

# HOUSE BILL 682

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CF SB 722

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By: **Delegate Simmons**

Introduced and read first time: February 8, 2012

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Trust Act**

3 FOR the purpose of repealing and revising certain provisions of law relating to trusts;  
4 providing that this Act may be cited as the Maryland Trust Act; providing for  
5 the scope of this Act; providing for the construction of this Act; providing for the  
6 designation of the principal place of administration for a trust; establishing a  
7 standard for whether notice to a person under this Act must be accomplished  
8 and how notice may be waived; authorizing certain nonjudicial settlement  
9 agreements with respect to a trust matter; providing for the role of a court in  
10 the administration of a trust; providing that a certain trustee and the  
11 beneficiaries of a trust are subject to the jurisdiction of the courts of this State  
12 under certain circumstances; establishing standards for judicial review of the  
13 discretion of a trustee; providing for the consent of a person that may represent  
14 and bind another person under this Act; providing that the holder of a certain  
15 qualified power of appointment may represent and bind a certain person;  
16 providing that a certain person may represent a certain other person with  
17 respect to a particular question or dispute; establishing that certain persons  
18 may be represented by another person having substantially identical interests,  
19 in certain circumstances; authorizing a court to appoint a representative for a  
20 certain interest in certain circumstances; providing methods and requirements  
21 for creating a trust under this Act; establishing the method by which a trust for  
22 care of an animal may be created; providing certain rules for a certain  
23 noncharitable trust; providing for the modification or termination of a trust;  
24 authorizing a court to reform the terms of a certain trust; authorizing a court to  
25 modify the terms of a trust in a certain manner; authorizing a trustee to  
26 combine or divide a certain trust; authorizing a court to authorize a creditor or  
27 assignee of a beneficiary to reach a certain beneficiary's interest by attachment  
28 of certain distributions; establishing the rights of a certain beneficiary and a  
29 certain creditor to a trust interest that is subject to a discretionary distribution  
30 provision; providing that certain actions may not be taken with respect to a  
31 beneficial interest that is subject to a support provision; providing for the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 treatment of a spendthrift provision in a trust; authorizing a court to authorize  
2 a creditor or assignee of the beneficiary to attach certain distributions in certain  
3 circumstances; providing for circumstances to create a certain general power of  
4 appointment or a power of withdrawal; establishing rules for the claim of a  
5 certain creditor; establishing that trust property is not subject to certain  
6 personal obligations of the trustee; prohibiting a creditor from taking certain  
7 actions to compel a certain distribution; providing for the transfer to trust of  
8 property held by tenants by the entirety; establishing the capacity of a settlor of  
9 a revocable trust to take certain actions; providing the manner by which the  
10 settlor may revoke or amend a revocable trust; establishing the rights of certain  
11 beneficiaries; establishing when a person must commence a judicial proceeding  
12 to contest the validity of a certain trust; establishing the method by which a  
13 person designated as trustee accepts or rejects the trusteeship; requiring a  
14 trustee to give a certain bond under certain circumstances; authorizing  
15 cotrustees who are unable to reach an unanimous decision to act by majority  
16 decision in certain circumstances; providing for circumstances in which a  
17 vacancy occurs in a cotrusteeship; authorizing a trustee to resign in certain  
18 circumstances; providing grounds for the removal of a trustee; establishing the  
19 duties and powers of a trustee who has resigned or been removed; providing  
20 that certain trustees are entitled to certain commissions and certain  
21 reimbursements; authorizing certain persons to exercise certain trust and  
22 fiduciary powers; prohibiting a certain person from serving as a trustee in  
23 certain circumstances; requiring a certain trustee to perform certain duties;  
24 authorizing a trustee to delegate certain duties and powers in certain  
25 circumstances; authorizing a certain trustee to follow a certain direction of the  
26 settlor; establishing that certain persons shall be considered advisers and  
27 fiduciaries in certain circumstances; requiring a certain trustee to act in  
28 accordance with the directions of a certain adviser in certain circumstances;  
29 providing that a certain trustee does not have certain liabilities and duties;  
30 providing that a certain adviser has the power to perform certain actions;  
31 requiring a trustee to take certain steps to take control of and protect the trust  
32 property, with a certain exception; requiring the trustee to do certain record  
33 keeping and to keep certain property in a certain manner; requiring a trustee to  
34 take certain steps in certain circumstances; requiring the trustee to respond  
35 promptly to a certain request for information; requiring a trustee to send a  
36 certain report to certain persons; prohibiting a trustee from exercising certain  
37 powers; authorizing a trustee to exercise certain powers in certain  
38 circumstances; providing for damages for which a certain trustee is or is not  
39 liable; authorizing a court to award costs and expenses in a certain judicial  
40 proceeding; prohibiting a beneficiary from commencing a certain proceeding;  
41 providing that a certain trustee is not liable to a certain beneficiary; providing  
42 that a certain trustee is not liable for a certain loss; providing that a certain  
43 term of a trust is unenforceable in certain circumstances; providing for the  
44 effect of an exculpatory term in a trust; providing for the liability of a trustee for  
45 breach of trust in certain circumstances; establishing limitations of personal  
46 liability of the trustee in certain circumstances; authorizing a trustee to furnish  
47 a certification of trust in certain circumstances; providing that the provisions of

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

5 BY repealing and reenacting, with amendments,  
6 Article – Estates and Trusts  
7 Section 11–102(b)(12)  
8 Annotated Code of Maryland  
9 (2011 Replacement Volume and 2011 Supplement)

10 BY repealing  
11 Article – Estates and Trusts  
12 Section 14–101 through 14–113 and the subtitle “Subtitle 1. General Provisions”  
13 Annotated Code of Maryland  
14 (2011 Replacement Volume and 2011 Supplement)

15 BY adding to  
16 Article – Estates and Trusts  
17 Section 14.5–101 through 14.5–1003 to be under the new title “Title 14.5.  
18 Maryland Trust Act”  
19 Annotated Code of Maryland  
20 (2011 Replacement Volume and 2011 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Financial Institutions  
23 Section 3–506(b)  
24 Annotated Code of Maryland  
25 (2011 Replacement Volume and 2011 Supplement)

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

28 **Article – Estates and Trusts**

29 11–102.

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

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

35 [Subtitle 1. General Provisions.]

36 [14–101.

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

4 [14–102.

5           In the absence of express language to the contrary, the rules contained in  
6 §§ 1–202, 1–203, 1–204, 1–205, 1–206, 1–207, 1–208, 1–209, and 1–210.1 of this article  
7 shall be applied in construing the terms of an inter vivos trust. Whenever any of those  
8 statutory sections refer to a “will,” “estate,” or similar terms relevant primarily to wills  
9 and estates or the takers under them, the terms shall be modified to mean “trust  
10 instrument,” “trust,” or similar terms to reflect the application of the principles of  
11 those sections to inter vivos trusts.]

12 [14–103.

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

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

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

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

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

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

33                   (1) 6 percent upon all income from real estate, ground rents, and  
34 mortgages collected in each year; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 [14-104.

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

24 [14-105.

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

30 [14-106.

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

33           (1) Possessory or not; and

34           (2) Subject to divestment or not.

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

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

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

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

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

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

12                                   1.    The accomplishment of trust purposes; or

13                                   2.    The interests of the beneficiaries.

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

16                           (i)    Trustee;

17                           (ii)   Personal representative;

18                           (iii)   Beneficiary; or

19                           (iv)   Party in interest.

20           (c)   This section applies to trusts:

21                           (1)   Whenever created;

22                           (2)   Whether inter vivos or testamentary;

23                           (3)   Created by the same or different instruments;

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

25                           (5)   Regardless of where created or administered.

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



1 [14–107.

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

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

5 (ii) “Beneficiary” includes:

6 1. If the beneficiary is a minor, the beneficiary’s natural  
7 or legal guardian; or

8 2. If the beneficiary is a disabled person, as defined in §  
9 13–101 of this article, any person acting on behalf of the beneficiary under a  
10 guardianship, conservatorship, or committee.

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

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

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

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

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

26 (i) Personally delivered; or

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

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

31 (i) The name of the trust;

- 1 (ii) The name of the person who created the trust;
- 2 (iii) The date on which the trust was established;
- 3 (iv) The name and address of the corporate fiduciary trustee  
4 seeking to terminate the trust;
- 5 (v) The name of any cotrustee;
- 6 (vi) A statement that the effective date of the termination shall  
7 be at least 90 days after the date on which notice under paragraph (1) of this  
8 subsection has been received by each cotrustee and each beneficiary;
- 9 (vii) A statement of the reasons for termination of the trust;
- 10 (viii) The approximate amount and the manner of calculation of  
11 each distribution of the trust estate; and
- 12 (ix) A statement of the right to object and the procedures to  
13 follow under subsection (d) of this section.
- 14 (d) (1) A person entitled to notice under subsection (c) of this section who  
15 objects to the termination of a trust shall send written objection to the termination.
- 16 (2) The written objection shall be personally delivered or mailed by  
17 certified mail, postage prepaid, return receipt requested, within 60 days after the date  
18 on which notice that is sent under subsection (c)(1) of this section is received by the  
19 objecting party, to the corporate fiduciary trustee proposing to terminate the trust at  
20 the address in the notice.
- 21 (e) (1) If no beneficiary or cotrustee delivers a timely objection in  
22 accordance with the provisions of subsection (d) of this section, the trust shall be  
23 terminated and the trust estate shall be distributed in accordance with the provisions  
24 of subsection (f) of this section.
- 25 (2) If a beneficiary or cotrustee delivers a timely written objection in  
26 accordance with the provisions of subsection (d) of this section, the trust shall not be  
27 terminated unless the objection is withdrawn in writing by the objecting party within  
28 90 days after receipt of the notice by the objecting party.
- 29 (f) (1) A trust estate that is terminated under this section shall be  
30 distributed in any manner unanimously agreed upon by all beneficiaries.
- 31 (2) (i) If the beneficiaries do not unanimously agree to a manner of  
32 distribution, the distribution shall be made in accordance with the provisions of this  
33 paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 [14–108.

