AUTHORIZE A CREDITOR OR AN ASSIGNEE OF THE BENEFICIARY TO ATTACH PRESENT OR FUTURE MANDATORY DISTRIBUTIONS TO OR FOR THE BENEFIT OF THE BENEFICIARY, OR TO REACH THE BENEFICIARY'S INTEREST BY OTHER MEANS, AS PROVIDED IN § 14.5–501 OF THIS SUBTITLE.

(B) A CREDITOR OR AN ASSIGNEE OF A BENEFICIARY MAY REACH A MANDATORY DISTRIBUTION OF A TRUST IF THE TRUSTEE HAS NOT MADE THE DISTRIBUTION TO THE BENEFICIARY WITHIN A REASONABLE TIME AFTER THE DESIGNATED DISTRIBUTION DATE, WHETHER OR NOT THE TRUST CONTAINS A SPENDTHRIFT PROVISION OR A SUPPORT PROVISION.

14.5–507.

(A) (1) A POWER OF APPOINTMENT HELD BY A PERSON OTHER THAN THE SETTLOR OF THE TRUST IS NOT A PROPERTY INTEREST.

(2) A POWER OF APPOINTMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION AND PROPERTY SUBJECT TO THAT POWER OF APPOINTMENT MAY NOT BE JUDICIALLY FORECLOSED OR ATTACHED BY A CREDITOR OF THE HOLDER OF THE POWER.

(B) NONE OF THE FOLLOWING SHALL BE SUFFICIENT TO CREATE A GENERAL POWER OF APPOINTMENT OR A POWER OF WITHDRAWAL WITH RESPECT TO A BENEFICIARY OR SETTLOR:

(1) THE BENEFICIARY SERVING AS A TRUSTEE OR COTRUSTEE;

(2) THE SETTLOR OR THE BENEFICIARY HOLDING AN UNRESTRICTED POWER TO REMOVE OR REPLACE A TRUSTEE;

(3) THE SETTLOR OR THE BENEFICIARY OF A TRUST SERVING AS A TRUST ADMINISTRATOR, A PARTNER OF A PARTNERSHIP, A MANAGER OF A LIMITED LIABILITY COMPANY, OR AN OFFICER OF A CORPORATION, OR SERVING IN ANOTHER MANAGERIAL FUNCTION OF ANOTHER TYPE OF ENTITY IF PART OR ALL OF THE TRUST PROPERTY CONSISTS OF AN INTEREST IN THE ENTITY;

(4) A PERSON RELATED BY BLOOD OR ADOPTION TO THE SETTLOR OR THE BENEFICIARY SERVING AS TRUSTEE OF THE TRUST;

(5) THE AGENT, ACCOUNTANT, ATTORNEY, FINANCIAL ADVISER, OR FRIEND OF THE SETTLOR OR BENEFICIARY SERVING AS TRUSTEE OF THE TRUST;

(6) A BUSINESS ASSOCIATE OF THE SETTLOR OR THE BENEFICIARY SERVING AS TRUSTEE OF THE TRUST;

(7) A POWER OF APPOINTMENT HELD BY THE SETTLOR OTHER THAN THE RESERVED POWER OF THE SETTLOR TO WITHDRAW TRUST PROPERTY FOR THE BENEFIT OF THE SETTLOR, THE CREDITORS OF THE SETTLOR, THE ESTATE OF THE SETTLOR, OR THE CREDITORS OF THE ESTATE OF THE SETTLOR;

(8) A POWER TO SUBSTITUTE PROPERTY OF EQUIVALENT VALUE FOR TRUST PROPERTY AS DEFINED IN § 675(4)(C) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; OR

(9) A POWER TO BORROW TRUST PROPERTY FOR LESS THAN ADEQUATE INTEREST OR WITHOUT SECURITY AS DEFINED IN § 675(2) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

14.5–508.

(A) THE FOLLOWING RULES APPLY, WHETHER OR NOT THE TERMS OF A TRUST CONTAIN A SPENDTHRIFT PROVISION:

(1) DURING THE LIFETIME OF THE SETTLOR, THE PROPERTY OF A REVOCABLE TRUST IS SUBJECT TO CLAIMS OF THE CREDITORS OF THE SETTLOR;

(2) WITH RESPECT TO AN IRREVOCABLE TRUST, A CREDITOR OR AN ASSIGNEE OF THE SETTLOR MAY REACH ONLY THE LESSER OF:

(I) THE CLAIM OF THE CREDITOR OR ASSIGNEE; AND

(II) THE MAXIMUM AMOUNT THAT CAN BE DISTRIBUTED TO OR FOR THE BENEFIT OF THE SETTLOR;

(3) IF A TRUST HAS MORE THAN ONE SETTLOR, THE AMOUNT THE CREDITOR OR ASSIGNEE OF A PARTICULAR SETTLOR MAY REACH MAY NOT EXCEED THE INTEREST OF THE SETTLOR IN THE PORTION OF THE TRUST ATTRIBUTABLE TO THE CONTRIBUTION OF THAT SETTLOR;

(4) WITH RESPECT TO A TRUST DESCRIBED IN 42 U.S.C. § 1396P(D)(4)(A) OR (C), THE COURT MAY LIMIT THE AWARD OF THE CREDITOR OF A SETTLOR UNDER ITEMS (1) AND (2) OF THIS SUBSECTION TO THE RELIEF THAT IS APPROPRIATE UNDER THE CIRCUMSTANCES, CONSIDERING AMONG OTHER FACTORS DETERMINED APPROPRIATE BY THE COURT, THE SUPPLEMENTAL NEEDS OF THE BENEFICIARY; AND

(5) ~~(I) EXCEPT AS PROVIDED IN THIS ITEM, AFTER~~ AFTER THE DEATH OF A SETTLOR, AND SUBJECT TO THE RIGHT OF THE SETTLOR TO DIRECT THE SOURCE FROM WHICH LIABILITIES WILL BE PAID, THE PROPERTY OF A TRUST THAT WAS REVOCABLE AT THE DEATH OF THE SETTLOR IS SUBJECT TO CLAIMS OF THE CREDITORS OF THE SETTLOR.

~~**(II) IF A CLAIM IS OR WOULD BE BARRED AGAINST THE PROBATE ESTATE OF THE SETTLOR UNDER § 8–103 OF THIS ARTICLE, THAT CLAIM IS BARRED AGAINST THE TRUSTEE AND THE PROPERTY OF THE REVOCABLE TRUST.**~~

~~**(B) AN INDIVIDUAL WHO CREATES A TRUST MAY NOT BE CONSIDERED A SETTLOR WITH REGARD TO THE RETAINED BENEFICIAL INTEREST OF THE INDIVIDUAL IN THE TRUST IF:**~~

~~**(1) THE INDIVIDUAL CREATES, OR HAS CREATED, THE TRUST FOR THE BENEFIT OF THE SPOUSE OF THE INDIVIDUAL;**~~

~~(2) THE TRUST IS TREATED AS QUALIFIED TERMINABLE INTEREST PROPERTY UNDER § 2523(F) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; AND~~

~~(3) THE RETAINED BENEFICIAL INTEREST OF THE INDIVIDUAL IN THE TRUST INCOME, TRUST PRINCIPAL, OR BOTH, FOLLOWS THE TERMINATION OF THE PRIOR BENEFICIAL INTEREST OF THE SPOUSE OF THE INDIVIDUAL IN THE TRUST.~~

~~(C)~~ (B) (1) DURING THE PERIOD THE POWER OF WITHDRAWAL MAY BE EXERCISED, THE HOLDER OF A POWER OF WITHDRAWAL SHALL BE TREATED IN THE SAME MANNER AS THE SETTLOR OF A REVOCABLE TRUST TO THE EXTENT OF THE PROPERTY SUBJECT TO THAT POWER.

(2) AFTER THE LAPSE, WAIVER, OR RELEASE OF A POWER OF WITHDRAWAL, THE FORMER POWER HOLDER SHALL NO LONGER BE CONSIDERED A SETTLOR OF THE TRUST.

14.5–509.

TRUST PROPERTY IS NOT SUBJECT TO PERSONAL OBLIGATIONS OF THE TRUSTEE OF THE TRUST, EVEN IF THE TRUSTEE BECOMES INSOLVENT OR BANKRUPT.

14.5–510.

(A) A CREDITOR MAY NOT ATTACH, EXERCISE, REACH, OR OTHERWISE COMPEL DISTRIBUTION OF THE BENEFICIAL INTEREST OF A BENEFICIARY THAT IS A TRUSTEE OR THE SOLE TRUSTEE OF THE TRUST, BUT THAT IS NOT A SETTLOR OF THE TRUST, EXCEPT TO THE EXTENT THAT THE INTEREST WOULD BE SUBJECT TO THE CLAIM OF THE CREDITOR WERE THE BENEFICIARY NOT ACTING AS COTRUSTEE OR SOLE TRUSTEE OF THE TRUST.

(B) A CREDITOR MAY NOT ATTACH, EXERCISE, REACH, OR OTHERWISE COMPEL DISTRIBUTION OF THE BENEFICIAL INTEREST OF A BENEFICIARY OR ANY OTHER PERSON THAT HOLDS AN UNCONDITIONAL OR CONDITIONAL POWER TO REMOVE A TRUSTEE, TO REPLACE A TRUSTEE, OR TO REMOVE AND REPLACE A TRUSTEE, EXCEPT TO THE EXTENT THAT THE INTEREST WOULD BE SUBJECT TO THE CLAIM OF THE CREDITOR IF THE BENEFICIARY OR OTHER PERSON DID NOT HAVE THE POWER TO REMOVE, REPLACE, OR REMOVE AND REPLACE A TRUSTEE.

14.5–511.

(A) IN THIS SECTION, "PROCEEDS" MEANS:

(1) PROPERTY ACQUIRED BY THE TRUSTEE ON THE SALE, LEASE, LICENSE, EXCHANGE, OR OTHER DISPOSITION OF PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE OR TRUSTEES;

(2) PROPERTY COLLECTED BY THE TRUSTEE ON, OR DISTRIBUTED ON ACCOUNT OF, PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE OR TRUSTEES;

(3) RIGHTS ARISING OUT OF PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE;

(4) CLAIMS ARISING OUT OF THE LOSS, NONCONFORMITY, OR INTERFERENCE WITH THE USE OF, DEFECTS OR INFRINGEMENT OF RIGHTS IN, OR DAMAGE TO PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE;

(5) INSURANCE PAYABLE BY REASON OF THE LOSS OR NONCONFORMITY OF, DEFECTS OR INFRINGEMENT OF RIGHTS IN, OR DAMAGE TO PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE; OR

(6) PROPERTY HELD BY THE TRUSTEE THAT IS OTHERWISE TRACEABLE TO PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE OR THE PROPERTY PROCEEDS DESCRIBED IN ITEMS (1) THROUGH (5) OF THIS SUBSECTION.

(B) PROPERTY OF A HUSBAND AND WIFE THAT WAS HELD BY THEM AS TENANTS BY THE ENTIRETY AND SUBSEQUENTLY CONVEYED TO THE TRUSTEE OR TRUSTEES OF ONE OR MORE TRUSTS, AND THE PROCEEDS OF THAT PROPERTY, SHALL HAVE THE SAME IMMUNITY FROM THE CLAIMS OF THE SEPARATE CREDITORS OF THE HUSBAND AND WIFE AS WOULD EXIST IF THE HUSBAND AND WIFE HAD CONTINUED TO HOLD THE PROPERTY OR THE PROCEEDS FROM THE PROPERTY AS TENANTS BY THE ENTIRETY, AS LONG AS:

(1) THE HUSBAND AND WIFE REMAIN MARRIED;

(2) THE PROPERTY OR THE PROCEEDS FROM THE PROPERTY CONTINUE TO BE HELD IN TRUST BY THE TRUSTEE OR TRUSTEES OR THE SUCCESSORS IN TRUST OF THE TRUSTEE OR TRUSTEES;

(3) BOTH THE HUSBAND AND WIFE ARE BENEFICIARIES OF THE TRUST OR TRUSTS; AND

(4) THE TRUST INSTRUMENT, DEED, OR OTHER INSTRUMENT OF CONVEYANCE PROVIDES THAT THIS SECTION SHALL APPLY TO THE PROPERTY OR THE PROCEEDS FROM THE PROPERTY.

(C) (1) AFTER THE DEATH OF THE FIRST OF THE HUSBAND OR WIFE TO DIE, ALL PROPERTY HELD IN TRUST THAT WAS IMMUNE FROM THE CLAIMS OF THEIR SEPARATE CREDITORS UNDER SUBSECTION (B) OF THIS SECTION IMMEDIATELY PRIOR TO THE DEATH OF THE INDIVIDUAL SHALL CONTINUE TO HAVE THE SAME IMMUNITY FROM THE CLAIMS OF THE SEPARATE CREDITORS OF THE DECEDENT AS WOULD HAVE EXISTED IF THE HUSBAND AND WIFE HAD CONTINUED TO HOLD THE PROPERTY CONVEYED IN TRUST, OR THE PROCEEDS FROM THE PROPERTY, AS TENANTS BY THE ENTIRETY.