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

7 (2) “Environmental law” includes Title 16 of the Environment Article.

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

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

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

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

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

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

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

29 [14–109.

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

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

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

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

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

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

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

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

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

25 (d) This section does not apply if:

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

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

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

33 (i) Each trustee then serving; and

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

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

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

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

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

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

16 [14–110.

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

19 (1) An individual;

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

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

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

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

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

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

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

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

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

9                   (iii) A resident agent; and

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

12 [14–111.

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

15                   (2) “Beneficiary” includes:

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

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

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

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

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

30 [14–112.

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

1 (b) A trust authorized by this section terminates:

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

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

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

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

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

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

18 (i) To the settlor, if living; or

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

21 [14–113.

22 (a) In this section, “proceeds” means:

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

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

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

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



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

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

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

12           (1) The husband and wife remain married;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

8                   **(V) 1. WHEN TO PAY INCOME OR PRINCIPAL, EXCEPT**  
9 **THAT A POWER TO DETERMINE WHEN TO DISTRIBUTE INCOME OR PRINCIPAL**  
10 **WITHIN OR WITH RESPECT TO A CALENDAR OR TAXABLE YEAR OF THE TRUST IS**  
11 **NOT A DISCRETIONARY DISTRIBUTION PROVISION IF THE DISTRIBUTION MUST**  
12 **BE MADE.**

13                   **2. A PROVISION IS A DISCRETIONARY DISTRIBUTION**  
14 **PROVISION REGARDLESS OF WHETHER THE TRUST INSTRUMENT PROVIDES ONE**  
15 **OR MORE STANDARDS OR OTHER GUIDANCE FOR THE EXERCISE OF THE**  
16 **DISCRETION OF THE TRUSTEE, AND REGARDLESS OF WHETHER THE TRUST**  
17 **CONTAINS A SPENDTHRIFT PROVISION.**

18                   **(2) “DISCRETIONARY DISTRIBUTION PROVISION” INCLUDES A**  
19 **PROVISION IN A TRUST INSTRUMENT THAT:**

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

22                   **(II) CONTAINS A SPENDTHRIFT PROVISION.**

23                   **(G) (1) “ENVIRONMENTAL LAW” MEANS A FEDERAL, STATE, OR**  
24 **LOCAL LAW, RULE, REGULATION, OR ORDINANCE THAT RELATES TO THE**  
25 **PROTECTION OF THE ENVIRONMENT.**

26                   **(2) “ENVIRONMENTAL LAW” INCLUDES TITLE 16 OF THE**  
27 **ENVIRONMENT ARTICLE.**

28                   **(H) “GENERAL POWER OF APPOINTMENT”, SUBJECT TO §**  
29 **14.5-507(B)(7) OF THIS TITLE, MEANS A POWER OF APPOINTMENT THAT:**

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

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

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

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

8           **(I) (1) “GUARDIAN OF THE PERSON” MEANS A PERSON APPOINTED**  
9 **BY THE COURT OR, IN THE CASE OF A MINOR WITH NO LIVING PARENT, BY THE**  
10 **PROBATED WILL OF A PARENT OF THE MINOR, TO MAKE DECISIONS REGARDING**  
11 **THE SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF A MINOR OR**  
12 **ADULT INDIVIDUAL.**

13           **(2) “GUARDIAN OF THE PERSON” DOES NOT INCLUDE A**  
14 **GUARDIAN AD LITEM.**

15           **(J) “GUARDIAN OF THE PROPERTY” MEANS A PERSON APPOINTED BY**  
16 **THE COURT TO ADMINISTER THE ESTATE OF A MINOR OR ADULT INDIVIDUAL.**

17           **(K) “INTERESTS OF THE BENEFICIARIES” MEANS THE BENEFICIAL**  
18 **INTERESTS PROVIDED IN THE TERMS OF THE TRUST.**

19           **(L) “JURISDICTION”, WITH RESPECT TO A GEOGRAPHIC AREA,**  
20 **INCLUDES A STATE OR COUNTRY.**

21           **(M) (1) “MANDATORY DISTRIBUTION PROVISION” MEANS A**  
22 **PROVISION IN A TRUST THAT REQUIRES THE TRUSTEE TO MAKE A**  
23 **DISTRIBUTION OF INCOME OR PRINCIPAL THAT THE TRUSTEE IS REQUIRED TO**  
24 **MAKE TO A BENEFICIARY UNDER THE TERMS OF THE TRUST, INCLUDING A**  
25 **DISTRIBUTION ON TERMINATION OF THE TRUST.**

26           **(2) “MANDATORY DISTRIBUTION PROVISION” DOES NOT INCLUDE**  
27 **A PROVISION IN A TRUST THAT ALLOWS THE TRUSTEE TO MAKE A DISTRIBUTION**  
28 **SUBJECT TO THE EXERCISE OF THE DISCRETION OF THE TRUSTEE EVEN IF:**

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

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

4           **(N) “PERSON” MEANS AN INDIVIDUAL, A CORPORATION, A BUSINESS**  
5 **TRUST, AN ESTATE, A TRUST, A PARTNERSHIP, A LIMITED LIABILITY COMPANY,**  
6 **AN ASSOCIATION, A JOINT VENTURE, A GOVERNMENT, A GOVERNMENTAL**  
7 **SUBDIVISION, AN AGENCY, OR AN INSTRUMENTALITY, A PUBLIC CORPORATION,**  
8 **OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.**

9           **(O) “POWER OF APPOINTMENT” MEANS THE AUTHORITY TO DESIGNATE**  
10 **THE RECIPIENT OR RECIPIENTS OF BENEFICIAL INTERESTS IN PROPERTY.**

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

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

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

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

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

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

27                           **(III) TWICE THE AMOUNT SPECIFIED IN § 2503(B) OF THE**  
28 **INTERNAL REVENUE CODE OF 1986, AS AMENDED, IF THE DONOR OF THE**  
29 **PROPERTY SUBJECT TO THE POWER OF WITHDRAWAL IS MARRIED AT THE TIME**  
30 **OF THE TRANSFER OF THE PROPERTY TO THE TRUST.**

31           **(Q) “PROPERTY” MEANS ANYTHING THAT MAY BE THE SUBJECT OF**  
32 **OWNERSHIP, WHETHER REAL OR PERSONAL, LEGAL OR EQUITABLE, OR AN**  
33 **INTEREST IN THE THING.**

1           **(R) (1) “QUALIFIED BENEFICIARY” MEANS A BENEFICIARY WHO, ON**  
2 **THE DATE THE QUALIFICATION OF THE BENEFICIARY IS DETERMINED:**

3                   **(I) IS A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF**  
4 **TRUST INCOME OR PRINCIPAL;**

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

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

12           **(2) “QUALIFIED BENEFICIARY” DOES NOT INCLUDE AN**  
13 **APPOINTEE UNDER THE WILL OF A LIVING PERSON OR THE OBJECT OF AN**  
14 **UNEXERCISED INTER VIVOS POWER OF APPOINTMENT.**

15           **(S) (1) “REVOCABLE”, AS APPLIED TO A TRUST, MEANS REVOCABLE**  
16 **BY THE SETTLOR WITHOUT THE CONSENT OF THE TRUSTEE OR A PERSON**  
17 **HOLDING AN ADVERSE INTEREST.**

18                   **(2) “REVOCABLE”, AS APPLIED TO A TRUST, INCLUDES A TRUST**  
19 **IN WHICH THE SETTLOR BECOMES INCAPACITATED.**

20           **(T) (1) “SETTLOR” MEANS A PERSON, INCLUDING A TESTATOR, WHO**  
21 **CREATES, OR CONTRIBUTES PROPERTY TO, A TRUST.**

22                   **(2) “SETTLOR” INCLUDES A PERSON WHO, WITH OTHER**  
23 **SETTLORS, CREATES OR CONTRIBUTES PROPERTY TO A TRUST AND IS A**  
24 **SETTLOR OF THE PORTION OF THE TRUST PROPERTY ATTRIBUTABLE TO THE**  
25 **CONTRIBUTION OF THAT PERSON EXCEPT TO THE EXTENT ANOTHER PERSON**  
26 **HAS THE POWER TO REVOKE OR WITHDRAW THAT PORTION.**

27           **(U) “SPENDTHRIFT PROVISION” MEANS A TERM OF A TRUST WHICH:**

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

30                   **(2) RESTRAINS INVOLUNTARY TRANSFER OF THE INTEREST OF A**  
31 **BENEFICIARY AND PERMITS VOLUNTARY TRANSFER OF THE INTEREST OF A**

1 BENEFICIARY ONLY WITH THE CONSENT OF A PERSON WHO IS NOT A  
2 BENEFICIARY.

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

7 (2) "STATE" INCLUDES AN INDIAN TRIBE OR BAND RECOGNIZED  
8 BY FEDERAL LAW OR FORMALLY ACKNOWLEDGED BY A STATE.

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

13 (2) "SUPPORT PROVISION" DOES NOT INCLUDE A PROVISION IN A  
14 TRUST THAT PROVIDES THAT A TRUSTEE HAS DISCRETION WHETHER TO  
15 DISTRIBUTED INCOME OR PRINCIPAL OR BOTH FOR THESE PURPOSES OR TO  
16 SELECT FROM AMONG A CLASS OF BENEFICIARIES TO RECEIVE DISTRIBUTIONS  
17 IN ACCORDANCE WITH THE TRUST PROVISION.

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

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

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

27 14.5-104.

28 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PERSON HAS  
29 KNOWLEDGE OF A FACT IF THE PERSON:

30 (1) HAS ACTUAL KNOWLEDGE OF THE FACT;

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



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

3           **(B) (1) AN ORGANIZATION THAT CONDUCTS ACTIVITIES THROUGH**  
4 **EMPLOYEES HAS NOTICE OR KNOWLEDGE OF A FACT INVOLVING A TRUST ONLY**  
5 **FROM THE TIME THE INFORMATION WAS RECEIVED BY AN EMPLOYEE HAVING**  
6 **RESPONSIBILITY TO ACT FOR THE TRUST OR WOULD HAVE BEEN BROUGHT TO**  
7 **THE ATTENTION OF THE EMPLOYEE IF THE ORGANIZATION HAD EXERCISED**  
8 **REASONABLE DILIGENCE.**

9           **(2) AN ORGANIZATION EXERCISES REASONABLE DILIGENCE**  
10 **UNDER THIS SUBSECTION IF THE ORGANIZATION MAINTAINS REASONABLE**  
11 **ROUTINES FOR COMMUNICATING SIGNIFICANT INFORMATION TO THE**  
12 **EMPLOYEE HAVING RESPONSIBILITY TO ACT FOR THE TRUST AND THERE IS**  
13 **REASONABLE COMPLIANCE WITH THE ROUTINES.**

14           **(3) REASONABLE DILIGENCE DOES NOT REQUIRE AN EMPLOYEE**  
15 **OF THE ORGANIZATION TO COMMUNICATE INFORMATION UNLESS THE**  
16 **COMMUNICATION IS PART OF THE REGULAR DUTIES OF THE EMPLOYEE OR THE**  
17 **EMPLOYEE KNOWS A MATTER INVOLVING THE TRUST WOULD BE MATERIALLY**  
18 **AFFECTED BY THE INFORMATION.**

19 **14.5-105.**

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

22           **(1) THE REQUIREMENTS FOR CREATING A TRUST;**

23           **(2) THE DUTY OF A TRUSTEE TO ACT IN GOOD FAITH AND IN**  
24 **ACCORDANCE WITH THE TERMS AND PURPOSES OF THE TRUST AND THE**  
25 **INTERESTS OF THE BENEFICIARIES;**

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

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

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

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

3           **(7) THE POWER OF THE COURT UNDER § 14.5-708(A) OF THIS**  
4 **TITLE TO INCREASE OR DECREASE THE COMMISSIONS OF A TRUSTEE;**

5           **(8) THE DUTY UNDER § 14.5-813(A) AND (B) OF THIS TITLE TO**  
6 **RESPOND TO THE REQUEST OF A QUALIFIED BENEFICIARY OF AN IRREVOCABLE**  
7 **TRUST FOR REPORTS BY THE TRUSTEE AND OTHER INFORMATION REASONABLY**  
8 **RELATED TO THE ADMINISTRATION OF A TRUST;**

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

11           **(10) THE RIGHTS UNDER §§ 14.5-908 THROUGH 14.5-910 OF THIS**  
12 **TITLE OF A PERSON OTHER THAN A TRUSTEE OR BENEFICIARY;**

13           **(11) PERIODS OF LIMITATION FOR COMMENCING A JUDICIAL**  
14 **PROCEEDING; AND**

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

17 **14.5-106.**

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

21 **14.5-107.**

22           **THE MEANING AND EFFECT OF THE TERMS OF A TRUST ARE DETERMINED**  
23 **BY:**

24           **(1) THE LAW OF THE JURISDICTION DESIGNATED IN THE TERMS**  
25 **UNLESS THE DESIGNATION OF THE LAW OF THAT JURISDICTION IS CONTRARY**  
26 **TO A STRONG PUBLIC POLICY OF THE JURISDICTION HAVING THE MOST**  
27 **SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE; OR**

28           **(2) IN THE ABSENCE OF A CONTROLLING DESIGNATION IN THE**  
29 **TERMS OF THE TRUST, THE LAW OF THE JURISDICTION HAVING THE MOST**  
30 **SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE.**

1 **14.5-108.**

2 (A) WITHOUT PRECLUDING OTHER MEANS FOR ESTABLISHING A  
3 SUFFICIENT CONNECTION WITH THE DESIGNATED JURISDICTION, TERMS OF A  
4 TRUST DESIGNATING THE PRINCIPAL PLACE OF ADMINISTRATION ARE VALID  
5 AND CONTROLLING IF:

6 (1) THE PRINCIPAL PLACE OF BUSINESS OF A TRUSTEE IS  
7 LOCATED IN OR A TRUSTEE IS A RESIDENT OF THE DESIGNATED JURISDICTION;  
8 OR

9 (2) ALL OR PART OF THE ADMINISTRATION OF THE TRUST  
10 OCCURS IN THE DESIGNATED JURISDICTION.

11 (B) WITHOUT PRECLUDING THE RIGHT OF THE COURT TO ORDER,  
12 APPROVE, OR DISAPPROVE A TRANSFER, THE TRUSTEE MAY TRANSFER THE  
13 PRINCIPAL PLACE OF ADMINISTRATION OF THE TRUST TO ANOTHER STATE OR  
14 TO A JURISDICTION OUTSIDE OF THE UNITED STATES.

15 (C) IN CONNECTION WITH A TRANSFER OF THE PRINCIPAL PLACE OF  
16 ADMINISTRATION OF A TRUST, THE TRUSTEE MAY TRANSFER SOME OR ALL OF  
17 THE TRUST PROPERTY TO A SUCCESSOR TRUSTEE DESIGNATED IN THE TERMS  
18 OF THE TRUST OR APPOINTED IN ACCORDANCE WITH § 14.5-704 OF THIS TITLE.

19 **14.5-109.**

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

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

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

1           **(C) NOTICE UNDER THIS TITLE OR THE SENDING OF A DOCUMENT**  
2 **UNDER THIS TITLE MAY BE WAIVED BY THE PERSON TO BE NOTIFIED OR SENT**  
3 **THE DOCUMENT.**

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

6 **14.5–110.**

7           **(A) A CHARITABLE ORGANIZATION EXPRESSLY DESIGNATED TO**  
8 **RECEIVE DISTRIBUTIONS UNDER THE TERMS OF A CHARITABLE TRUST HAS THE**  
9 **RIGHTS OF A QUALIFIED BENEFICIARY UNDER THIS TITLE IF THE CHARITABLE**  
10 **ORGANIZATION, ON THE DATE THE QUALIFICATION OF THE CHARITABLE**  
11 **ORGANIZATION IS BEING DETERMINED:**

12                   **(1) IS A DISTRIBUTEES OR PERMISSIBLE DISTRIBUTEES OF TRUST**  
13 **INCOME OR PRINCIPAL;**

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

18                   **(3) WOULD BE A DISTRIBUTEES OR PERMISSIBLE DISTRIBUTEES OF**  
19 **TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON THAT DATE.**

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

24           **(C) THE STATE’S ATTORNEY GENERAL HAS THE RIGHTS OF A**  
25 **QUALIFIED BENEFICIARY WITH RESPECT TO A CHARITABLE TRUST HAVING THE**  
26 **PRINCIPAL PLACE OF ADMINISTRATION OF THE CHARITABLE TRUST IN THIS**  
27 **STATE.**

28 **14.5–111.**

29           **(A) IN THIS SECTION, “INTERESTED PERSONS” MEANS PERSONS WHOSE**  
30 **CONSENT WOULD BE REQUIRED IN ORDER TO ACHIEVE A BINDING SETTLEMENT**  
31 **WERE THE SETTLEMENT TO BE APPROVED BY THE COURT.**

1           **(B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS**  
2 **SECTION, INTERESTED PERSONS MAY ENTER INTO A BINDING NONJUDICIAL**  
3 **SETTLEMENT AGREEMENT WITH RESPECT TO A MATTER INVOLVING A TRUST.**

4           **(C) A NONJUDICIAL SETTLEMENT AGREEMENT IS VALID ONLY TO THE**  
5 **EXTENT THE SETTLEMENT DOES NOT VIOLATE A MATERIAL PURPOSE OF THE**  
6 **TRUST AND INCLUDES TERMS AND CONDITIONS THAT COULD BE PROPERLY**  
7 **APPROVED BY THE COURT UNDER THIS TITLE OR OTHER APPLICABLE LAW.**