(2) TO THE EXTENT THAT THE SURVIVING SPOUSE REMAINS A BENEFICIARY OF THE TRUST, THE PROPERTY THAT WAS IMMUNE FROM THE CLAIMS OF THE SEPARATE CREDITORS OF THE DECEDENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBJECT TO THE CLAIMS OF THE SEPARATE CREDITORS OF THE SURVIVING SPOUSE.

(D) THE IMMUNITY FROM THE CLAIMS OF SEPARATE CREDITORS UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION MAY BE WAIVED, AS TO EACH SPECIFIC CREDITOR OR ALL SEPARATE CREDITORS OF A HUSBAND AND WIFE OR SPECIFICALLY DESCRIBED TRUST PROPERTY, OR ALL FORMER TENANCY BY THE ENTIRETY PROPERTY CONVEYED TO THE TRUSTEE OR TRUSTEES, BY:

(1) THE EXPRESS PROVISIONS OF A TRUST INSTRUMENT; OR

(2) THE WRITTEN CONSENT OF BOTH THE HUSBAND AND THE WIFE.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IMMUNITY FROM THE CLAIMS OF SEPARATE CREDITORS UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION SHALL BE WAIVED IF A TRUSTEE EXECUTES AND DELIVERS A FINANCIAL STATEMENT FOR THE TRUST THAT FAILS TO DISCLOSE THE REQUESTED IDENTITY OF PROPERTY HELD IN TRUST THAT IS IMMUNE FROM THE CLAIMS OF SEPARATE CREDITORS.

(2) IMMUNITY IS NOT WAIVED UNDER THIS SUBSECTION IF THE IDENTITY OF THE PROPERTY THAT IS IMMUNE FROM THE CLAIMS OF SEPARATE CREDITORS IS OTHERWISE REASONABLY DISCLOSED BY:

(I) A PUBLICLY RECORDED DEED OR OTHER INSTRUMENT OF CONVEYANCE BY THE HUSBAND AND WIFE TO THE TRUSTEE;

(II) A WRITTEN MEMORANDUM BY THE HUSBAND AND WIFE, OR BY A TRUSTEE, THAT IS RECORDED AMONG THE LAND RECORDS OR OTHER PUBLIC RECORDS IN THE COUNTY OR OTHER JURISDICTION WHERE THE RECORDS OF THE TRUST ARE REGULARLY MAINTAINED; OR

(III) THE TERMS OF THE TRUST INSTRUMENT, INCLUDING A SCHEDULE OR EXHIBIT ATTACHED TO THE TRUST INSTRUMENT, IF A COPY OF THE TRUST INSTRUMENT IS PROVIDED WITH THE FINANCIAL STATEMENT.

(3) A WAIVER UNDER THIS SUBSECTION SHALL BE EFFECTIVE ONLY AS TO:

(I) THE PERSON TO WHOM THE FINANCIAL STATEMENT IS DELIVERED BY THE TRUSTEE;

(II) THE PARTICULAR TRUST PROPERTY HELD IN TRUST FOR WHICH THE IMMUNITY FROM THE CLAIMS OF SEPARATE CREDITORS IS INSUFFICIENTLY DISCLOSED ON THE FINANCIAL STATEMENT; AND

(III) THE TRANSACTION FOR WHICH THE DISCLOSURE WAS SOUGHT.

(F) IN A DISPUTE RELATING TO THE IMMUNITY OF TRUST PROPERTY FROM THE CLAIMS OF A SEPARATE CREDITOR OF A HUSBAND OR WIFE, THE TRUSTEE HAS THE BURDEN OF PROVING THE IMMUNITY OF THE TRUST PROPERTY FROM THE CLAIMS OF THE CREDITOR.

(G) AFTER A CONVEYANCE TO A TRUSTEE DESCRIBED IN SUBSECTION (B) OF THIS SECTION, THE PROPERTY TRANSFERRED SHALL NO LONGER BE HELD BY THE HUSBAND AND WIFE AS TENANTS BY THE ENTIRETY.

(H) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT EXISTING STATE LAW WITH RESPECT TO A TENANCY BY THE ENTIRETY.

(I) THIS SECTION APPLIES ONLY TO TENANCY BY THE ENTIRETY PROPERTY CONVEYED TO A TRUSTEE OR TRUSTEES ON OR AFTER OCTOBER 1, 2010.

SUBTITLE 6. REVOCABLE TRUSTS.

14.5–601.

(A) THE CAPACITY REQUIRED TO CREATE, AMEND, REVOKE, OR ADD PROPERTY TO A REVOCABLE TRUST, OR TO DIRECT THE ACTIONS OF THE TRUSTEE OF A REVOCABLE TRUST, IS THE SAME AS THAT REQUIRED TO MAKE A WILL.

(B) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE CREATION OF A REVOCABLE TRUST IF THAT CREATION IS OTHERWISE AUTHORIZED UNDER STATE LAW.

(C) THE FACT THAT THE SETTLOR BECOMES INCAPACITATED DOES NOT CONVERT A REVOCABLE TRUST INTO AN IRREVOCABLE TRUST.

14.5–602.

(A) (1) UNLESS THE TERMS OF A TRUST EXPRESSLY PROVIDE THAT THE TRUST IS IRREVOCABLE, THE SETTLOR MAY REVOKE OR AMEND THE TRUST.

(2) THIS SUBSECTION DOES NOT APPLY TO A TRUST CREATED UNDER AN INSTRUMENT EXECUTED BEFORE ~~OCTOBER 1, 2014~~ JANUARY 1, 2015.

(B) IF A REVOCABLE TRUST IS CREATED OR FUNDED BY MORE THAN ONE SETTLOR:

(1) TO THE EXTENT THE TRUST CONSISTS OF COMMUNITY PROPERTY, THE TRUST MAY BE REVOKED BY EITHER SPOUSE ACTING ALONE BUT MAY BE AMENDED ONLY BY JOINT ACTION OF BOTH SPOUSES;

(2) TO THE EXTENT THE TRUST CONSISTS OF PROPERTY OTHER THAN COMMUNITY PROPERTY, EACH SETTLOR MAY REVOKE OR AMEND THE TRUST WITH REGARD TO THE PORTION OF THE TRUST PROPERTY ATTRIBUTABLE TO THE CONTRIBUTION OF THAT SETTLOR; AND

(3) ON THE REVOCATION OR AMENDMENT OF THE TRUST BY FEWER THAN ALL OF THE SETTLORS, THE TRUSTEE SHALL PROMPTLY NOTIFY THE OTHER SETTLORS OF THE REVOCATION OR AMENDMENT.

(C) THE SETTLOR MAY REVOKE OR AMEND A REVOCABLE TRUST:

(1) BY SUBSTANTIALLY COMPLYING WITH A METHOD TO REVOKE OR AMEND THE TRUST PROVIDED IN THE TERMS OF THE TRUST; OR

(2) IF THE TERMS OF THE TRUST DO NOT PROVIDE A METHOD TO REVOKE OR AMEND THE TRUST OR THE METHOD PROVIDED IN THE TERMS OF THE TRUST IS NOT EXPRESSLY MADE EXCLUSIVE, BY:

(I) A LATER WILL OR CODICIL THAT EXPRESSLY REFERS TO THE TRUST OR SPECIFICALLY DEVISES PROPERTY THAT WOULD HAVE PASSED OTHERWISE ACCORDING TO THE TERMS OF THE TRUST; OR

(II) ANOTHER METHOD MANIFESTING CLEAR AND CONVINCING EVIDENCE OF THE INTENT OF THE SETTLOR.

(D) ON REVOCATION OF A REVOCABLE TRUST, THE TRUSTEE SHALL DELIVER THE TRUST PROPERTY AS THE SETTLOR DIRECTS.

(E) THE POWERS OF A SETTLOR WITH RESPECT TO REVOCATION, AMENDMENT, OR DISTRIBUTION OF TRUST PROPERTY MAY BE EXERCISED BY AN AGENT UNDER A POWER OF ATTORNEY ONLY TO THE EXTENT EXPRESSLY AUTHORIZED BY THE TERMS OF THE TRUST AND THE POWER OF ATTORNEY.

(F) A GUARDIAN OF THE PROPERTY OF THE SETTLOR OR, IF NO GUARDIAN OF THE PROPERTY HAS BEEN APPOINTED, A GUARDIAN OF THE PERSON OF THE SETTLOR MAY EXERCISE THE POWERS OF THE SETTLOR WITH RESPECT TO REVOCATION, AMENDMENT, OR DISTRIBUTION OF TRUST PROPERTY ONLY WITH THE APPROVAL OF THE COURT SUPERVISING THE GUARDIANSHIP AND ONLY IF THE TRUST INSTRUMENT DOES NOT PROVIDE OTHERWISE.

14.5–603.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, WHILE A TRUST IS REVOCABLE, RIGHTS OF THE BENEFICIARIES ARE SUBJECT TO THE CONTROL OF THE SETTLOR AND THE DUTIES OF THE TRUSTEE ARE OWED EXCLUSIVELY TO THE SETTLOR.

(B) WHILE A TRUST IS REVOCABLE AND A SETTLOR DOES NOT HAVE THE CAPACITY TO REVOKE THE TRUST, A BENEFICIARY TO WHICH DISTRIBUTIONS MAY BE MADE DURING THE LIFETIME OF THE SETTLOR SHALL HAVE THE RIGHT TO ENFORCE THE TRUST AS IF THE TRUST WERE IRREVOCABLE.

~~**14.5–604.**~~

~~**A PERSON SHALL COMMENCE A JUDICIAL PROCEEDING TO CONTEST THE VALIDITY OF A TRUST THAT WAS REVOCABLE AT THE DEATH OF THE SETTLOR**~~

~~WITHIN 6 MONTHS AFTER THE TRUSTEE SENT THE PERSON A COPY OF THE TRUST INSTRUMENT AND A NOTICE INFORMING THE PERSON OF THE EXISTENCE OF THE TRUST, OF THE NAME AND ADDRESS OF THE TRUSTEE, AND OF THE TIME ALLOWED FOR COMMENCING A PROCEEDING.~~

SUBTITLE 7. OFFICE OF TRUSTEE.

14.5–701.

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PERSON DESIGNATED AS TRUSTEE ACCEPTS THE TRUSTEESHIP:

(1) BY SUBSTANTIALLY COMPLYING WITH A METHOD OF ACCEPTANCE PROVIDED IN THE TERMS OF THE TRUST; OR

(2) IF THE TERMS OF THE TRUST DO NOT PROVIDE A METHOD OF ACCEPTANCE OF THE TRUSTEESHIP OR THE METHOD PROVIDED IN THE TERMS IS NOT EXPRESSLY MADE EXCLUSIVE, BY ACCEPTING DELIVERY OF THE TRUST PROPERTY, EXERCISING POWERS OR PERFORMING DUTIES AS TRUSTEE, OR OTHERWISE INDICATING ACCEPTANCE OF THE TRUSTEESHIP.

(B) (1) A PERSON DESIGNATED AS TRUSTEE THAT HAS NOT YET ACCEPTED THE TRUSTEESHIP MAY REJECT THE TRUSTEESHIP.

(2) A DESIGNATED TRUSTEE THAT DOES NOT ACCEPT THE TRUSTEESHIP WITHIN A REASONABLE TIME AFTER KNOWING OF THE DESIGNATION IS DEEMED TO HAVE REJECTED THE TRUSTEESHIP.

(C) A PERSON DESIGNATED AS TRUSTEE, WITHOUT ACCEPTING THE TRUSTEESHIP, MAY:

(1) ACT TO PRESERVE THE TRUST PROPERTY IF, WITHIN A REASONABLE TIME AFTER ACTING, THE PERSON SENDS A REJECTION OF THE TRUSTEESHIP TO THE SETTLOR OR, IF THE SETTLOR IS DECEASED OR LACKS CAPACITY, TO A QUALIFIED BENEFICIARY; AND

(2) INSPECT OR INVESTIGATE TRUST PROPERTY TO DETERMINE POTENTIAL LIABILITY UNDER ENVIRONMENTAL OR OTHER LAW OR FOR ANY OTHER PURPOSE.

14.5–702.

(A) A TRUSTEE SHALL GIVE BOND TO SECURE PERFORMANCE OF THE DUTIES OF THE TRUSTEE ONLY IF THE COURT:

(1) FINDS THAT A BOND IS NEEDED TO PROTECT THE INTERESTS OF THE BENEFICIARIES OR IS REQUIRED BY THE TERMS OF THE TRUST; AND

(2) HAS NOT DISPENSED WITH THE REQUIREMENT.

(B) (1) THE COURT MAY SPECIFY THE AMOUNT OF A BOND, THE LIABILITIES OF THE BOND, AND WHETHER SURETIES FOR THE BOND ARE NECESSARY.

(2) THE COURT MAY MODIFY OR TERMINATE A BOND AT ANY TIME.

14.5–703.

(A) IF A VACANCY OCCURS IN A COTRUSTEESHIP, THE REMAINING COTRUSTEES MAY ACT FOR THE TRUST.

(B) A COTRUSTEE SHALL PARTICIPATE IN THE PERFORMANCE OF THE FUNCTION OF A TRUSTEE UNLESS THE COTRUSTEE IS UNAVAILABLE TO PERFORM THE FUNCTION BECAUSE OF ABSENCE, ILLNESS, DISQUALIFICATION UNDER OTHER LAW, OR OTHER TEMPORARY INCAPACITY OR THE COTRUSTEE HAS PROPERLY DELEGATED THE PERFORMANCE OF THE FUNCTION TO ANOTHER TRUSTEE.

(C) IF A COTRUSTEE IS UNAVAILABLE TO PERFORM DUTIES BECAUSE OF ABSENCE, ILLNESS, DISQUALIFICATION UNDER OTHER LAW, OR OTHER TEMPORARY INCAPACITY, AND PROMPT ACTION IS NECESSARY TO ACHIEVE THE PURPOSES OF THE TRUST OR TO AVOID INJURY TO THE TRUST PROPERTY, THE REMAINING COTRUSTEE OR COTRUSTEES MAY ACT FOR THE TRUST.

(D) (1) A TRUSTEE MAY DELEGATE INVESTMENT AND MANAGEMENT FUNCTIONS TO A COTRUSTEE AS PRUDENT UNDER THE CIRCUMSTANCES.

(2) UNLESS A DELEGATION OF AN INVESTMENT OR MANAGEMENT FUNCTION WAS IRREVOCABLE, A TRUSTEE MAY REVOKE A DELEGATION PREVIOUSLY MADE.

14.5–704.

(A) A VACANCY IN A TRUSTEESHIP OCCURS IF:

(1) A PERSON DESIGNATED AS TRUSTEE REJECTS THE TRUSTEESHIP;

(2) A PERSON DESIGNATED AS TRUSTEE CANNOT BE IDENTIFIED OR DOES NOT EXIST;

(3) A TRUSTEE RESIGNS;

(4) A TRUSTEE IS DISQUALIFIED OR REMOVED;

(5) A TRUSTEE DIES;

(6) A GUARDIAN OF THE PERSON OR GUARDIAN OF THE PROPERTY IS APPOINTED FOR AN INDIVIDUAL SERVING AS TRUSTEE;

(7) A TRUSTEE CANNOT BE LOCATED FOR 120 CONSECUTIVE DAYS; OR

(8) A TRUSTEE IS UNABLE TO HANDLE BUSINESS AFFAIRS AS DETERMINED BY TWO LICENSED PHYSICIANS.

(B) (1) IF ONE OR MORE COTRUSTEES REMAIN IN OFFICE, A VACANCY IN A TRUSTEESHIP NEED NOT BE FILLED.

(2) A VACANCY IN A TRUSTEESHIP SHALL BE FILLED IF THE TRUST HAS NO REMAINING TRUSTEE.

(C) A VACANCY IN A TRUSTEESHIP THAT IS REQUIRED TO BE FILLED SHALL BE FILLED IN THE FOLLOWING ORDER OF PRIORITY BY A PERSON:

(1) DESIGNATED IN ACCORDANCE WITH THE TERMS OF THE TRUST TO ACT AS SUCCESSOR TRUSTEE;

(2) APPOINTED BY UNANIMOUS AGREEMENT OF THE QUALIFIED BENEFICIARIES; OR

(3) APPOINTED BY THE COURT.

(D) THE COURT MAY APPOINT AN ADDITIONAL TRUSTEE OR SPECIAL FIDUCIARY WHENEVER THE COURT CONSIDERS THE APPOINTMENT NECESSARY FOR THE ADMINISTRATION OF THE TRUST, WHETHER OR NOT A VACANCY IN A TRUSTEESHIP EXISTS OR IS REQUIRED TO BE FILLED.

14.5–705.

(A) A TRUSTEE MAY RESIGN WITH THE APPROVAL OF THE COURT.

(B) IN APPROVING A RESIGNATION OF A TRUSTEE, THE COURT MAY ISSUE ORDERS AND IMPOSE CONDITIONS REASONABLY NECESSARY FOR THE PROTECTION OF THE TRUST PROPERTY.

(C) LIABILITY OF A RESIGNING TRUSTEE OR OF A SURETY ON THE BOND OF THE TRUSTEE FOR ACTS OR OMISSIONS OF THE TRUSTEE IS NOT DISCHARGED OR AFFECTED BY THE RESIGNATION OF THE TRUSTEE.

14.5–706.

IN ADDITION TO THE GROUNDS AND PROCEDURES FOR REMOVAL OF A FIDUCIARY SET FORTH IN § 15–112 OF THIS ARTICLE:

(1) THE SETTLOR, A COTRUSTEE, OR A BENEFICIARY MAY REQUEST THE COURT TO REMOVE A TRUSTEE, OR A TRUSTEE MAY BE REMOVED BY THE COURT ON THE COURT'S OWN INITIATIVE;

(2) THE COURT MAY REMOVE A TRUSTEE IF:

(I) THE TRUSTEE HAS COMMITTED A SERIOUS BREACH OF TRUST;

(II) LACK OF COOPERATION AMONG COTRUSTEES SUBSTANTIALLY IMPAIRS THE ADMINISTRATION OF THE TRUST;

(III) BECAUSE OF UNFITNESS, UNWILLINGNESS, OR PERSISTENT FAILURE OF THE TRUSTEE TO ADMINISTER THE TRUST EFFECTIVELY, THE COURT DETERMINES THAT REMOVAL OF THE TRUSTEE BEST SERVES THE INTERESTS OF THE BENEFICIARIES; OR

(IV) THERE HAS BEEN A SUBSTANTIAL CHANGE OF CIRCUMSTANCES AND REMOVAL IS REQUESTED BY ALL OF THE QUALIFIED BENEFICIARIES, THE COURT FINDS THAT REMOVAL OF THE TRUSTEE BEST SERVES THE INTEREST OF ALL OF THE BENEFICIARIES AND IS NOT INCONSISTENT WITH A MATERIAL PURPOSE OF THE TRUST, AND A SUITABLE COTRUSTEE OR SUCCESSOR TRUSTEE IS AVAILABLE; AND

(3) PENDING A FINAL DECISION ON A REQUEST TO REMOVE A TRUSTEE, OR IN LIEU OF OR IN ADDITION TO REMOVING A TRUSTEE, THE COURT MAY ORDER APPROPRIATE RELIEF UNDER § 14.5–901(B) OF THIS TITLE AS MAY BE NECESSARY TO PROTECT THE TRUST PROPERTY OR THE INTERESTS OF THE BENEFICIARIES.

14.5–707.

(A) UNLESS A COTRUSTEE REMAINS IN OFFICE OR THE COURT OTHERWISE ORDERS, AND UNTIL THE TRUST PROPERTY IS DELIVERED TO A SUCCESSOR TRUSTEE OR OTHER PERSON ENTITLED TO THE TRUST PROPERTY, A TRUSTEE THAT HAS RESIGNED OR BEEN REMOVED HAS THE DUTIES OF A TRUSTEE AND THE POWERS NECESSARY TO PROTECT THE TRUST PROPERTY.

(B) A TRUSTEE THAT HAS RESIGNED OR HAS BEEN REMOVED SHALL PROCEED EXPEDITIOUSLY TO DELIVER THE TRUST PROPERTY WITHIN THE POSSESSION OF THE TRUSTEE TO THE COTRUSTEE, SUCCESSOR TRUSTEE, OR OTHER PERSON ENTITLED TO THE TRUST PROPERTY.

14.5–708.

(A) (1) (I) A TESTAMENTARY TRUSTEE AND TRUSTEE OF ANY OTHER TRUST WHOSE DUTIES COMPRISE THE COLLECTION AND DISTRIBUTION OF INCOME FROM PROPERTY HELD UNDER A TRUST AGREEMENT OR THE PRESERVATION AND DISTRIBUTION OF THE PROPERTY ARE ENTITLED TO COMMISSIONS PROVIDED FOR IN THIS SECTION FOR SERVICES IN ADMINISTERING THE TRUSTS.

(II) THE AMOUNT AND SOURCE OF PAYMENT OF COMMISSIONS ARE SUBJECT TO THE PROVISIONS OF ANY VALID AGREEMENT.

(III) A COURT HAVING JURISDICTION OVER THE ADMINISTRATION OF THE TRUST MAY INCREASE OR DIMINISH COMMISSIONS FOR SUFFICIENT CAUSE OR MAY ALLOW SPECIAL COMMISSIONS OR COMPENSATION FOR SERVICES OF AN UNUSUAL NATURE.

(2) A SCHEDULE OF INCREASED RATES OF INCOME COMMISSIONS AND CORPUS COMMISSIONS MAY BE CHARGED BY A TRUSTEE WHOSE ACTIVITIES ARE SUBJECT TO STATE OR FEDERAL SUPERVISION OR THAT IS A MEMBER OF THE MARYLAND BAR AND WHO HAS:

(I) FILED A SCHEDULE OF THE INCREASED RATES OF COMMISSIONS WITH AN APPROPRIATE AGENCY; AND

(II) GIVEN NOTICE OF THE SCHEDULED RATES OR REVISIONS TO THE QUALIFIED BENEFICIARIES OF THE AFFECTED TRUST.

(3) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE DELIVERED TO THE QUALIFIED BENEFICIARIES PERSONALLY OR SENT TO THE QUALIFIED BENEFICIARIES AT THEIR LAST

KNOWN ADDRESS BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED.

(B) (1) ACCOUNTING FROM JULY 1, 1981, REGARDLESS OF WHETHER THE TRUST WAS IN EXISTENCE AT THAT TIME, INCOME COMMISSIONS ARE:

(I) 6% ON ALL INCOME FROM REAL ESTATE, GROUND RENTS, AND MORTGAGES COLLECTED IN EACH YEAR; AND

(II) 1. 6.5% ON THE FIRST $10,000 OF ALL OTHER INCOME COLLECTED IN EACH YEAR;

2. 5% ON THE NEXT $10,000;

3. 4% ON THE NEXT $10,000; AND

4. 3% ON ANY REMAINDER.

(2) (I) INCOME COMMISSIONS SHALL BE PAID FROM AND CHARGEABLE AGAINST INCOME.

(II) INCOME COLLECTED INCLUDES A PORTION OF INCOME PAYABLE TO A TRUSTEE BUT WITHHELD BY THE PAYOR IN COMPLIANCE WITH REVENUE LAW.

(C) (1) ACCOUNTING FROM JULY 1, 1981, REGARDLESS OF WHETHER THE TRUST WAS IN EXISTENCE AT THAT TIME, COMMISSIONS ARE PAYABLE AT THE END OF EACH YEAR ON THE FAIR VALUE OF THE CORPUS OR PRINCIPAL HELD IN TRUST AT THE END OF EACH YEAR AS FOLLOWS:

(I) 0.4% ON THE FIRST $250,000;

(II) 0.25% ON THE NEXT $250,000;

(III) 0.15% ON THE NEXT $500,000; AND

(IV) 0.1% ON ANY EXCESS.

(2) CORPUS COMMISSIONS UNDER THIS SUBSECTION SHALL BE PAID OUT OF AND CHARGEABLE AGAINST THE CORPUS.

(3) IF A TRUST TERMINATES, WITH RESPECT TO ALL OR PART OF THE CORPUS HELD IN TRUST IN THE COURSE OF A YEAR, THE COMMISSION FOR THAT YEAR SHALL BE REDUCED OR PRORATED ACCORDING TO THE PART OF

THE YEAR ELAPSED AND THE AMOUNT OF CORPUS AS TO WHICH THE TRUST TERMINATES, AND BE CHARGEABLE, FOR THAT PART OF THE YEAR, AND WITH RESPECT TO THIS PART OF THE CORPUS, AT THE TERMINATION OF THE TRUST, ON THE THEN VALUE OF THE CORPUS.

(D) (1) FOR SELLING REAL OR LEASEHOLD PROPERTY, A COMMISSION ON THE PROCEEDS OF THE SALE IS PAYABLE AT THE RATE ALLOWED BY RULE OF COURT OR STATUTE TO TRUSTEES APPOINTED TO MAKE SALES UNDER DECREES OR ORDERS OF THE CIRCUIT COURT FOR THE COUNTY WHERE THE REAL OR LEASEHOLD PROPERTY IS SITUATED, OR IF THE PROPERTY IS LOCATED OUTSIDE MARYLAND, FOR SELLING SIMILAR PROPERTY IN THE COUNTY WHERE THE TRUST IS BEING ADMINISTERED.

(2) THE COMMISSION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS PAYABLE FROM THE PROCEEDS OF THE SALE WHEN COLLECTED.

(E) (1) ON THE FINAL DISTRIBUTION OF A TRUST ESTATE OR A PORTION OF A TRUST ESTATE, AN ALLOWANCE IS PAYABLE COMMENSURATE WITH THE LABOR AND RESPONSIBILITY INVOLVED IN MAKING THE DISTRIBUTION, INCLUDING THE MAKING OF A DIVISION, THE ASCERTAINMENT OF THE PARTIES ENTITLED TO THE DISTRIBUTION, THE ASCERTAINMENT AND PAYMENT OF TAXES, AND ANY NECESSARY TRANSFER OF ASSETS.

(2) THE ALLOWANCE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS SUBJECT TO REVISION OR DETERMINATION BY A CIRCUIT COURT HAVING JURISDICTION.

(3) IN THE ABSENCE OF SPECIAL CIRCUMSTANCES, THE ALLOWANCE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE EQUAL TO 0.5% OF THE FAIR VALUE OF THE CORPUS THAT IS DISTRIBUTED.