8           **(D) MATTERS THAT MAY BE RESOLVED BY A NONJUDICIAL SETTLEMENT**  
9 **AGREEMENT INCLUDE:**

10           **(1) THE INTERPRETATION OR CONSTRUCTION OF THE TERMS OF**  
11 **THE TRUST;**

12           **(2) THE APPROVAL OF A REPORT OR ACCOUNTING OF A TRUSTEE;**

13           **(3) DIRECTION TO A TRUSTEE TO REFRAIN FROM PERFORMING A**  
14 **PARTICULAR ACT OR THE GRANT TO A TRUSTEE OF A NECESSARY OR DESIRABLE**  
15 **POWER;**

16           **(4) THE RESIGNATION OR APPOINTMENT OF A TRUSTEE AND THE**  
17 **DETERMINATION OF THE COMPENSATION OF A TRUSTEE;**

18           **(5) TRANSFER OF THE PRINCIPAL PLACE OF ADMINISTRATION OF**  
19 **A TRUST; AND**

20           **(6) LIABILITY OF A TRUSTEE FOR AN ACTION RELATING TO THE**  
21 **TRUST.**

22           **(E) AN INTERESTED PERSON MAY REQUEST THE COURT TO:**

23           **(1) APPROVE A NONJUDICIAL SETTLEMENT AGREEMENT;**

24           **(2) DETERMINE WHETHER THE REPRESENTATION AS PROVIDED**  
25 **IN SUBTITLE 3 OF THIS TITLE WAS ADEQUATE; AND**

26           **(3) DETERMINE WHETHER THE AGREEMENT CONTAINS TERMS**  
27 **AND CONDITIONS THE COURT COULD HAVE PROPERLY APPROVED.**

28 **14.5-112.**



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

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

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

13 **14.5-203.**

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

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

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

29                   **(I) ACTS DISHONESTLY;**

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

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

1                   (IV) ACTS BEYOND THE BOUNDS OF REASONABLE  
2 JUDGMENT.

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

5                               SUBTITLE 3. REPRESENTATION.

6 14.5-301.

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

14           (B) THE CONSENT OF A PERSON WHO MAY REPRESENT AND BIND  
15 ANOTHER PERSON UNDER THIS SUBTITLE IS BINDING ON THE PERSON  
16 REPRESENTED UNLESS THE PERSON REPRESENTED OBJECTS TO THE  
17 REPRESENTATION BY NOTIFYING THE TRUSTEE AND THE REPRESENTATIVE  
18 BEFORE THE NOTICE WOULD OTHERWISE HAVE BECOME EFFECTIVE.

19           (C) EXCEPT AS OTHERWISE PROVIDED IN § 14.5-602 OF THIS TITLE, A  
20 PERSON WHO UNDER THIS SUBTITLE MAY REPRESENT A SETTLOR WHO LACKS  
21 CAPACITY MAY RECEIVE NOTICE AND GIVE A BINDING CONSENT ON BEHALF OF  
22 THE SETTLOR.

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

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

30 14.5-302.

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



1           **(B) A QUALIFIED POWER OF APPOINTMENT IS:**

2                   **(1) A GENERAL POWER OF APPOINTMENT; OR**

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

7 **14.5-303.**

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

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

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

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

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

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

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

28                   **(7) IF A MINOR, INCAPACITATED, UNBORN, OR UNKNOWN PERSON**  
29 **OR PERSON WHOSE LOCATION IS UNKNOWN AND NOT REASONABLY**  
30 **ASCERTAINABLE IS NOT OTHERWISE REPRESENTED UNDER THIS SECTION, A**  
31 **GRANDPARENT OR MORE REMOTE ANCESTOR OF THE PERSON MAY REPRESENT**

1 AND BIND THAT MINOR, INCAPACITATED, UNBORN, UNKNOWN, OR UNLOCATED  
2 PERSON.

3 **14.5-304.**

4 UNLESS OTHERWISE REPRESENTED, A MINOR, AN INCAPACITATED  
5 INDIVIDUAL, OR AN UNBORN INDIVIDUAL, OR A PERSON WHOSE IDENTITY OR  
6 LOCATION IS UNKNOWN AND NOT REASONABLY ASCERTAINABLE, MAY BE  
7 REPRESENTED BY AND BOUND BY ANOTHER BENEFICIARY HAVING A  
8 SUBSTANTIALLY IDENTICAL INTEREST UNDER THIS TITLE, BUT ONLY TO THE  
9 EXTENT THAT THERE IS NO CONFLICT OF INTEREST BETWEEN THE  
10 REPRESENTATIVE AND THE PERSON REPRESENTED OR AMONG THOSE BEING  
11 REPRESENTED WITH RESPECT TO THE PARTICULAR QUESTION OR DISPUTE.

12 **14.5-305.**

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

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

25 **SUBTITLE 4. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF**  
26 **TRUST.**

27 **14.5-401.**

28 **A TRUST MAY BE CREATED BY:**

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

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

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

3 14.5-402.

4           (A)   A TRUST IS CREATED ONLY IF:

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

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

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

9                           (I)   A CHARITABLE TRUST;

10                           (II)   A TRUST FOR THE CARE OF AN ANIMAL, AS PROVIDED IN  
11 § 14.5-407 OF THIS SUBTITLE; OR

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

14                   (4)   THE TRUSTEE HAS DUTIES TO PERFORM.

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

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

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

26 14.5-403.

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

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

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

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

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

8                   **(III) ANY TRUST PROPERTY WAS LOCATED.**

9 **14.5-404.**

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

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

14 **14.5-405.**

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

17 **14.5-406.**

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

22 **14.5-407.**

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

25           **(B) A TRUST AUTHORIZED BY THIS SECTION TERMINATES:**

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

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

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

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

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

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

21                   **(I) TO THE SETTLOR, IF LIVING; OR**

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

24 **14.5-408.**

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

27           **(1) (I) A TRUST MAY BE CREATED FOR A NONCHARITABLE**  
28 **PURPOSE WITHOUT A DEFINITE OR DEFINITELY ASCERTAINABLE BENEFICIARY**  
29 **OR FOR A NONCHARITABLE BUT OTHERWISE VALID PURPOSE TO BE SELECTED**  
30 **BY THE TRUSTEE.**

1                   **(II) A TRUST DESCRIBED IN SUBPARAGRAPH (I) OF THIS**  
2 **PARAGRAPH MAY NOT BE ENFORCED FOR MORE THAN 21 YEARS UNLESS THE**  
3 **SETTLOR ELECTS OTHERWISE;**

4                   **(2) A TRUST AUTHORIZED BY THIS SECTION MAY BE ENFORCED**  
5 **BY A PERSON APPOINTED IN THE TERMS OF THE TRUST OR, IF NO PERSON IS SO**  
6 **APPOINTED, BY A PERSON APPOINTED BY THE COURT.**

7                   **(3) (I) PROPERTY OF A TRUST AUTHORIZED BY THIS SECTION**  
8 **MAY BE APPLIED ONLY TO THE INTENDED USE OF THE TRUST, EXCEPT TO THE**  
9 **EXTENT THAT THE COURT DETERMINES THAT THE VALUE OF THE TRUST**  
10 **PROPERTY EXCEEDS THE AMOUNT REQUIRED FOR THE INTENDED USE;**

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

16 **14.5-409.**

17                   **(A) IN ADDITION TO THE METHODS OF TERMINATION PRESCRIBED BY §§**  
18 **14.5-410 THROUGH 14.5-412 OF THIS SUBTITLE, A TRUST TERMINATES TO THE**  
19 **EXTENT THE TRUST IS REVOKED OR EXPIRES IN ACCORDANCE WITH THE TERMS**  
20 **OF THE TRUST, OR THE PURPOSES OF THE TRUST HAVE BECOME UNLAWFUL OR**  
21 **IMPOSSIBLE TO ACHIEVE.**

22                   **(B) (1) A PROCEEDING TO APPROVE OR DISAPPROVE A PROPOSED**  
23 **MODIFICATION OR TERMINATION UNDER §§ 14.5-410 THROUGH 14.5-414 OF**  
24 **THIS SUBTITLE, OR COMBINATION OR DIVISION OF A TRUST UNDER § 14.5-415**  
25 **OF THIS SUBTITLE, MAY BE COMMENCED BY A TRUSTEE OR BENEFICIARY.**

26                   **(2) THE SETTLOR OF A CHARITABLE TRUST MAY MAINTAIN A**  
27 **PROCEEDING TO MODIFY THE TRUST UNDER § 14.5-301 OF THIS TITLE.**

28 **14.5-410.**

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

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

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

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

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

15           **(1) IF ALL OF THE PARTIES HAD CONSENTED, THE TRUST COULD**  
16 **HAVE BEEN MODIFIED OR TERMINATED UNDER THIS SECTION; AND**

17           **(2) THE INTERESTS OF A PARTY WHO DOES NOT CONSENT WILL**  
18 **BE ADEQUATELY PROTECTED.**

19 **14.5-411.**

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

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

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

31           **(C) ON TERMINATION OF A TRUST UNDER SUBSECTION (A) OF THIS**  
32 **SECTION, THE TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY IN A**

1 MANNER CONSISTENT WITH THE PURPOSES OF THE TRUST AS ORDERED BY THE  
2 COURT.

3 14.5-412.

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

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

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

12 (B) SUBJECT TO THE PROVISIONS OF THIS SECTION, A TRUSTEE MAY  
13 TERMINATE A TRUST WITHOUT AN ORDER OF COURT IF THE FAIR MARKET  
14 VALUE OF THE TRUST AS OF THE LAST ANNIVERSARY DATE OF THE TRUST IS  
15 \$100,000 OR LESS.

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

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

22 1. PERSONALLY DELIVERED; OR

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

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

27 (I) THE NAME OF THE TRUST;

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

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



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

3                   **(V) THE NAME OF ANY COTRUSTEE;**

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

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

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

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

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

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

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

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

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

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

7                   **(II) A QUALIFIED BENEFICIARY WHO HAS A PRESENT**  
8 **INTEREST IN THE TRUST ESTATE SHALL RECEIVE AN AMOUNT EQUAL TO THE**  
9 **PRESENT VALUE OF AN ANNUITY EQUAL TO THE PROPORTIONATE SHARE OF**  
10 **THE QUALIFIED BENEFICIARY OF THE AVERAGE NET ANNUAL INCOME OF THE**  
11 **TRUST OF THE QUALIFIED BENEFICIARY AS OF THE LAST THREE ANNIVERSARY**  
12 **DATES OF THE TRUST FOR A TERM EQUAL TO THE LIFE EXPECTANCY OF THE**  
13 **QUALIFIED BENEFICIARY, AT THE INTEREST RATE FOR VALUING VESTED**  
14 **BENEFITS PROVIDED BY THE PENSION BENEFIT GUARANTY CORPORATION FOR**  
15 **THE MONTH IMMEDIATELY PRECEDING THE DATE ON WHICH THE NOTICE**  
16 **UNDER SUBSECTION (C)(1) OF THIS SECTION IS SENT.**

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

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

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

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

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

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

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

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

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

8                   **(1) THE PROVISIONS OF THE GOVERNING INSTRUMENT MAKE**  
9 **THE TRUST ELIGIBLE TO QUALIFY FOR THE MARITAL DEDUCTION FOR UNITED**  
10 **STATES ESTATE TAX OR FOR UNITED STATES GIFT TAX PURPOSES UNDER THE**  
11 **INTERNAL REVENUE CODE OF 1986, AS AMENDED, UNLESS ALL QUALIFIED**  
12 **BENEFICIARIES AGREE THAT ALL OF THE TRUST ESTATE SHALL BE**  
13 **DISTRIBUTED TO THE SPOUSE OF THE CREATOR OF THE TRUST; OR**

14                   **(2) THE PROVISIONS OF THE GOVERNING INSTRUMENT MAKE**  
15 **THE TRUST QUALIFY, IN WHOLE OR IN PART, FOR A CHARITABLE DEDUCTION**  
16 **FOR UNITED STATES ESTATE TAX, UNITED STATES GIFT TAX, OR UNITED**  
17 **STATES INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE OF**  
18 **1986, AS AMENDED, UNLESS ALL QUALIFIED BENEFICIARIES AGREE THAT ALL**  
19 **OF THE TRUST ESTATE SHALL BE DISTRIBUTED TO ONE OR MORE QUALIFIED**  
20 **BENEFICIARIES THAT QUALIFY FOR THE CHARITABLE DEDUCTION UNDER THE**  
21 **INTERNAL REVENUE CODE OF 1986, AS AMENDED.**

22   **14.5-413.**

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

28   **14.5-414.**

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

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

1 14.5-415.

2 AFTER NOTICE TO THE QUALIFIED BENEFICIARIES, A TRUSTEE MAY  
3 COMBINE TWO OR MORE TRUSTS INTO A SINGLE TRUST, OR DIVIDE A TRUST  
4 INTO TWO OR MORE SEPARATE TRUSTS, IF THE RESULT:

5 (1) HAS SUBSTANTIALLY SIMILAR, EVEN THOUGH NOT  
6 IDENTICAL, DISPOSITIVE PROVISIONS FOR THE BENEFIT AT THAT TIME OF THE  
7 SAME QUALIFIED BENEFICIARIES, EVEN THOUGH THE IDENTITY OF THE  
8 BENEFICIARIES WHO ARE NOT QUALIFIED BENEFICIARIES IS NOT IDENTICAL;  
9 OR

10 (2) DOES NOT ADVERSELY AFFECT ACHIEVEMENT OF THE  
11 PURPOSES OF THE TRUST.

12 SUBTITLE 5. CREDITOR'S CLAIMS, SPENDTHRIFT AND DISCRETIONARY  
13 TRUSTS.

14 14.5-501.

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

21 (B) THE COURT MAY LIMIT THE AMOUNT, TIMING, OR OTHER TERMS  
22 AND CONDITIONS OF AN AWARD UNDER THIS SECTION TO RELIEF AS IS  
23 APPROPRIATE UNDER THE CIRCUMSTANCES CONSIDERING, AMONG OTHER  
24 FACTORS:

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

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

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

4 **14.5-502.**

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

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

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

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

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

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

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

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

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

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

9           **(F) IF A BENEFICIARY AND ONE OR MORE OTHERS HAVE MADE**  
10 **CONTRIBUTIONS TO A TRUST SUBJECT TO A DISCRETIONARY DISTRIBUTION**  
11 **PROVISION, THE PORTION OF THE TRUST ATTRIBUTABLE TO THE**  
12 **CONTRIBUTIONS OF THE BENEFICIARY SHALL NOT BE DEEMED TO BE SUBJECT**  
13 **TO THAT DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT**  
14 **BENEFICIARY, BUT THE PORTION OF THE TRUST ATTRIBUTABLE TO THE**  
15 **CONTRIBUTIONS OF OTHERS SHALL BE DEEMED TO BE SUBJECT TO THE**  
16 **DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT**  
17 **BENEFICIARY.**

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

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

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

28 **14.5-503.**

29           **(A) EXCEPT AS PROVIDED IN §§ 14.5-505 AND 14.5-506(B) OF THIS**  
30 **SUBTITLE:**

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

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

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

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

13 **14.5-504.**

14           **(A) A SPENDTHRIFT PROVISION IS VALID AND ENFORCEABLE.**

15           **(B) A PROVISION OF A TRUST PROVIDING THAT THE INTEREST OF A**  
16 **BENEFICIARY IS HELD SUBJECT TO A “SPENDTHRIFT TRUST”, OR WORDS OF**  
17 **SIMILAR IMPORT, RESTRAINS BOTH VOLUNTARY AND INVOLUNTARY TRANSFER**  
18 **OF THE BENEFICIARY’S INTEREST.**

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

22           **(D) (1) A BENEFICIARY MAY NOT TRANSFER AN INTEREST IN A TRUST**  
23 **IN VIOLATION OF A VALID SPENDTHRIFT PROVISION AND, EXCEPT AS**  
24 **OTHERWISE PROVIDED IN THIS SUBTITLE, A CREDITOR OR ASSIGNEE OF THE**  
25 **BENEFICIARY MAY NOT REACH THE INTEREST OR A DISTRIBUTION BY THE**  
26 **TRUSTEE BEFORE THE RECEIPT BY THE BENEFICIARY OF THE INTEREST OR**  
27 **DISTRIBUTION.**

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

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

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

4 **14.5-505.**

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

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

13           **(1) A CHILD, SPOUSE, OR FORMER SPOUSE OF THE BENEFICIARY**  
14 **WHO HAS A JUDGMENT OR COURT ORDER AGAINST THE BENEFICIARY FOR**  
15 **SUPPORT OR MAINTENANCE;**

16           **(2) A JUDGMENT CREDITOR WHO HAS PROVIDED SERVICES FOR**  
17 **THE PROTECTION OF THE INTEREST OF A BENEFICIARY IN THE TRUST; OR**

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

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

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

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

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

31           **(II) THE SUPPORT NEEDS OF THE BENEFICIARY; OR**



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

5 **14.5-506.**

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

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

18 **14.5-507.**

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

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

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

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

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

31                   (3) THE SETTLOR OR THE BENEFICIARY OF A TRUST SERVING AS  
32 A TRUST ADMINISTRATOR, A PARTNER OF A PARTNERSHIP, A MANAGER OF A

1 LIMITED LIABILITY COMPANY, AN OFFICER OF A CORPORATION, OR ANOTHER  
2 MANAGERIAL FUNCTION OF ANOTHER TYPE OF ENTITY IF PART OR ALL OF THE  
3 TRUST PROPERTY CONSISTS OF AN INTEREST IN THE ENTITY;

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

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

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

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

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

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

21 14.5-508.

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

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

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

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

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

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

5           **(4) WITH RESPECT TO A TRUST DESCRIBED IN 42 U.S.C. §**  
6 **1396P(D)(4)(A) OR (C), THE COURT MAY LIMIT THE AWARD OF THE CREDITOR**  
7 **OF A SETTLOR UNDER ITEMS (1) AND (2) OF THIS SUBSECTION TO THE RELIEF**  
8 **THAT IS APPROPRIATE UNDER THE CIRCUMSTANCES, CONSIDERING AMONG**  
9 **OTHER FACTORS DETERMINED APPROPRIATE BY THE COURT, THE**  
10 **SUPPLEMENTAL NEEDS OF THE BENEFICIARY; AND**

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

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

20           **(B) IF ALL OF THE FOLLOWING APPLY, AN INDIVIDUAL WHO CREATES A**  
21 **TRUST MAY NOT BE CONSIDERED A SETTLOR WITH REGARD TO THE RETAINED**  
22 **BENEFICIAL INTEREST OF THE INDIVIDUAL IN THE TRUST:**

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

25           **(2) THE TRUST IS TREATED AS QUALIFIED TERMINABLE**  
26 **INTEREST PROPERTY UNDER § 2523(F) OF THE INTERNAL REVENUE CODE OF**  
27 **1986, AS AMENDED; AND**

28           **(3) THE RETAINED BENEFICIAL INTEREST OF THE INDIVIDUAL IN**  
29 **THE TRUST INCOME, TRUST PRINCIPAL, OR BOTH, FOLLOWS THE TERMINATION**  
30 **OF THE PRIOR BENEFICIAL INTEREST OF THE SPOUSE OF THE INDIVIDUAL IN**  
31 **THE TRUST.**

32           **(C) (1) DURING THE PERIOD THE POWER OF WITHDRAWAL MAY BE**  
33 **EXERCISED, THE HOLDER OF A POWER OF WITHDRAWAL SHALL BE TREATED IN**

1 THE SAME MANNER AS THE SETTLOR OF A REVOCABLE TRUST TO THE EXTENT  
2 OF THE PROPERTY SUBJECT TO THAT POWER.

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

6 14.5-509.