(F) (1) IN DETERMINING WHAT IS A SINGLE TRUST FOR THE APPLICATION OF THE RATES PROVIDED IN THIS SECTION, ALL PROPERTY HELD UNDIVIDED UNDER THE TERMS OF THE WILL OR OTHER INSTRUMENT CREATING THE TRUST SHALL BE CONSIDERED AS A SINGLE TRUST.

(2) AFTER SHARES HAVE BEEN SET APART OR DIVIDED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, TO BE HELD IN SEPARATE TRUST, EACH SEPARATE TRUST SET APART SHALL BE CONSIDERED AS A SINGLE TRUST.

(G) (1) INSTEAD OF THE RATES OF INCOME COMMISSIONS AND CORPUS COMMISSIONS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS

SECTION, A TRUSTEE MAY CHARGE REASONABLE COMPENSATION CALCULATED IN ACCORDANCE WITH A SCHEDULE OF RATES PREVIOUSLY FILED BY THE TRUSTEE WITH THE APPROPRIATE AGENCY AS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION, IF THE TRUSTEE IS:

(I) A FINANCIAL INSTITUTION WHOSE ACTIVITIES ARE SUBJECT TO SUPERVISION BY THIS STATE OR THE FEDERAL GOVERNMENT OR THAT IS AN INSTRUMENTALITY OF THE UNITED STATES; OR

(II) A MEMBER OF THE MARYLAND BAR.

(2) A TRUSTEE SHALL FILE A SCHEDULE OF RATES UNDER THIS SUBSECTION AS FOLLOWS:

(I) FOR A SAVINGS AND LOAN ASSOCIATION, WITH THE STATE DIRECTOR OF THE DIVISION OF SAVINGS AND LOAN ASSOCIATIONS;

(II) FOR ALL OTHER TRUSTEES, INCLUDING ATTORNEYS AND STATE CHARTERED AND NATIONAL BANKS, WITH THE COMMISSIONER OF FINANCIAL REGULATION; AND

(III) FOR A TRUSTEE ADMINISTERING AN ESTATE UNDER THE JURISDICTION OF A COURT, IN ADDITION TO THE FILING DESCRIBED IN ITEM (I) OR (II) OF THIS PARAGRAPH, WITH THE TRUST CLERK OF THE COURT.

(3) IN A TRUST INVOLVING MULTIPLE TRUSTEES IN WHICH MORE THAN ONE OF THE TRUSTEES MAY BE ENTITLED TO FILE A SCHEDULE OF INCREASED RATES, THE CONTROLLING SCHEDULE WILL BE THE SCHEDULE FILED BY THE TRUSTEE HAVING CUSTODY OF THE ASSETS AND MAINTAINING RECORDS OF THE TRUST.

(4) (I) ON THE FILING BY A TRUSTEE OF A SCHEDULE OF INCREASED RATES UNDER THIS SUBSECTION, THE TRUSTEE SHALL GIVE NOTICE TO THE QUALIFIED BENEFICIARIES OF EACH AFFECTED TRUST.

(II) THE NOTICE REQUIRED UNDER THIS PARAGRAPH SHALL BE DELIVERED TO THE QUALIFIED BENEFICIARIES PERSONALLY OR SENT TO THE QUALIFIED BENEFICIARIES AT THE LAST KNOWN ADDRESS OF THE QUALIFIED BENEFICIARIES BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED.

(III) A QUALIFIED BENEFICIARY OF A TRUST THAT OBJECTS TO THE SCHEDULE OF RATES TO BE CHARGED TO THAT TRUST, AFTER NOTIFYING THE TRUSTEE OF THE OBJECTION, MAY PETITION THE

APPROPRIATE CIRCUIT COURT TO REVIEW THE REASONABLENESS OF THE RATES TO BE CHARGED.

(IV) THE NOTICE REQUIRED BY THIS PARAGRAPH SHALL INCLUDE A CLEAR STATEMENT OF THE RIGHTS AND PROCEDURES AVAILABLE TO QUALIFIED BENEFICIARIES UNDER THIS SUBSECTION.

(V) IF THE COURT FINDS THAT THE RATES IN THE SCHEDULE ARE UNREASONABLE FOR THE CURRENT FISCAL YEAR OF THE PARTICULAR TRUST, THE COMMISSIONS OF THE TRUSTEE FOR THAT TRUST FOR THAT FISCAL YEAR SHALL BE LIMITED TO THE RATES CHARGED THAT TRUST DURING THE PREVIOUS FISCAL YEAR.

(5) IF A TRUSTEE DOES NOT FILE A SCHEDULE OF RATES WITH THE APPROPRIATE AGENCY UNDER PARAGRAPH (2)(I) OR (II) OF THIS SUBSECTION AND DOES NOT NOTIFY QUALIFIED BENEFICIARIES AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE TRUSTEE IS LIMITED TO CHARGING THE RATES SET FORTH IN SUBSECTIONS (B) AND (C) OF THIS SECTION.

(H) AN INDIVIDUAL TRUSTEE THAT IS NOT AUTHORIZED TO FILE A SCHEDULE OF INCREASED RATES UNDER THIS SECTION IS LIMITED TO CHARGING THE RATES SET FORTH IN SUBSECTIONS (B) AND (C) OF THIS SECTION UNLESS THE TRUSTEE PETITIONS THE CIRCUIT COURT FOR THE COUNTY WHERE THE TRUSTEE IS LOCATED AND OBTAINS APPROVAL OF AN INCREASE IN FEE AFTER GIVING NOTICE OF THE ACTION TO THE QUALIFIED BENEFICIARIES OF THE AFFECTED TRUSTS.

(I) THE SCHEDULE OF INCREASED RATES OF INCOME COMMISSIONS AND CORPUS COMMISSIONS WHICH TRUSTEES ARE AUTHORIZED TO CHARGE AS PROVIDED IN SUBSECTION (G) OF THIS SECTION IS NOT APPLICABLE TO GUARDIANS.

(J) THE LEGAL AND COURT COSTS INCURRED BY THE TRUSTEE IN ACCORDANCE WITH A COURT REVIEW UNDER SUBSECTION (G)(4) OR SUBSECTION (H) OF THIS SECTION SHALL BE CHARGED AGAINST FEES OF THE TRUSTEE AND MAY NOT BE ASSUMED BY THE TRUST OR THE BENEFICIARIES.

14.5–709.

(A) A TRUSTEE IS ENTITLED TO BE REIMBURSED OUT OF THE TRUST PROPERTY, WITH INTEREST AS APPROPRIATE, FOR:

(1) EXPENSES THAT WERE PROPERLY INCURRED IN THE ADMINISTRATION OF THE TRUST; AND

(2) TO THE EXTENT NECESSARY TO PREVENT UNJUST ENRICHMENT OF THE TRUST, EXPENSES THAT WERE NOT PROPERLY INCURRED IN THE ADMINISTRATION OF THE TRUST.

(B) AN ADVANCE BY THE TRUSTEE OF MONEY FOR THE PROTECTION OF THE TRUST GIVES RISE TO A LIEN AGAINST TRUST PROPERTY TO SECURE REIMBURSEMENT WITH REASONABLE INTEREST.

14.5–710.

(A) THE FOLLOWING PERSONS MAY EXERCISE TRUST OR FIDUCIARY POWERS IN THIS STATE:

(1) AN INDIVIDUAL;

(2) A TRUST COMPANY AS DEFINED IN § 1–101 OF THIS ARTICLE;

(3) AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; AND

(4) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A BANK, TRUST COMPANY, OR SAVINGS BANK, OTHER THAN ONE DESCRIBED IN ITEM (2) OF THIS SUBSECTION, THAT IS:

(I) ORGANIZED UNDER THE LAWS OF ANOTHER STATE AND AUTHORIZED TO EXERCISE TRUST OR FIDUCIARY POWERS IN THE STATE WHERE THE PRINCIPAL PLACE OF BUSINESS OF THE INSTITUTION IS LOCATED; OR

(II) ORGANIZED UNDER THE LAWS OF THE UNITED STATES AND AUTHORIZED TO EXERCISE TRUST OR FIDUCIARY POWERS UNDER FEDERAL LAW.

(B) (1) A BANK, TRUST COMPANY, OR SAVINGS BANK DESCRIBED IN SUBSECTION (A)(4) OF THIS SECTION MAY EXERCISE TRUST OR FIDUCIARY POWERS IN THIS STATE ONLY IF THE LAWS OF THE STATE WHERE ITS PRINCIPAL PLACE OF BUSINESS IS LOCATED AUTHORIZE A BANK, TRUST COMPANY, OR SAVINGS BANK FROM THIS STATE TO EXERCISE TRUST OR FIDUCIARY POWERS IN THAT STATE.

(2) A BANK, TRUST COMPANY, OR SAVINGS BANK AUTHORIZED TO EXERCISE TRUST POWERS UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL

FILE WITH THE COMMISSIONER OF FINANCIAL REGULATION, BEFORE EXERCISING TRUST POWERS IN THIS STATE, INFORMATION SUFFICIENT TO IDENTIFY:

(I) THE CORRECT CORPORATE NAME OF THE BANK, TRUST COMPANY, OR SAVINGS BANK;

(II) AN ADDRESS AND A TELEPHONE NUMBER OF A CONTACT PERSON FOR THE BANK, TRUST COMPANY, OR SAVINGS BANK;

(III) A RESIDENT AGENT; AND

(IV) ADDITIONAL INFORMATION CONSIDERED NECESSARY BY THE COMMISSIONER FOR PROTECTION OF THE PUBLIC.

14.5–711.

A JUDGE OF A COURT ESTABLISHED UNDER THE LAWS OF THE STATE OR THE UNITED STATES OR A CLERK OF COURT OR REGISTER OF WILLS, UNLESS THE JUDGE, CLERK, OR REGISTER IS THE SURVIVING SPOUSE OF THE GRANTOR OF THE TRUST, OR IS RELATED TO THE GRANTOR WITHIN THE THIRD DEGREE, MAY NOT SERVE AS A TRUSTEE OF AN INTER VIVOS OR TESTAMENTARY TRUST CREATED BY AN INSTRUMENT AND EXECUTED IN THE STATE BY THE GRANTOR OR A TRUSTEE, ADMINISTERED IN THE STATE, OR GOVERNED BY THE LAWS OF THE STATE, UNLESS THE JUDGE, CLERK, OR REGISTER WAS ACTUALLY SERVING AS A TRUSTEE OF THE TRUST ON DECEMBER 31, 1969.

SUBTITLE 8. DUTIES AND POWERS OF TRUSTEE.

14.5–801.

ON ACCEPTANCE OF A TRUSTEESHIP, THE TRUSTEE SHALL ADMINISTER THE TRUST REASONABLY UNDER THE CIRCUMSTANCES, IN ACCORDANCE WITH THE TERMS AND PURPOSES OF THE TRUST AND THE INTERESTS OF THE BENEFICIARIES, AND IN ACCORDANCE WITH THIS TITLE.

14.5–802.

(A) A TRUSTEE SHALL ADMINISTER THE TRUST SOLELY IN THE INTERESTS OF THE BENEFICIARIES.

(B) SUBJECT TO THE RIGHTS OF PERSONS DEALING WITH OR ASSISTING THE TRUSTEE AS PROVIDED IN § 14.5–909 OF THIS TITLE, A SALE, AN ENCUMBRANCE, OR ANY OTHER TRANSACTION INVOLVING THE INVESTMENT OR

MANAGEMENT OF TRUST PROPERTY ENTERED INTO BY THE TRUSTEE FOR THE PERSONAL ACCOUNT OF THE TRUSTEE OR WHICH IS OTHERWISE AFFECTED BY A CONFLICT BETWEEN THE FIDUCIARY AND PERSONAL INTERESTS OF THE TRUSTEE IS VOIDABLE BY A BENEFICIARY AFFECTED BY THE TRANSACTION UNLESS:

(1) THE TRANSACTION WAS AUTHORIZED BY THE TERMS OF THE TRUST;

(2) THE TRANSACTION WAS APPROVED BY THE COURT;

(3) THE BENEFICIARY DID NOT COMMENCE A JUDICIAL PROCEEDING WITHIN THE TIME ALLOWED BY LAW;

(4) THE BENEFICIARY CONSENTED TO THE CONDUCT OF THE TRUSTEE, RATIFIED THE TRANSACTION, OR RELEASED THE TRUSTEE IN COMPLIANCE WITH § 14.5–907 OF THIS TITLE; OR

(5) THE TRANSACTION INVOLVES A CONTRACT ENTERED INTO OR CLAIM ACQUIRED BY THE TRUSTEE BEFORE THE PERSON BECAME OR CONTEMPLATED BECOMING THE TRUSTEE.

(C) A SALE, AN ENCUMBRANCE, OR ANY OTHER TRANSACTION INVOLVING THE INVESTMENT OR MANAGEMENT OF TRUST PROPERTY IS PRESUMED TO BE AFFECTED BY A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF THE TRANSACTION IS ENTERED INTO BY THE TRUSTEE WITH:

(1) THE SPOUSE OF THE TRUSTEE;

(2) A DESCENDANT, SIBLING, OR PARENT OF THE TRUSTEE OR A SPOUSE OF A DESCENDANT, SIBLING, OR PARENT OF THE TRUSTEE;

(3) AN AGENT OR ATTORNEY OF THE TRUSTEE; OR

(4) A CORPORATION OR ANY OTHER PERSON OR ENTERPRISE IN WHICH THE TRUSTEE, OR A PERSON THAT OWNS A SIGNIFICANT INTEREST IN THE TRUSTEE, HAS AN INTEREST THAT MIGHT AFFECT THE BEST JUDGMENT OF THE TRUSTEE.

(D) A TRANSACTION THAT DOES NOT CONCERN TRUST PROPERTY IN WHICH THE TRUSTEE ENGAGES IN AN INDIVIDUAL CAPACITY INVOLVES A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF THE

TRANSACTION CONCERNS AN OPPORTUNITY PROPERLY BELONGING TO THE TRUST.

(E) (1) IN VOTING SHARES OF STOCK OR IN EXERCISING POWERS OF CONTROL OVER SIMILAR INTERESTS IN OTHER FORMS OF ENTERPRISE, THE TRUSTEE SHALL ACT IN THE BEST INTERESTS OF THE BENEFICIARIES.

(2) IF THE TRUST IS THE SOLE OWNER OF A CORPORATION OR ANY OTHER FORM OF ENTERPRISE, THE TRUSTEE SHALL ELECT OR APPOINT DIRECTORS OR OTHER MANAGERS THAT WILL MANAGE THE CORPORATION OR ENTERPRISE IN THE BEST INTERESTS OF THE BENEFICIARIES.

(F) THIS SECTION DOES NOT PRECLUDE THE FOLLOWING TRANSACTIONS, IF FAIR TO THE BENEFICIARIES:

(1) AN AGREEMENT BETWEEN A TRUSTEE AND A BENEFICIARY RELATING TO THE APPOINTMENT OR COMPENSATION OF THE TRUSTEE;

(2) PAYMENT OF REASONABLE COMPENSATION TO THE TRUSTEE;

(3) A TRANSACTION BETWEEN A TRUST AND ANOTHER TRUST, DECEDENT'S ESTATE, OR GUARDIANSHIP ESTATE OF WHICH THE TRUSTEE IS A FIDUCIARY OR IN WHICH A BENEFICIARY HAS AN INTEREST; OR

(4) AN ADVANCE BY THE TRUSTEE OF MONEY FOR THE PROTECTION OF THE TRUST.

(G) THE COURT MAY APPOINT A SPECIAL FIDUCIARY TO MAKE A DECISION WITH RESPECT TO A PROPOSED TRANSACTION THAT MIGHT VIOLATE THIS SECTION, IF ENTERED INTO BY THE TRUSTEE.

14.5–803.

IF A TRUST HAS TWO OR MORE BENEFICIARIES, THE TRUSTEE SHALL ACT IMPARTIALLY IN INVESTING, MANAGING, AND DISTRIBUTING THE TRUST PROPERTY, GIVING DUE REGARD TO THE RESPECTIVE INTERESTS OF THE BENEFICIARIES.

14.5–804.

(A) A TRUSTEE SHALL ADMINISTER THE TRUST AS A PRUDENT PERSON WOULD, BY CONSIDERING THE PURPOSES, TERMS, DISTRIBUTIONAL REQUIREMENTS, AND OTHER CIRCUMSTANCES OF THE TRUST.

(B) IN SATISFYING THE STANDARD DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE TRUSTEE SHALL EXERCISE REASONABLE CARE, SKILL, AND CAUTION.

14.5–805.

IN ADMINISTERING A TRUST, THE TRUSTEE MAY INCUR ONLY COSTS THAT ARE REASONABLE IN RELATION TO THE TRUST PROPERTY, THE PURPOSES OF THE TRUST, AND THE SKILLS OF THE TRUSTEE.

14.5–806.

A TRUSTEE THAT HAS SPECIAL SKILLS OR EXPERTISE, OR IS NAMED TRUSTEE IN RELIANCE ON THE REPRESENTATION OF THE TRUSTEE THAT THE TRUSTEE HAS SPECIAL SKILLS OR EXPERTISE, SHALL USE THOSE SPECIAL SKILLS OR EXPERTISE.

14.5–807.

(A) (1) A TRUSTEE MAY DELEGATE DUTIES AND POWERS THAT A PRUDENT TRUSTEE OF COMPARABLE SKILLS COULD PROPERLY DELEGATE UNDER THE CIRCUMSTANCES TO AN AGENT, EVEN IF THE AGENT IS ASSOCIATED WITH THE TRUSTEE.

(2) A TRUSTEE SHALL EXERCISE REASONABLE CARE, SKILL, AND CAUTION IN:

(I) SELECTING AN AGENT;

(II) ESTABLISHING THE SCOPE AND TERMS OF THE DELEGATION, CONSISTENT WITH THE PURPOSES AND TERMS OF THE TRUST; AND

(III) PERIODICALLY REVIEWING THE ACTIONS OF THE AGENT IN ORDER TO MONITOR THE PERFORMANCE OF THE AGENT AND COMPLIANCE WITH THE TERMS OF THE DELEGATION BY THE AGENT.

(B) IN PERFORMING A DELEGATED FUNCTION, AN AGENT OWES A DUTY TO THE TRUST TO EXERCISE REASONABLE CARE TO COMPLY WITH THE TERMS OF THE DELEGATION.

(C) BY ACCEPTING A DELEGATION OF POWERS OR DUTIES FROM THE TRUSTEE OF A TRUST THAT IS SUBJECT TO THE LAWS OF THIS STATE, AN AGENT SUBMITS TO THE JURISDICTION OF THE COURTS OF THIS STATE.

(D) THIS SECTION DOES NOT APPLY TO A DELEGATION OF INVESTMENT DUTIES OR POWERS IN ACCORDANCE WITH § 15–114 OF THIS ARTICLE.

14.5–808.

(A) WHILE A TRUST IS REVOCABLE, THE TRUSTEE MAY FOLLOW A WRITTEN DIRECTION OF THE SETTLOR THAT IS CONTRARY TO THE TERMS OF THE TRUST.

(B) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF THE TERMS OF A TRUST CONFER ON ONE OR MORE PERSONS, OTHER THAN THE SETTLOR OF A REVOCABLE TRUST, A POWER TO DIRECT, CONSENT TO, OR DISAPPROVE THE ACTUAL OR PROPOSED INVESTMENT DECISIONS, DISTRIBUTION DECISIONS, OR OTHER DECISIONS OF THE TRUSTEE, THE PERSONS SHALL BE CONSIDERED ADVISERS AND FIDUCIARIES THAT, AS SUCH, ARE REQUIRED TO ACT REASONABLY UNDER THE CIRCUMSTANCES WITH REGARD TO THE PURPOSES OF THE TRUST AND THE INTERESTS OF THE BENEFICIARIES.

(II) THE TRUSTEE MAY NOT ACT IN ACCORDANCE WITH AN EXERCISE OF THE POWER IF:

1. THE ATTEMPTED EXERCISE IS MANIFESTLY CONTRARY TO THE TERMS OF THE TRUST, UNLESS EXPRESSLY WAIVED IN WRITING BY THE SETTLOR; OR

2. THE TRUSTEE KNOWS THE ATTEMPTED EXERCISE WOULD CONSTITUTE A BREACH OF A FIDUCIARY DUTY THAT THE PERSON HOLDING THE POWER OWES TO THE BENEFICIARIES OF THE TRUST.

(2) A BENEFICIARY THAT HOLDS A POWER TO DIRECT, CONSENT TO, OR DISAPPROVE OF A TRUSTEE ACTION MAY NOT BE TREATED AS A FIDUCIARY WITH RESPECT TO THE EXERCISE OF THE POWER TO THE EXTENT THAT THE ONLY PERSONS WHOSE INTERESTS IN THE TRUST ARE AFFECTED BY THE DECISION OF THE BENEFICIARY ARE THE BENEFICIARY AND THOSE PERSONS WHOSE INTERESTS IN THE TRUST ARE SUBJECT TO CONTROL BY THE BENEFICIARY THROUGH THE EXERCISE OF A POWER OF APPOINTMENT.

(3) AN ADVISER UNDER THIS SUBSECTION IS LIABLE FOR A LOSS THAT RESULTS FROM BREACH OF A FIDUCIARY DUTY.

(C) (1) IF THE TERMS OF A TRUST REQUIRE THAT A TRUSTEE SHALL FOLLOW THE DIRECTION OF AN ADVISER WITH RESPECT TO PROPOSED

INVESTMENT DECISIONS, DISTRIBUTION DECISIONS, OR OTHER DECISIONS OF THE TRUSTEE:

(I) THE TRUSTEE SHALL ACT IN ACCORDANCE WITH THE DIRECTION OF THE ADVISER AND MAY NOT BE LIABLE FOR A LOSS RESULTING DIRECTLY OR INDIRECTLY FROM THE ACT EXCEPT IN THE CASE OF WILLFUL MISCONDUCT ON THE PART OF THE TRUSTEE; AND

(II) THE TRUSTEE SHALL HAVE NO DUTY TO:

1. MONITOR THE CONDUCT OF THE ADVISER;

2. PROVIDE ADVICE TO THE ADVISER; OR

3. COMMUNICATE WITH, WARN, OR APPRISE A BENEFICIARY OR THIRD PARTY CONCERNING INSTANCES IN WHICH THE TRUSTEE WOULD OR MIGHT HAVE EXERCISED THE DISCRETION OF THE TRUSTEE IN A MANNER DIFFERENT FROM THE MANNER DIRECTED BY THE ADVISER.

(2) ABSENT A PREPONDERANCE OF THE EVIDENCE TO THE CONTRARY, THE ACTIONS OF THE TRUSTEE PERTAINING TO MATTERS WITHIN THE SCOPE OF THE AUTHORITY OF THE ADVISER, SUCH AS CONFIRMING THAT THE DIRECTIONS OF THE ADVISER HAVE BEEN CARRIED OUT AND RECORDING AND REPORTING ACTIONS TAKEN AT THE DIRECTION OF THE ADVISER, SHALL BE PRESUMED TO BE ADMINISTRATIVE ACTIONS TAKEN BY THE TRUSTEE SOLELY TO ALLOW THE TRUSTEE TO PERFORM THOSE DUTIES ASSIGNED TO THE TRUSTEE BY THE TERMS OF THE TRUST, AND THESE ADMINISTRATIVE ACTIONS MAY NOT BE DEEMED TO CONSTITUTE AN UNDERTAKING BY THE TRUSTEE TO MONITOR THE ADVISER OR OTHERWISE PARTICIPATE IN ACTIONS WITHIN THE SCOPE OF THE AUTHORITY OF THE ADVISER.

(D) UNLESS THE TERMS OF A TRUST OTHERWISE PROVIDE, AN ADVISER THAT IS GIVEN AUTHORITY WITH RESPECT TO INVESTMENT DECISIONS HAS THE POWER TO PERFORM THE FOLLOWING:

(1) DIRECT THE TRUSTEE WITH RESPECT TO THE RETENTION, PURCHASE, SALE, OR ENCUMBRANCE OF THE TRUST PROPERTY AND THE INVESTMENT AND REINVESTMENT OF PRINCIPAL AND INCOME FROM THE TRUST;

(2) VOTE PROXIES FOR SECURITIES HELD IN TRUST; AND

(3) SELECT ONE OR MORE INVESTMENT ADVISERS, MANAGERS, OR COUNSELORS, INCLUDING THE TRUSTEE, AND DELEGATE TO THE ADVISERS, MANAGERS, OR COUNSELORS A POWER OF THE ADVISER.

(E) THE TERMS OF A TRUST MAY CONFER ON A TRUSTEE OR OTHER PERSON A POWER TO DIRECT THE MODIFICATION OR TERMINATION OF THE TRUST.

14.5–809.

A TRUSTEE SHALL TAKE REASONABLE STEPS TO TAKE CONTROL OF AND PROTECT THE TRUST PROPERTY, EXCEPT THAT THIS DUTY DOES NOT APPLY TO, AND THE TRUSTEE IS NOT RESPONSIBLE FOR, ITEMS OF TANGIBLE PERSONAL PROPERTY THAT ARE PROPERTY OF A TRUST THAT IS REVOCABLE BY THE SETTLOR AND THAT ARE NOT IN THE POSSESSION OR CONTROL OF THE TRUSTEE.

14.5–810.

(A) A TRUSTEE SHALL KEEP ADEQUATE RECORDS OF THE ADMINISTRATION OF THE TRUST.

(B) A TRUSTEE SHALL KEEP TRUST PROPERTY SEPARATE FROM THE PROPERTY OF THE TRUSTEE.

(C) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (D) OF THIS SECTION, A TRUSTEE SHALL CAUSE THE TRUST PROPERTY TO BE DESIGNATED SO THAT THE INTEREST OF THE TRUST, TO THE EXTENT FEASIBLE, APPEARS IN RECORDS MAINTAINED BY A PARTY OTHER THAN A TRUSTEE OR BENEFICIARY.

(D) IF THE TRUSTEE MAINTAINS RECORDS CLEARLY INDICATING THE RESPECTIVE INTERESTS, A TRUSTEE MAY INVEST AS A WHOLE THE PROPERTY OF TWO OR MORE SEPARATE TRUSTS.