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

10 14.5-510.

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

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

25 14.5-511.

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

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

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

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

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

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

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

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

22           **(1) THE HUSBAND AND WIFE REMAIN MARRIED;**

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

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

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

31           **(C) (1) AFTER THE DEATH OF THE FIRST OF THE HUSBAND AND WIFE**  
32 **TO DIE, ALL PROPERTY HELD IN TRUST THAT WAS IMMUNE FROM THE CLAIMS**  
33 **OF THEIR SEPARATE CREDITORS UNDER SUBSECTION (B) OF THIS SECTION**  
34 **IMMEDIATELY PRIOR TO THE DEATH OF THE INDIVIDUAL SHALL CONTINUE TO**

1 HAVE THE SAME IMMUNITY FROM THE CLAIMS OF THE SEPARATE CREDITORS  
2 OF THE DECEDENT AS WOULD HAVE EXISTED IF THE HUSBAND AND WIFE HAD  
3 CONTINUED TO HOLD THE PROPERTY CONVEYED IN TRUST, OR THE PROCEEDS  
4 FROM THE PROPERTY, AS TENANTS BY THE ENTIRETY.

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

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

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

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

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

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

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

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

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

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

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

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

11                   **(III) THE TRANSACTION FOR WHICH THE DISCLOSURE WAS**  
12 **SOUGHT.**

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

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

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

22                   **SUBTITLE 6. REVOCABLE TRUSTS.**

23 **14.5-601.**

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

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

31 **14.5-602.**

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

4           **(2) THIS SUBSECTION DOES NOT APPLY TO A TRUST CREATED**  
5 **UNDER AN INSTRUMENT EXECUTED BEFORE OCTOBER 1, 2012.**

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

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

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

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

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

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

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

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

27           **(ii) ANOTHER METHOD MANIFESTING CLEAR AND**  
28 **CONVINCING EVIDENCE OF THE INTENT OF THE SETTLOR.**

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



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

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

12 **14.5-603.**

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

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

22 **14.5-604.**

23           **(A) A PERSON SHALL COMMENCE A JUDICIAL PROCEEDING TO CONTEST**  
24 **THE VALIDITY OF A TRUST THAT WAS REVOCABLE AT THE DEATH OF THE**  
25 **SETTLOR WITHIN THE EARLIEST OF:**

26                   **(1) 1 YEAR AFTER THE DEATH OF THE SETTLOR; OR**

27                   **(2) 90 DAYS AFTER THE TRUSTEE SENT THE PERSON A COPY OF**  
28 **THE TRUST INSTRUMENT AND A NOTICE INFORMING THE PERSON OF THE**  
29 **EXISTENCE OF THE TRUST, OF THE NAME AND ADDRESS OF THE TRUSTEE, AND**  
30 **OF THE TIME ALLOWED FOR COMMENCING A PROCEEDING.**

31           **(B) (1) ON THE DEATH OF THE SETTLOR OF A TRUST THAT WAS**  
32 **REVOCABLE AT THE DEATH OF THE SETTLOR, THE TRUSTEE MAY PROCEED TO**  
33 **DISTRIBUTE THE TRUST PROPERTY IN ACCORDANCE WITH THE TERMS OF THE**  
34 **TRUST.**

1           **(2) THE TRUSTEE IS NOT SUBJECT TO LIABILITY FOR**  
2 **PROCEEDING AS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION UNLESS:**

3                   **(I) THE TRUSTEE KNOWS OF A PENDING JUDICIAL**  
4 **PROCEEDING CONTESTING THE VALIDITY OF THE TRUST; OR**

5                   **(II) A POTENTIAL CONTESTANT HAS NOTIFIED THE**  
6 **TRUSTEE OF A POSSIBLE JUDICIAL PROCEEDING TO CONTEST THE TRUST AND A**  
7 **JUDICIAL PROCEEDING IS COMMENCED WITHIN 60 DAYS AFTER THE**  
8 **CONTESTANT SENT THE NOTIFICATION.**

9           **(C) A BENEFICIARY OF A TRUST THAT IS DETERMINED TO HAVE BEEN**  
10 **INVALID IS LIABLE TO RETURN ANY DISTRIBUTION RECEIVED.**

11                           **SUBTITLE 7. OFFICE OF TRUSTEE.**

12   **14.5-701.**

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

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

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

22           **(B) (1) A PERSON DESIGNATED AS TRUSTEE WHO HAS NOT YET**  
23 **ACCEPTED THE TRUSTEESHIP MAY REJECT THE TRUSTEESHIP.**

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

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

29                   **(1) ACT TO PRESERVE THE TRUST PROPERTY IF, WITHIN A**  
30 **REASONABLE TIME AFTER ACTING, THE PERSON SENDS A REJECTION OF THE**

1 TRUSTEESHIP TO THE SETTLOR OR, IF THE SETTLOR IS DECEASED OR LACKS  
2 CAPACITY, TO A QUALIFIED BENEFICIARY; AND

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

6 14.5-702.

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

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

11 (2) HAS NOT DISPENSED WITH THE REQUIREMENT.

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

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

17 (C) A NATIONAL BANKING ASSOCIATION AS DEFINED IN THE FINANCIAL  
18 INSTITUTIONS ARTICLE OR A TRUST COMPANY QUALIFIED TO DO TRUST  
19 BUSINESS IN THE STATE NEED NOT GIVE BOND, EVEN IF REQUIRED BY THE  
20 TERMS OF THE TRUST.

21 14.5-703.

22 (A) (1) COTRUSTEES WHO ARE UNABLE TO REACH A UNANIMOUS  
23 DECISION ON A MATTER INVOLVING A TRUST UNDER THIS TITLE MAY ACT BY  
24 MAJORITY DECISION.

25 (2) THIS SUBSECTION DOES NOT APPLY TO A TRUST CREATED  
26 UNDER AN INSTRUMENT EXECUTED BEFORE OCTOBER 1, 2012.

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

29 (C) A COTRUSTEE SHALL PARTICIPATE IN THE PERFORMANCE OF THE  
30 FUNCTION OF A TRUSTEE UNLESS THE COTRUSTEE IS UNAVAILABLE TO

1 PERFORM THE FUNCTION BECAUSE OF ABSENCE, ILLNESS, DISQUALIFICATION  
2 UNDER OTHER LAW, OR OTHER TEMPORARY INCAPACITY OR THE COTRUSTEE  
3 HAS PROPERLY DELEGATED THE PERFORMANCE OF THE FUNCTION TO  
4 ANOTHER TRUSTEE.

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

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

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

16 (F) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (G) OF THIS  
17 SECTION, A TRUSTEE WHO DOES NOT JOIN IN AN ACTION OF ANOTHER TRUSTEE  
18 IS NOT LIABLE FOR THE ACTION.

19 (G) EACH TRUSTEE SHALL EXERCISE REASONABLE CARE TO:

20 (1) PREVENT A COTRUSTEE FROM COMMITTING A SERIOUS  
21 BREACH OF TRUST; AND

22 (2) COMPEL A COTRUSTEE TO REDRESS A SERIOUS BREACH OF  
23 TRUST.

24 (H) A DISSENTING TRUSTEE WHO JOINS IN AN ACTION AT THE  
25 DIRECTION OF THE MAJORITY OF THE TRUSTEES AND WHO NOTIFIED ANY  
26 COTRUSTEE OF THE DISSENT AT OR BEFORE THE TIME OF THE ACTION IS NOT  
27 LIABLE FOR THE ACTION UNLESS THE ACTION IS A SERIOUS BREACH OF TRUST.

28 14.5-704.