14.5–811.

(A) A TRUSTEE SHALL TAKE REASONABLE STEPS TO ENFORCE CLAIMS OF THE TRUST AND TO DEFEND CLAIMS AGAINST THE TRUST.

(B) A TRUSTEE MAY ABANDON A CLAIM THAT IS UNREASONABLE TO ENFORCE OR ASSIGN THE CLAIM TO ONE OR MORE OF THE BENEFICIARIES OF THE TRUST HOLDING THE CLAIM.

14.5–812.

(A) A TRUSTEE IS NOT LIABLE TO THE BENEFICIARY FOR A BREACH OF TRUST COMMITTED BY A FORMER TRUSTEE.

(B) A TRUSTEE IS LIABLE TO THE BENEFICIARY FOR A BREACH OF TRUST IF THE TRUSTEE:

(1) KNOWS OR SHOULD KNOW OF A SITUATION CONSTITUTING A BREACH OF TRUST COMMITTED BY A FORMER TRUSTEE AND THE TRUSTEE IMPROPERLY PERMITS IT TO CONTINUE;

(2) NEGLECTS TO TAKE REASONABLE STEPS TO COMPEL A FORMER TRUSTEE OR OTHER PERSON TO DELIVER TRUST PROPERTY TO THE TRUSTEE; OR

(3) NEGLECTS TO TAKE REASONABLE STEPS TO REDRESS A BREACH OF TRUST COMMITTED BY A FORMER TRUSTEE.

14.5–813.

(A) UNLESS UNREASONABLE UNDER THE CIRCUMSTANCES, A TRUSTEE SHALL PROMPTLY RESPOND TO THE REQUEST OF A QUALIFIED BENEFICIARY FOR INFORMATION RELATED TO THE ADMINISTRATION OF THE TRUST, INCLUDING A COPY OF THE TRUST INSTRUMENT.

(B) (1) A TRUSTEE:

(I) WITHIN 60 DAYS AFTER ACCEPTING A TRUSTEESHIP, SHALL NOTIFY THE QUALIFIED BENEFICIARIES OF THE ACCEPTANCE AND OF THE TRUSTEE'S NAME, ADDRESS, AND TELEPHONE NUMBER; AND

(II) WITHIN 90 DAYS AFTER THE DATE THE TRUSTEE ACQUIRES KNOWLEDGE OF THE CREATION OF AN IRREVOCABLE TRUST, OR THE DATE THE TRUSTEE ACQUIRES KNOWLEDGE THAT A FORMERLY REVOCABLE TRUST HAS BECOME IRREVOCABLE, WHETHER BY THE DEATH OF THE SETTLOR OR OTHERWISE, SHALL NOTIFY THE QUALIFIED BENEFICIARIES OF THE TRUST'S EXISTENCE, OF THE IDENTITY OF THE SETTLOR OR SETTLORS, OF THE RIGHT TO REQUEST A COPY OF THE TRUST INSTRUMENT, AND OF THE RIGHT TO A TRUSTEE'S REPORT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

(2) NOTWITHSTANDING § 14.5–109 OF THIS TITLE, NOTICE REQUIRED UNDER THIS SUBSECTION SHALL BE:

(I) TO THE EXTENT THE NAMES AND LOCATIONS OF THE QUALIFIED BENEFICIARIES ARE KNOWN TO THE TRUSTEE:

1. BY DELIVERY OF THE NOTICE TO THE QUALIFIED BENEFICIARIES PERSONALLY; OR

2. BY SENDING THE NOTICE TO THE QUALIFIED BENEFICIARIES AT THEIR LAST KNOWN ADDRESS BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED; AND

(II) IF THE NAME, LOCATION, OR BOTH OF A QUALIFIED BENEFICIARY IS NOT KNOWN TO THE TRUSTEE, BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE TRUST PROPERTY IS LOCATED ONCE A WEEK FOR 3 SUCCESSIVE WEEKS.

(C) (1) ON REQUEST BY A QUALIFIED BENEFICIARY, A TRUSTEE SHALL SEND TO THE QUALIFIED BENEFICIARY ANNUALLY AND AT THE TERMINATION OF THE TRUST A REPORT OF THE TRUST PROPERTY, LIABILITIES, RECEIPTS, AND DISBURSEMENTS, INCLUDING THE SOURCE AND AMOUNT OF THE COMPENSATION OF THE TRUSTEE, A LISTING OF THE TRUST ASSETS, AND, IF FEASIBLE, THE RESPECTIVE MARKET VALUES OF THE TRUST ASSETS.

(2) ON A VACANCY IN A TRUSTEESHIP, UNLESS A COTRUSTEE REMAINS IN OFFICE, THE FORMER TRUSTEE SHALL SEND A REPORT TO THE QUALIFIED BENEFICIARIES THAT REQUEST THE REPORT.

(3) A PERSONAL REPRESENTATIVE, A GUARDIAN, OR AN ATTORNEY–IN–FACT MAY SEND THE QUALIFIED BENEFICIARIES A REPORT ON BEHALF OF THE FORMER TRUSTEE.

(D) (1) A QUALIFIED BENEFICIARY MAY WAIVE THE RIGHT TO A TRUSTEE'S REPORT OR OTHER INFORMATION OTHERWISE REQUIRED TO BE FURNISHED UNDER THIS SECTION.

(2) A QUALIFIED BENEFICIARY, WITH RESPECT TO FUTURE REPORTS AND OTHER INFORMATION, MAY WITHDRAW A WAIVER PREVIOUSLY GIVEN.

(E) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A TRUSTEE THAT ACCEPTS A TRUSTEESHIP BEFORE ~~OCTOBER 1, 2014~~ JANUARY 1, 2015, TO AN IRREVOCABLE TRUST CREATED BEFORE ~~OCTOBER 1, 2014~~ JANUARY 1, 2015, OR TO A REVOCABLE TRUST THAT BECOMES IRREVOCABLE BEFORE ~~OCTOBER 1, 2014~~ JANUARY 1, 2015.

14.5–814.

(A) NONE OF THE FOLLOWING POWERS CONFERRED ON A TRUSTEE BY THE GOVERNING INSTRUMENT MAY BE EXERCISED BY THAT TRUSTEE:

(1) THE POWER TO MAKE DISCRETIONARY DISTRIBUTIONS OF EITHER PRINCIPAL OR INCOME TO, OR FOR THE BENEFIT OF, THE TRUSTEE IN THE INDIVIDUAL CAPACITY OF THE TRUSTEE, UNLESS LIMITED BY AN ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE OF THE TRUSTEE, AS DEFINED IN 26 U.S.C. §§ 2041 AND 2514 AND THE U.S. TREASURY REGULATIONS ISSUED UNDER THOSE SECTIONS;

(2) THE POWER TO MAKE DISCRETIONARY DISTRIBUTIONS OF EITHER PRINCIPAL OR INCOME TO SATISFY A LEGAL OBLIGATION OF THE TRUSTEE IN THE INDIVIDUAL CAPACITY OF THE TRUSTEE FOR SUPPORT OR OTHER PURPOSES;

(3) THE POWER TO MAKE DISCRETIONARY ALLOCATIONS IN FAVOR OF THE TRUSTEE OF RECEIPTS OR EXPENSES AS BETWEEN INCOME AND PRINCIPAL;

(4) A POWER, IN WHATEVER CAPACITY HELD, TO REMOVE OR REPLACE A TRUSTEE THAT HOLDS A POWER PROSCRIBED IN THIS SUBSECTION; OR

(5) THE POWER TO EXERCISE A POWER PROSCRIBED IN THIS SUBSECTION WITH REGARD TO A BENEFICIARY OTHER THAN THE TRUSTEE TO THE EXTENT THAT THE BENEFICIARY COULD EXERCISE A SIMILAR PROHIBITED POWER IN CONNECTION WITH A TRUST WHICH BENEFITS THE TRUSTEE.

(B) IF A TRUSTEE IS PROHIBITED BY SUBSECTION (A)(1) OF THIS SECTION FROM EXERCISING A POWER CONFERRED ON THE TRUSTEE, THE TRUSTEE MAY NEVERTHELESS EXERCISE THE POWER EXCEPT THAT THE EXERCISE OF THAT POWER BY THE TRUSTEE SHALL BE LIMITED BY AN ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE OF THE TRUSTEE, AS DEFINED IN 26 U.S.C. §§ 2041 AND 2514 AND THE U.S. TREASURY REGULATIONS ISSUED UNDER THOSE SECTIONS.

(C) IF THE GOVERNING INSTRUMENT CONTAINS A POWER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, AND THERE IS NO TRUSTEE THAT CAN EXERCISE THE POWER, ON APPLICATION OF A PARTY IN INTEREST, A COURT MAY APPOINT A TRUSTEE THAT IS NOT OTHERWISE DISQUALIFIED UNDER THIS SECTION TO EXERCISE THE POWER DURING THE PERIOD OF TIME THAT THE COURT DESIGNATES.

(D) THIS SECTION DOES NOT APPLY IF:

(1) AS A RESULT OF THE APPLICATION OF SUBSECTION (A) OF THIS SECTION, A MARITAL DEDUCTION FOR THE TRUST PROPERTY WOULD NOT BE ALLOWED TO A SPOUSE WHO IS A TRUSTEE AND TO WHOM A MARITAL DEDUCTION WOULD OTHERWISE BE ALLOWED UNDER THE INTERNAL REVENUE CODE;

(2) THE TRUST IS REVOCABLE OR AMENDABLE, DURING THE TIME THAT THE TRUST REMAINS REVOCABLE OR AMENDABLE; OR

(3) CONTRIBUTIONS TO THE TRUST QUALIFY FOR THE ANNUAL EXCLUSION UNDER § 2503(C) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, AS IN EFFECT ON THE EFFECTIVE DATE OF THIS TITLE, OR AS LATER AMENDED.

(E) (1) IN THIS SUBSECTION, "PARTIES IN INTEREST" MEANS:

(I) EACH TRUSTEE OF THE TRUST THEN SERVING; AND

(II) EACH INCOME BENEFICIARY AND REMAINDER BENEFICIARY OF THE TRUST THEN IN EXISTENCE OR, IF THE BENEFICIARY HAS NOT ATTAINED MAJORITY OR IS OTHERWISE INCAPACITATED, THE LEGAL REPRESENTATIVE OF THE BENEFICIARY UNDER APPLICABLE LAW OR THE DONEE OF THE BENEFICIARY UNDER A DURABLE POWER OF ATTORNEY THAT IS SUFFICIENT TO GRANT THE AUTHORITY.

(2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THIS SECTION APPLIES TO:

(I) A TRUST CREATED UNDER A GOVERNING INSTRUMENT EXECUTED AFTER SEPTEMBER 30, 1995, UNLESS THE TERMS OF THE GOVERNING INSTRUMENT PROVIDE EXPRESSLY THAT THIS SECTION DOES NOT APPLY; AND

(II) A TRUST CREATED UNDER A GOVERNING INSTRUMENT EXECUTED BEFORE OCTOBER 1, 1995, UNLESS ALL PARTIES IN INTEREST ELECT AFFIRMATIVELY NOT TO BE SUBJECT TO THE APPLICATION OF THIS SECTION ON OR BEFORE THE LATER OF OCTOBER 1, 1998, AND 3 YEARS AFTER THE DATE ON WHICH THE TRUST BECOMES IRREVOCABLE.

(F) THE AFFIRMATIVE ELECTION REQUIRED UNDER SUBSECTION (E) OF THIS SECTION SHALL BE MADE THROUGH A WRITTEN DECLARATION SIGNED BY THE INTERESTED PERSON AND DELIVERED TO THE TRUSTEE.

14.5–815.

(A) A TRUSTEE, WITHOUT AUTHORIZATION BY THE COURT, MAY EXERCISE:

(1) POWERS CONFERRED BY THE TERMS OF THE TRUST; OR

(2) EXCEPT AS LIMITED BY THE TERMS OF THE TRUST:

(I) ALL POWERS OVER THE TRUST PROPERTY THAT AN UNMARRIED COMPETENT OWNER HAS OVER INDIVIDUALLY OWNED PROPERTY;

(II) OTHER POWERS APPROPRIATE TO ACHIEVE THE PROPER INVESTMENT, MANAGEMENT, AND DISTRIBUTION OF THE TRUST PROPERTY; AND

(III) OTHER POWERS CONFERRED BY THIS TITLE.

(B) THE EXERCISE OF A POWER DESCRIBED IN SUBSECTION (A) OF THIS SECTION IS SUBJECT TO THE FIDUCIARY DUTIES PRESCRIBED BY THIS TITLE.

14.5–816.

(A) A TRUSTEE HAS THOSE POWERS ENUMERATED IN THE TRUST INSTRUMENT.

(B) WITHOUT LIMITING THE AUTHORITY CONFERRED BY § 14.5–815 OF THIS TITLE AND § 15–102 OF THIS ARTICLE, A TRUSTEE MAY EXERCISE THE POWERS SPECIFIED IN THIS SECTION.