29 (A) A VACANCY IN A TRUSTEESHIP OCCURS IF:

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

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

3           **(3) A TRUSTEE RESIGNS;**

4           **(4) A TRUSTEE IS DISQUALIFIED OR REMOVED;**

5           **(5) A TRUSTEE DIES;**

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

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

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

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

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

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

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

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

22           **(3) APPOINTED BY THE COURT.**

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

27 **14.5-705.**

28           **(A) A TRUSTEE MAY RESIGN:**

- 1           **(1) ON AT LEAST 30 DAYS' NOTICE TO:**
- 2                   **(I) THE QUALIFIED BENEFICIARIES;**
- 3                   **(II) THE SETTLOR, IF LIVING; AND**
- 4                   **(III) ALL COTRUSTEES OR, IF THERE IS NO COTRUSTEE, TO**  
5 **THE NEXT DESIGNATED SUCCESSOR TRUSTEE, IF ANY; OR**
- 6           **(2) WITH THE APPROVAL OF THE COURT.**

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

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

13 **14.5-706.**

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

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

19                   **(2) THE COURT MAY REMOVE A TRUSTEE IF:**

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

22                           **(II) LACK OF COOPERATION AMONG COTRUSTEES**  
23 **SUBSTANTIALLY IMPAIRS THE ADMINISTRATION OF THE TRUST; OR**

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

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

6 **14.5-707.**

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

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

16 **14.5-708.**

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

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

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

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

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

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

3                   **(3) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS**  
4 **SUBSECTION SHALL BE DELIVERED TO THE QUALIFIED BENEFICIARIES**  
5 **PERSONALLY OR SENT TO THE QUALIFIED BENEFICIARIES AT THEIR LAST**  
6 **KNOWN ADDRESS BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID,**  
7 **RETURN RECEIPT REQUESTED.**

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

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

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

14                                 **2. 5% ON THE NEXT \$10,000;**

15                                 **3. 4% ON THE NEXT \$10,000; AND**

16                                 **4. 3% ON ANY REMAINDER.**

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

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

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

26                                 **(I) .4% ON THE FIRST \$250,000;**

27                                 **(II) .25% ON THE NEXT \$250,000;**

28                                 **(III) .15% ON THE NEXT \$500,000; AND**



1                   (IV) .1% ON ANY EXCESS.

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

4                   (3) IF A TRUST TERMINATES, WITH RESPECT TO ALL OR PART OF  
5 THE CORPUS HELD IN TRUST IN THE COURSE OF A YEAR, THE COMMISSION FOR  
6 THAT YEAR SHALL BE REDUCED OR PRORATED ACCORDING TO THE PART OF  
7 THE YEAR ELAPSED AND THE AMOUNT OF CORPUS AS TO WHICH THE TRUST  
8 TERMINATES, AND BE CHARGEABLE, FOR THAT PART OF THE YEAR, AND WITH  
9 RESPECT TO THIS PART OF THE CORPUS, AT THE TERMINATION OF THE TRUST,  
10 ON THE THEN VALUE OF THE CORPUS.

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

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

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

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

30                  (3) IN THE ABSENCE OF SPECIAL CIRCUMSTANCES, THE  
31 ALLOWANCE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE  
32 EQUAL TO .005% OF THE FAIR VALUE OF THE CORPUS THAT IS DISTRIBUTED.

33                  (F) (1) IN DETERMINING WHAT IS A SINGLE TRUST FOR THE  
34 APPLICATION OF THE RATES PROVIDED IN THIS SECTION, ALL PROPERTY HELD

1 UNDIVIDED UNDER THE TERMS OF THE WILL OR OTHER INSTRUMENT CREATING  
2 THE TRUST SHALL BE CONSIDERED AS A SINGLE TRUST.

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

7 (G) (1) INSTEAD OF THE RATES OF INCOME COMMISSIONS AND  
8 CORPUS COMMISSIONS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS  
9 SECTION, A TRUSTEE MAY CHARGE REASONABLE COMPENSATION CALCULATED  
10 IN ACCORDANCE WITH A SCHEDULE OF RATES PREVIOUSLY FILED BY THE  
11 TRUSTEE WITH THE APPROPRIATE AGENCY AS SPECIFIED IN PARAGRAPH (2) OF  
12 THIS SUBSECTION, IF THE TRUSTEE IS:

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

16 (II) A MEMBER OF THE MARYLAND BAR.

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

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

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

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

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

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

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

9           **(III) A QUALIFIED BENEFICIARY OF A TRUST WHO OBJECTS**  
10 **TO THE SCHEDULE OF RATES TO BE CHARGED TO THAT TRUST, AFTER**  
11 **NOTIFYING THE TRUSTEE OF THE OBJECTION, MAY PETITION THE**  
12 **APPROPRIATE CIRCUIT COURT TO REVIEW THE REASONABLENESS OF THE**  
13 **RATES TO BE CHARGED.**

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

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

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

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

35           **(I) THE SCHEDULE OF INCREASED RATES OF INCOME COMMISSIONS**  
36 **AND CORPUS COMMISSIONS WHICH TRUSTEES ARE AUTHORIZED TO CHARGE AS**

1 PROVIDED IN SUBSECTION (G) OF THIS SECTION IS NOT APPLICABLE TO  
2 GUARDIANS.

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

7 14.5-709.

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

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

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

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

18 14.5-710.

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

21 (1) AN INDIVIDUAL;

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

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

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

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

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

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

10           **(2) A BANK, TRUST COMPANY, OR SAVINGS BANK AUTHORIZED TO**  
11 **EXERCISE TRUST POWERS UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL**  
12 **FILE WITH THE COMMISSIONER OF FINANCIAL REGULATION, BEFORE**  
13 **EXERCISING TRUST POWERS IN THIS STATE, INFORMATION SUFFICIENT TO**  
14 **IDENTIFY:**

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

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

19                   **(III) A RESIDENT AGENT; AND**

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

22 **14.5-711.**

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

32                   **SUBTITLE 8. DUTIES AND POWERS OF TRUSTEE.**

1 **14.5-801.**

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

6 **14.5-802.**

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

9 **(B) SUBJECT TO THE RIGHTS OF PERSONS DEALING WITH OR ASSISTING**  
10 **THE TRUSTEE AS PROVIDED IN § 14.5-909 OF THIS TITLE, A SALE, AN**  
11 **ENCUMBRANCE, OR ANY OTHER TRANSACTION INVOLVING THE INVESTMENT OR**  
12 **MANAGEMENT OF TRUST PROPERTY ENTERED INTO BY THE TRUSTEE FOR THE**  
13 **PERSONAL ACCOUNT OF THE TRUSTEE OR WHICH IS OTHERWISE AFFECTED BY A**  
14 **CONFLICT BETWEEN THE FIDUCIARY AND PERSONAL INTERESTS OF THE**  
15 **TRUSTEE IS VOIDABLE BY A BENEFICIARY AFFECTED BY THE TRANSACTION**  
16 **UNLESS:**

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

19 **(2) THE TRANSACTION WAS APPROVED BY THE COURT;**

20 **(3) THE BENEFICIARY DID NOT COMMENCE A JUDICIAL**  
21 **PROCEEDING WITHIN THE TIME ALLOWED BY § 14.5-904 OF THIS TITLE;**

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

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

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

32 **(1) THE SPOUSE OF THE TRUSTEE;**

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

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

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

8           **(D) A TRANSACTION THAT DOES NOT CONCERN TRUST PROPERTY IN**  
9 **WHICH THE TRUSTEE ENGAGES IN AN INDIVIDUAL CAPACITY INVOLVES A**  
10 **CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF THE**  
11 **TRANSACTION CONCERNS AN OPPORTUNITY PROPERLY BELONGING TO THE**  
12 **TRUST.**

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

16           **(2) IF THE TRUST IS THE SOLE OWNER OF A CORPORATION OR**  
17 **OTHER FORM OF ENTERPRISE, THE TRUSTEE SHALL ELECT OR APPOINT**  
18 **DIRECTORS OR OTHER MANAGERS WHO WILL MANAGE THE CORPORATION OR**  
19 **ENTERPRISE IN THE BEST INTERESTS OF THE BENEFICIARIES.**

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

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

24           **(2) PAYMENT OF REASONABLE COMPENSATION TO THE TRUSTEE;**

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

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

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

4 **14.5-803.**

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

9 **14.5-804.**

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

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

16 **14.5-805.**

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

20 **14.5-806.**

21           **A TRUSTEE WHO HAS SPECIAL SKILLS OR EXPERTISE, OR IS NAMED**  
22 **TRUSTEE IN RELIANCE ON THE REPRESENTATION OF THE TRUSTEE THAT THE**  
23 **TRUSTEE HAS SPECIAL SKILLS OR EXPERTISE, SHALL USE THOSE SPECIAL**  
24 **SKILLS OR EXPERTISE.**

25 **14.5-807.**

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

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



1                   **(I) SELECTING AN AGENT;**

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

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

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

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

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

16 **14.5–808.**

17           **(A) WHILE A TRUST IS REVOCABLE, THE TRUSTEE MAY FOLLOW A**  
18 **DIRECTION OF THE SETTLOR THAT IS CONTRARY TO THE TERMS OF THE TRUST,**  
19 **EVEN IF IN DOING SO:**

20                   **(1) THE TRUSTEE EXCEEDS THE AUTHORITY GRANTED TO THE**  
21 **TRUSTEE UNDER THE TERMS OF THE TRUST; OR**

22                   **(2) THE TRUSTEE WOULD OTHERWISE VIOLATE A DUTY THE**  
23 **TRUSTEE OWES UNDER THE TRUST.**

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

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

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

10           **(c) (1) IF THE TERMS OF A TRUST REQUIRE THAT A TRUSTEE SHALL**  
11 **FOLLOW THE DIRECTION OF AN ADVISER WITH RESPECT TO PROPOSED**  
12 **INVESTMENT DECISIONS, DISTRIBUTION DECISIONS, OR OTHER DECISIONS OF**  
13 **THE TRUSTEE:**