(C) WITH RESPECT TO POSSIBLE LIABILITY FOR VIOLATION OF ENVIRONMENTAL LAW, A TRUSTEE MAY:

(1) INSPECT OR INVESTIGATE PROPERTY THE TRUSTEE HOLDS OR HAS BEEN ASKED TO HOLD, OR PROPERTY OWNED OR OPERATED BY AN ORGANIZATION IN WHICH THE TRUSTEE HOLDS OR HAS BEEN ASKED TO HOLD AN INTEREST, FOR THE PURPOSE OF DETERMINING THE APPLICATION OF ENVIRONMENTAL LAW WITH RESPECT TO THE PROPERTY;

(2) TAKE ACTION TO PREVENT, ABATE, OR OTHERWISE REMEDY ANY ACTUAL OR POTENTIAL VIOLATION OF ANY ENVIRONMENTAL LAW AFFECTING PROPERTY HELD DIRECTLY OR INDIRECTLY BY THE TRUSTEE, WHETHER TAKEN BEFORE OR AFTER THE ASSERTION OF A CLAIM OR THE INITIATION OF GOVERNMENTAL ENFORCEMENT;

(3) DECLINE TO ACCEPT PROPERTY INTO TRUST OR DISCLAIM A POWER WITH RESPECT TO PROPERTY THAT IS OR MAY BE BURDENED WITH LIABILITY FOR VIOLATION OF ENVIRONMENTAL LAW;

(4) COMPROMISE CLAIMS AGAINST THE TRUST WHICH MAY BE ASSERTED FOR AN ALLEGED VIOLATION OF ENVIRONMENTAL LAW; AND

(5) PAY THE EXPENSE OF AN INSPECTION, A REVIEW, AN ABATEMENT, OR A REMEDIAL ACTION TO COMPLY WITH ENVIRONMENTAL LAW.

(D) A TRUSTEE MAY DONATE A CONSERVATION EASEMENT ON REAL PROPERTY, OR CONSENT TO THE DONATION OF A CONSERVATION EASEMENT ON REAL PROPERTY BY A PERSONAL REPRESENTATIVE OF AN ESTATE OF WHICH THE TRUSTEE IS A LEGATEE, IN ORDER TO OBTAIN THE BENEFIT OF THE ESTATE TAX EXCLUSION ALLOWED UNDER § 2031(C) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, IF:

(1) THE GOVERNING INSTRUMENT AUTHORIZES OR DIRECTS THE DONATION OF A CONSERVATION EASEMENT ON THE REAL PROPERTY; OR

(2) EACH BENEFICIARY THAT HAS AN INTEREST IN THE REAL PROPERTY THAT WOULD BE AFFECTED BY THE CONSERVATION EASEMENT CONSENTS IN WRITING TO THE DONATION.

14.5–817.

(A) (1) ON TERMINATION OR PARTIAL TERMINATION OF A TRUST, THE TRUSTEE MAY SEND TO THE BENEFICIARIES A PROPOSAL FOR DISTRIBUTION.

(2) THE RIGHT OF A BENEFICIARY TO OBJECT TO A PROPOSED DISTRIBUTION UNDER PARAGRAPH (1) OF THIS SUBSECTION TERMINATES IF THE BENEFICIARY DOES NOT NOTIFY THE TRUSTEE OF AN OBJECTION WITHIN 60 DAYS AFTER THE PROPOSAL WAS SENT BUT ONLY IF THE PROPOSAL INFORMED THE BENEFICIARY OF THE RIGHT TO OBJECT AND OF THE TIME ALLOWED FOR OBJECTION.

(B) ON THE OCCURRENCE OF AN EVENT TERMINATING OR PARTIALLY TERMINATING A TRUST, THE TRUSTEE SHALL PROCEED EXPEDITIOUSLY TO DISTRIBUTE THE TRUST PROPERTY TO THE PERSONS ENTITLED TO THE TRUST PROPERTY, SUBJECT TO THE RIGHT OF THE TRUSTEE TO RETAIN A REASONABLE RESERVE FOR THE PAYMENT OF DEBTS, EXPENSES, AND TAXES.

SUBTITLE 9. LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH THE TRUSTEE.

14.5–901.

(A) (1) A VIOLATION BY A TRUSTEE OF A DUTY THE TRUSTEE OWES TO A BENEFICIARY IS A BREACH OF TRUST.

(2) A BREACH OF TRUST UNDER THIS SUBSECTION MAY OCCUR BY REASON OF AN ACTION OR BY REASON OF A FAILURE TO ACT.

(B) TO REMEDY A BREACH OF TRUST BY THE TRUSTEE THAT HAS OCCURRED OR MAY OCCUR, THE COURT MAY:

(1) COMPEL THE TRUSTEE TO PERFORM THE DUTIES OF THE TRUSTEE;

(2) ENJOIN THE TRUSTEE FROM COMMITTING A BREACH OF TRUST;

(3) COMPEL THE TRUSTEE TO REDRESS A BREACH OF TRUST BY PAYING MONEY, RESTORING PROPERTY, OR OTHER MEANS;

(4) ORDER A TRUSTEE TO ACCOUNT;

(5) APPOINT A SPECIAL FIDUCIARY TO TAKE POSSESSION OF THE TRUST PROPERTY AND ADMINISTER THE TRUST;

(6) SUSPEND THE TRUSTEE;

(7) REMOVE THE TRUSTEE AS PROVIDED IN § 14.5–706 OF THIS TITLE;

(8) REDUCE OR DENY COMPENSATION TO THE TRUSTEE;

(9) SUBJECT TO § 14.5–909 OF THIS SUBTITLE, VOID AN ACT OF THE TRUSTEE, IMPOSE A LIEN OR A CONSTRUCTIVE TRUST ON TRUST

PROPERTY, OR TRACE TRUST PROPERTY WRONGFULLY DISPOSED OF AND RECOVER THE PROPERTY OR PROCEEDS FROM THE PROPERTY; OR

(10) ORDER OTHER APPROPRIATE RELIEF.

14.5–902.

(A) A TRUSTEE THAT COMMITS A BREACH OF TRUST IS LIABLE TO THE BENEFICIARIES AFFECTED BY THE BREACH FOR THE GREATER OF:

(1) THE AMOUNT REQUIRED TO RESTORE THE VALUE OF THE TRUST PROPERTY AND TRUST DISTRIBUTIONS TO WHAT THEY WOULD HAVE BEEN HAD THE BREACH NOT OCCURRED; OR

(2) THE PROFIT THE TRUSTEE MADE BY REASON OF THE BREACH.

(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF MORE THAN ONE TRUSTEE IS LIABLE TO THE BENEFICIARIES FOR A BREACH OF TRUST, A TRUSTEE IS ENTITLED TO CONTRIBUTION FROM THE OTHER TRUSTEE OR TRUSTEES THAT ARE ALSO LIABLE.

(2) A TRUSTEE THAT RECEIVED A BENEFIT FROM A BREACH OF TRUST UNDER THIS SUBSECTION IS NOT ENTITLED TO CONTRIBUTION FROM ANOTHER TRUSTEE TO THE EXTENT OF THE BENEFIT RECEIVED.

14.5–903.

ABSENT A BREACH OF TRUST OR THE APPLICABLE STANDARD OF CARE, A TRUSTEE IS NOT LIABLE TO A BENEFICIARY FOR A LOSS OR DEPRECIATION IN THE VALUE OF TRUST PROPERTY OR FOR NOT HAVING MADE A PROFIT.

14.5–904. RESERVED.

14.5–905. RESERVED.

14.5–906.

(A) A TERM OF A TRUST RELIEVING A TRUSTEE OF LIABILITY FOR BREACH OF TRUST IS UNENFORCEABLE TO THE EXTENT THAT THE TERM:

(1) RELIEVES THE TRUSTEE OF LIABILITY FOR BREACH OF TRUST COMMITTED IN BAD FAITH OR WITH RECKLESS INDIFFERENCE TO THE PURPOSES OF THE TRUST OR THE INTERESTS OF THE BENEFICIARIES;

(2) WAS INSERTED INTO THE TRUST AS THE RESULT OF AN ABUSE BY THE TRUSTEE OF A FIDUCIARY OR CONFIDENTIAL RELATIONSHIP TO THE SETTLOR; OR

(3) WAS UNREASONABLE UNDER THE CIRCUMSTANCES.

(B) AN EXCULPATORY TERM DRAFTED OR CAUSED TO BE DRAFTED BY THE TRUSTEE IS INVALID AS AN ABUSE OF A FIDUCIARY OR CONFIDENTIAL RELATIONSHIP UNLESS THE TRUSTEE PROVES THAT THE EXCULPATORY TERM IS FAIR UNDER THE CIRCUMSTANCES AND THAT THE EXISTENCE AND CONTENTS OF THE EXCULPATORY TERM WERE ADEQUATELY COMMUNICATED TO THE SETTLOR.

(C) IF THE SETTLOR WAS REPRESENTED BY INDEPENDENT COUNSEL, AN EXCULPATORY TERM IS NOT CONSIDERED DRAFTED OR CAUSED TO BE DRAFTED BY THE TRUSTEE, EVEN IF THE TERM INCORPORATES SUGGESTED PROVISIONS PROVIDED BY THE TRUSTEE.

14.5–907.

A TRUSTEE IS NOT LIABLE TO A BENEFICIARY FOR BREACH OF TRUST IF THE BENEFICIARY CONSENTED TO THE CONDUCT CONSTITUTING THE BREACH, RELEASED THE TRUSTEE FROM LIABILITY FOR THE BREACH, OR RATIFIED THE TRANSACTION CONSTITUTING THE BREACH, UNLESS:

(1) THE CONSENT, RELEASE, OR RATIFICATION OF THE BENEFICIARY WAS INDUCED BY IMPROPER CONDUCT OF THE TRUSTEE; OR

(2) AT THE TIME OF THE CONSENT, RELEASE, OR RATIFICATION, THE BENEFICIARY DID NOT KNOW OF THE RIGHTS OF THE BENEFICIARY OR OF THE MATERIAL FACTS RELATING TO THE BREACH.

14.5–908.

(A) EXCEPT AS OTHERWISE PROVIDED IN THE CONTRACT, A TRUSTEE IS NOT PERSONALLY LIABLE ON A CONTRACT PROPERLY ENTERED INTO BY THE TRUSTEE IN THE FIDUCIARY CAPACITY OF THE TRUSTEE IN THE COURSE OF ADMINISTERING THE TRUST IF THE TRUSTEE IN THE CONTRACT DISCLOSED THE FIDUCIARY CAPACITY.

(B) A CLAIM BASED ON A CONTRACT ENTERED INTO BY A TRUSTEE IN THE FIDUCIARY CAPACITY OF THE TRUSTEE, ON AN OBLIGATION ARISING FROM OWNERSHIP OR CONTROL OF TRUST PROPERTY, OR ON A TORT COMMITTED IN THE COURSE OF ADMINISTERING A TRUST, MAY BE ASSERTED IN A JUDICIAL

PROCEEDING AGAINST THE TRUSTEE IN THE FIDUCIARY CAPACITY OF THE TRUSTEE, REGARDLESS OF WHETHER THE TRUSTEE IS PERSONALLY LIABLE FOR THE CLAIM.

14.5–909.

(A) IN THE ABSENCE OF ACTUAL KNOWLEDGE OR OF REASONABLE CAUSE TO INQUIRE AS TO WHETHER A TRUSTEE IS IMPROPERLY EXERCISING THE TRUSTEE'S POWER, A PERSON DEALING WITH A TRUSTEE NEED NOT INQUIRE WHETHER A TRUSTEE IS PROPERLY EXERCISING THE POWER OF THE TRUSTEE AND IS PROTECTED AS IF THE TRUSTEE PROPERLY EXERCISED THE POWER.

(B) A PERSON NEED NOT SEE TO THE PROPER APPLICATION OF TRUST ASSETS PAID OR DELIVERED TO A TRUSTEE.

14.5–910.

(A) 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:

(1) THAT THE TRUST EXISTS AND THE DATE THE TRUST INSTRUMENT WAS EXECUTED;

(2) THE IDENTITY OF THE SETTLOR;

(3) THE IDENTITY AND ADDRESS OF THE CURRENTLY ACTING TRUSTEE;

(4) THE POWERS OF THE TRUSTEE IN THE PENDING TRANSACTION;

(5) THE REVOCABILITY OR IRREVOCABILITY OF THE TRUST AND THE IDENTITY OF A PERSON HOLDING A POWER TO REVOKE THE TRUST;

(6) THE AUTHORITY OF COTRUSTEES TO SIGN OR OTHERWISE AUTHENTICATE AND WHETHER THE AUTHENTICATION OF ALL OR FEWER THAN ALL OF THE COTRUSTEES IS REQUIRED IN ORDER TO EXERCISE POWERS OF THE TRUSTEE;

(7) THE TAXPAYER IDENTIFICATION NUMBER OF THE TRUST, UNLESS THE TAXPAYER IDENTIFICATION NUMBER IS ALSO THE SOCIAL SECURITY NUMBER OF A SETTLOR; AND

(8) THE MANNER AND NAME IN WHICH TITLE TO TRUST PROPERTY MAY BE TAKEN.

(B) A CERTIFICATION OF TRUST MAY BE SIGNED OR OTHERWISE AUTHENTICATED BY A TRUSTEE.

(C) A CERTIFICATION OF TRUST SHALL STATE THAT THE TRUST HAS NOT BEEN REVOKED, MODIFIED, OR AMENDED IN A MANNER THAT WOULD CAUSE THE REPRESENTATIONS CONTAINED IN THE CERTIFICATION OF TRUST TO BE INCORRECT.

(D) A CERTIFICATION OF TRUST NEED NOT CONTAIN THE DISPOSITIVE TERMS OF A TRUST.

(E) 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 WHICH DESIGNATE THE TRUSTEE AND CONFER ON THE TRUSTEE THE POWER TO ACT IN THE PENDING TRANSACTION.

(F) A PERSON THAT ACTS REASONABLY IN RELIANCE ON A CERTIFICATION OF TRUST WITHOUT KNOWLEDGE THAT THE REPRESENTATIONS CONTAINED IN THE CERTIFICATION ARE INCORRECT IS NOT LIABLE FOR THE ACT.

(G) WHILE ACTING REASONABLY UNDER THE CIRCUMSTANCES, A PERSON THAT ENTERS INTO A TRANSACTION IN RELIANCE ON A CERTIFICATION OF TRUST MAY ENFORCE THE TRANSACTION AGAINST THE TRUST PROPERTY AS IF THE REPRESENTATIONS CONTAINED IN THE CERTIFICATION WERE CORRECT.

(H) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PERSON TO OBTAIN A COPY OF THE TRUST INSTRUMENT IN A JUDICIAL PROCEEDING CONCERNING THE TRUST.

SUBTITLE 10. MISCELLANEOUS PROVISIONS.

14.5–1001.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CONSIDERATION" DOES NOT INCLUDE THE AMOUNT OF ANY OBLIGATION UNDER A MORTGAGE OR DEED OF TRUST ENCUMBERING THE TRANSFERRED PROPERTY.

(3) "TRUST" DOES NOT INCLUDE:

(I) A REAL ESTATE INVESTMENT TRUST AS DEFINED IN § 8–101 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

(II) A STATUTORY TRUST AS DEFINED IN § 12–101 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

(B) A RECORDATION TAX, TRANSFER TAX, OR ANY OTHER STATE OR LOCAL EXCISE TAX MAY NOT BE IMPOSED ON THE TRANSFER OF REAL PROPERTY OR AN INTEREST IN REAL PROPERTY WITHOUT CONSIDERATION OR ON THE RECORDATION OF AN INSTRUMENT THAT TRANSFERS REAL PROPERTY OR AN INTEREST IN REAL PROPERTY WITHOUT CONSIDERATION IF:

(1) THE TRANSFER IS TO A TRUST; OR

(2) THE TRANSFER IS FROM A TRUST TO ONE OR MORE BENEFICIARIES AND:

(I) THE TRANSFER IS MADE TO A PERSON THAT WOULD BE EXEMPT FROM TAX UNDER TITLE 12 OR TITLE 13 OF THE TAX – PROPERTY ARTICLE IF THE TRANSFER HAD BEEN MADE TO THAT PERSON DIRECTLY BY THE GRANTOR; OR

(II) THE TRANSFER IS MADE DURING THE LIFE OF THE GRANTOR OF THE TRUST AND THE TRUSTEE OF THE TRUST ORIGINALLY ACQUIRED THE REAL PROPERTY FOR ADEQUATE CONSIDERATION.

14.5–1002.

(A) IN THIS SECTION, "SPECIAL NEEDS TRUST" AND "SUPPLEMENTAL NEEDS TRUST" INCLUDE A TRUST FUNDED BY A TRUST BENEFICIARY OR BY A THIRD PARTY.

(B) IT IS THE POLICY OF THE STATE TO ENCOURAGE THE USE OF A SPECIAL NEEDS TRUST OR SUPPLEMENTAL NEEDS TRUST BY AN INDIVIDUAL OF ANY AGE WITH DISABILITIES TO PRESERVE FUNDS TO PROVIDE FOR THE NEEDS OF THE INDIVIDUAL NOT MET BY PUBLIC BENEFITS AND TO ENHANCE QUALITY OF LIFE.

(C) (1) EACH STATE AGENCY THAT PROVIDES PUBLIC BENEFITS TO INDIVIDUALS OF ANY AGE WITH DISABILITIES THROUGH MEANS–TESTED PROGRAMS, INCLUDING THE MEDICAL ASSISTANCE PROGRAM, SHALL ADOPT REGULATIONS THAT:

(I) ARE NOT MORE RESTRICTIVE THAN EXISTING FEDERAL LAW, REGULATIONS, OR POLICIES WITH REGARD TO THE TREATMENT OF A SPECIAL NEEDS TRUST OR SUPPLEMENTAL NEEDS TRUST, INCLUDING A TRUST DEFINED IN 42 U.S.C. § 1396P(C)(2) AND (D)(4);

(II) ARE NOT MORE RESTRICTIVE THAN ANY STATE LAW REGARDING TRUSTS, INCLUDING ANY STATE LAW REGARDING THE REASONABLE EXERCISE OF DISCRETION BY A TRUSTEE, GUARDIAN, OR CONSERVATOR IN THE BEST INTERESTS OF THE BENEFICIARY; AND

(III) DO NOT REQUIRE DISCLOSURE OF A BENEFICIARY'S PERSONAL OR CONFIDENTIAL INFORMATION WITHOUT THE CONSENT OF THE BENEFICIARY.

(2) THE REGULATIONS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL ALLOW:

(I) AN INDIVIDUAL ACCOUNT IN A POOLED ASSET SPECIAL NEEDS TRUST TO BE FUNDED WITHOUT FINANCIAL LIMIT;

(II) A FUND IN A SPECIAL NEEDS TRUST, SUPPLEMENTAL NEEDS TRUST, OR POOLED ASSET SPECIAL NEEDS TRUST TO BE USED FOR THE SOLE BENEFIT OF THE BENEFICIARY INCLUDING, AT THE DISCRETION OF THE TRUSTEE, DISTRIBUTIONS FOR FOOD, SHELTER, UTILITIES, AND TRANSPORTATION;

(III) AN INDIVIDUAL TO ESTABLISH OR FUND AN INDIVIDUAL ACCOUNT IN A POOLED ASSET SPECIAL NEEDS TRUST WITHOUT AN AGE LIMIT OR A TRANSFER PENALTY;

(IV) AN INDIVIDUAL TO FUND A SPECIAL NEEDS TRUST OR SUPPLEMENTAL NEEDS TRUST FOR THE INDIVIDUAL'S CHILD WITH DISABILITIES WITHOUT A TRANSFER PENALTY AND REGARDLESS OF THE CHILD'S AGE; AND

(V) ALL LEGALLY ASSIGNABLE INCOME OR RESOURCES TO BE ASSIGNED TO A SPECIAL NEEDS TRUST, SUPPLEMENTAL NEEDS TRUST, OR POOLED ASSET SPECIAL NEEDS TRUST WITHOUT LIMIT.

(3) NOTHING IN THIS SUBSECTION MAY BE INTERPRETED TO REQUIRE A COURT ORDER TO AUTHORIZE A DISBURSEMENT FROM A SPECIAL OR SUPPLEMENTAL NEEDS TRUST.

(D) (1) A DETERMINATION OF THE INTERNAL REVENUE SERVICE REGARDING THE NONPROFIT STATUS OF AN ORGANIZATION OPERATING A POOLED ASSET SPECIAL NEEDS TRUST SHALL BE SUFFICIENT TO SATISFY THE NONPROFIT REQUIREMENT OF 42 U.S.C. § 1396P(D)(4)(C).

(2) A STATE AGENCY MAY NOT IMPOSE ADDITIONAL REQUIREMENTS ON AN ORGANIZATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION FOR THE PURPOSE OF QUALIFYING OR DISQUALIFYING THE ORGANIZATION FROM OFFERING A POOLED ASSET SPECIAL NEEDS TRUST.

(E) A REGULATION ADOPTED BY A STATE AGENCY REGARDING POOLED SPECIAL NEEDS TRUSTS SHALL APPLY ONLY TO THOSE TRUST BENEFICIARIES WHO ARE STATE RESIDENTS OR WHO RECEIVE PUBLIC BENEFITS FUNDED BY THE STATE.

14.5–1003.

(A) AN INDIVIDUAL WHO CREATES A TRUST MAY NOT BE CONSIDERED THE SETTLOR OF THAT TRUST WITH REGARD TO THE INDIVIDUAL'S INTEREST IN THE TRUST IF:

(1) THAT INTEREST IS THE AUTHORITY OF THE TRUSTEE UNDER THE TRUST INSTRUMENT OR ANY OTHER PROVISION OF LAW TO PAY OR REIMBURSE THE INDIVIDUAL FOR ANY TAX ON TRUST INCOME OR TRUST PRINCIPAL THAT IS PAYABLE BY THE INDIVIDUAL UNDER THE LAW IMPOSING THAT TAX; OR

(2) ALL OF THE FOLLOWING APPLY:

(I) THE INDIVIDUAL CREATES OR HAS CREATED THE TRUST FOR THE BENEFIT OF THE INDIVIDUAL'S SPOUSE;

(II) THE TRUST IS TREATED AS QUALIFIED TERMINABLE INTEREST PROPERTY UNDER § 2523(F) OF THE INTERNAL REVENUE CODE OF 1986; AND

(III) THE INDIVIDUAL'S INTEREST IN THE TRUST INCOME, TRUST PRINCIPAL, OR BOTH FOLLOWS THE TERMINATION OF THE SPOUSE'S PRIOR INTEREST IN THE TRUST.

(B) A CREDITOR OF AN INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY NOT ATTACH, EXERCISE, REACH, OR OTHERWISE COMPEL DISTRIBUTION OF:

(1) ANY PRINCIPAL OR INCOME OF THE TRUST;

(2) ANY PRINCIPAL OR INCOME OF ANY OTHER TRUST TO THE EXTENT THAT THE PROPERTY HELD IN THE OTHER TRUST IS ATTRIBUTABLE TO A TRUST DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION;

(3) THE INDIVIDUAL'S INTEREST IN THE TRUST; OR

(4) THE INDIVIDUAL'S INTEREST IN ANY OTHER TRUST TO THE EXTENT THAT THE PROPERTY HELD IN THE OTHER TRUST IS ATTRIBUTABLE TO A TRUST DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION.

(C) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT ANY STATE LAW WITH RESPECT TO A FRAUDULENT TRANSFER BY AN INDIVIDUAL TO A TRUSTEE.

14.5–1004.

THE PROVISIONS OF THIS TITLE GOVERNING THE LEGAL EFFECT, VALIDITY, OR ENFORCEABILITY OF ELECTRONIC RECORDS OR ELECTRONIC SIGNATURES, AND OF CONTRACTS FORMED OR PERFORMED WITH THE USE OF THOSE RECORDS OR SIGNATURES, CONFORM TO THE REQUIREMENTS OF § 102 OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (15 U.S.C. § 7002) AND SUPERSEDE, MODIFY, AND LIMIT THE REQUIREMENTS OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

14.5–1005.

IF A PROVISION OF THIS TITLE OR THE APPLICATION OF A PROVISION TO A PERSON OR CIRCUMSTANCES IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS TITLE ARE SEVERABLE.

14.5–1006.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE:

(1) THIS TITLE APPLIES TO ALL TRUSTS CREATED BEFORE, ON, OR AFTER ~~OCTOBER 1, 2014~~ JANUARY 1, 2015;

(2) THIS TITLE APPLIES TO ALL JUDICIAL PROCEEDINGS CONCERNING TRUSTS COMMENCED ON OR AFTER ~~OCTOBER 1, 2014~~ JANUARY 1, 2015;

(3) THIS TITLE DOES NOT APPLY TO JUDICIAL PROCEEDINGS CONCERNING TRUSTS COMMENCED BEFORE ~~OCTOBER 1, 2014~~ JANUARY 1, 2015;

(4) A RULE OF CONSTRUCTION OR PRESUMPTION PROVIDED IN THIS TITLE APPLIES TO TRUST INSTRUMENTS EXECUTED BEFORE ~~OCTOBER 1, 2014~~ JANUARY 1, ~~2014~~ 2015, UNLESS THERE IS A CLEAR INDICATION OF A CONTRARY INTENT IN THE TERMS OF THE TRUST; AND

(5) AN ACT DONE BEFORE ~~OCTOBER 1, 2014~~ JANUARY 1, 2015, IS NOT AFFECTED BY THIS TITLE.

(B) IF A RIGHT IS ACQUIRED, EXTINGUISHED, OR BARRED ON THE EXPIRATION OF A PRESCRIBED PERIOD THAT HAS COMMENCED TO RUN UNDER ANOTHER STATUTE BEFORE ~~OCTOBER 1, 2014~~ JANUARY 1, 2015, THAT STATUTE CONTINUES TO APPLY TO THE RIGHT EVEN IF THE STATUTE HAS BEEN REPEALED OR SUPERSEDED.

Article – Financial Institutions

3–506.

(b) To the extent that a fund plan does not provide otherwise as to the determination, allocation, and apportionment of principal and income, the principles of **[**Title 14**] TITLES 14 AND 14.5** of the Estates and Trusts Article apply.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2014~~ January 1, 2015.

Approved:

_____

Governor.

_____

Speaker of the House of Delegates.

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President of the Senate.