14                   **(i) THE TRUSTEE SHALL ACT IN ACCORDANCE WITH THE**  
15 **DIRECTION OF THE ADVISER AND SHALL NOT BE LIABLE FOR A LOSS RESULTING**  
16 **DIRECTLY OR INDIRECTLY FROM THE ACT EXCEPT IN THE CASE OF WILLFUL**  
17 **MISCONDUCT ON THE PART OF THE TRUSTEE; AND**

18                   **(ii) THE TRUSTEE SHALL HAVE NO DUTY TO:**

- 19                           **1. MONITOR THE CONDUCT OF THE ADVISER;**  
20                           **2. PROVIDE ADVICE TO THE ADVISER; OR**  
21                           **3. COMMUNICATE WITH, WARN, OR APPRISE A**  
22 **BENEFICIARY OR THIRD PARTY CONCERNING INSTANCES IN WHICH THE**  
23 **TRUSTEE WOULD OR MIGHT HAVE EXERCISED THE DISCRETION OF THE**  
24 **TRUSTEE IN A MANNER DIFFERENT FROM THE MANNER DIRECTED BY THE**  
25 **ADVISER.**

26           **(2) ABSENT A PREPONDERANCE OF THE EVIDENCE TO THE**  
27 **CONTRARY, THE ACTIONS OF THE TRUSTEE PERTAINING TO MATTERS WITHIN**  
28 **THE SCOPE OF THE AUTHORITY OF THE ADVISER, SUCH AS CONFIRMING THAT**  
29 **THE DIRECTIONS OF THE ADVISER HAVE BEEN CARRIED OUT AND RECORDING**  
30 **AND REPORTING ACTIONS TAKEN AT THE DIRECTION OF THE ADVISER, SHALL**  
31 **BE PRESUMED TO BE ADMINISTRATIVE ACTIONS TAKEN BY THE TRUSTEE**  
32 **SOLELY TO ALLOW THE TRUSTEE TO PERFORM THOSE DUTIES ASSIGNED TO THE**  
33 **TRUSTEE BY THE TERMS OF THE TRUST, AND THESE ADMINISTRATIVE ACTIONS**  
34 **SHALL NOT BE DEEMED TO CONSTITUTE AN UNDERTAKING BY THE TRUSTEE TO**

1 MONITOR THE ADVISER OR OTHERWISE PARTICIPATE IN ACTIONS WITHIN THE  
2 SCOPE OF THE AUTHORITY OF THE ADVISER.

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

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

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

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

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

17 14.5-809.

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

24 14.5-810.

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

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

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

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

4 **14.5-811.**

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

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

10 **14.5-812.**

11           **A TRUSTEE SHALL TAKE REASONABLE STEPS TO COMPEL A FORMER**  
12 **TRUSTEE OR OTHER PERSON TO DELIVER TRUST PROPERTY TO THE TRUSTEE,**  
13 **AND TO REDRESS A BREACH OF TRUST KNOWN TO THE TRUSTEE TO HAVE BEEN**  
14 **COMMITTED BY A FORMER TRUSTEE.**

15 **14.5-813.**

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

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

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

29           **(3) A PERSONAL REPRESENTATIVE, GUARDIAN, OR**  
30 **ATTORNEY-IN-FACT MAY SEND THE QUALIFIED BENEFICIARIES A REPORT ON**  
31 **BEHALF OF THE FORMER TRUSTEE.**

1 14.5-814.

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

4 (1) THE POWER TO MAKE DISCRETIONARY DISTRIBUTIONS OF  
5 EITHER PRINCIPAL OR INCOME TO, OR FOR THE BENEFIT OF, THE TRUSTEE IN  
6 THE INDIVIDUAL CAPACITY OF THE TRUSTEE, UNLESS LIMITED BY AN  
7 ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, SUPPORT,  
8 AND MAINTENANCE OF THE TRUSTEE, AS DEFINED IN 26 U.S.C. §§ 2041 AND  
9 2514 AND THE U.S. TREASURY REGULATIONS ISSUED UNDER THOSE SECTIONS;

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

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

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

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

24 (B) IF A TRUSTEE IS PROHIBITED BY SUBSECTION (A)(1) OF THIS  
25 SECTION FROM EXERCISING A POWER CONFERRED ON THE TRUSTEE, THE  
26 TRUSTEE MAY NEVERTHELESS EXERCISE THE POWER EXCEPT THAT THE  
27 EXERCISE OF THAT POWER BY THE TRUSTEE SHALL BE LIMITED BY AN  
28 ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, SUPPORT,  
29 AND MAINTENANCE OF THE TRUSTEE, AS DEFINED IN 26 U.S.C. §§ 2041 AND  
30 2514 AND THE U.S. TREASURY REGULATIONS ISSUED UNDER THOSE SECTIONS.

31 (C) IF THE GOVERNING INSTRUMENT CONTAINS A POWER DESCRIBED  
32 UNDER SUBSECTION (A) OF THIS SECTION, AND THERE IS NO TRUSTEE WHO CAN  
33 EXERCISE THE POWER, ON APPLICATION OF A PARTY IN INTEREST, A COURT  
34 MAY APPOINT A TRUSTEE WHO IS NOT OTHERWISE DISQUALIFIED UNDER THIS

1 SECTION TO EXERCISE THE POWER DURING THE PERIOD OF TIME THAT THE  
2 COURT DESIGNATES.

3 (D) THIS SECTION DOES NOT APPLY IF:

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

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

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

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

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

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

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

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

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

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

4 **14.5–815.**

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

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

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

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

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

14                           **(III) OTHER POWERS CONFERRED BY THIS TITLE.**

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

17 **14.5–816.**

18           **WITHOUT LIMITING THE AUTHORITY CONFERRED BY §§ 14.5–815 OF THIS**  
19 **TITLE AND 15–102 OF THIS ARTICLE, A TRUSTEE MAY:**

20                   **(1) COLLECT TRUST PROPERTY AND ACCEPT OR REJECT**  
21 **ADDITIONS TO THE TRUST PROPERTY FROM A SETTLOR OR OTHER PERSON;**

22                   **(2) ACQUIRE OR SELL PROPERTY, FOR CASH OR ON CREDIT, AT**  
23 **PUBLIC OR PRIVATE SALE;**

24                   **(3) EXCHANGE, PARTITION, OR OTHERWISE CHANGE THE**  
25 **CHARACTER OF TRUST PROPERTY;**

26                   **(4) DEPOSIT TRUST MONEY IN AN ACCOUNT IN A REGULATED**  
27 **FINANCIAL–SERVICE INSTITUTION;**

1           **(5) BORROW MONEY, WITH OR WITHOUT SECURITY, FROM A BANK**  
2 **SELECTED BY THE TRUSTEE, INCLUDING A BANK THAT IS SERVING AS TRUSTEE**  
3 **OR ONE OF THE AFFILIATES OF THE BANK, AND MORTGAGE OR PLEDGE TRUST**  
4 **PROPERTY FOR A PERIOD WITHIN OR EXTENDING BEYOND THE DURATION OF**  
5 **THE TRUST;**

6           **(6) WITH RESPECT TO AN INTEREST IN A PROPRIETORSHIP,**  
7 **PARTNERSHIP, LIMITED LIABILITY COMPANY, BUSINESS TRUST, CORPORATION,**  
8 **OR OTHER FORM OF BUSINESS OR ENTERPRISE, CONTINUE THE BUSINESS OR**  
9 **OTHER ENTERPRISE AND TAKE AN ACTION THAT MAY BE TAKEN BY**  
10 **SHAREHOLDERS, MEMBERS, OR PROPERTY OWNERS, INCLUDING MERGING,**  
11 **DISSOLVING, OR OTHERWISE CHANGING THE FORM OF BUSINESS**  
12 **ORGANIZATION OR CONTRIBUTING ADDITIONAL CAPITAL;**

13           **(7) WITH RESPECT TO STOCKS OR OTHER SECURITIES, EXERCISE**  
14 **THE RIGHTS OF AN ABSOLUTE OWNER, INCLUDING THE RIGHT TO:**

15                   **(I) VOTE, OR GIVE PROXIES TO VOTE, WITH OR WITHOUT**  
16 **POWER OF SUBSTITUTION, OR ENTER INTO OR CONTINUE A VOTING TRUST**  
17 **AGREEMENT;**

18                   **(II) HOLD A SECURITY IN THE NAME OF A NOMINEE OR IN**  
19 **OTHER FORM WITHOUT DISCLOSURE OF THE TRUST SO THAT TITLE MAY PASS**  
20 **BY DELIVERY;**

21                   **(III) PAY CALLS, ASSESSMENTS, AND OTHER SUMS**  
22 **CHARGEABLE OR ACCRUING AGAINST THE SECURITIES, AND SELL OR EXERCISE**  
23 **STOCK SUBSCRIPTION OR CONVERSION RIGHTS;**

24                   **(IV) EXERCISE STOCK OPTIONS AND OTHER RIGHTS; AND**

25                   **(V) DEPOSIT THE SECURITIES WITH A DEPOSITARY OR**  
26 **OTHER REGULATED FINANCIAL-SERVICE INSTITUTION;**

27           **(8) WITH RESPECT TO AN INTEREST IN REAL PROPERTY AND**  
28 **SUBJECT TO PARAGRAPH (9) OF THIS SECTION, CONSTRUCT, OR MAKE**  
29 **ORDINARY OR EXTRAORDINARY REPAIRS TO, ALTERATIONS TO, OR**  
30 **IMPROVEMENTS IN, BUILDINGS OR OTHER STRUCTURES, DEMOLISH**  
31 **IMPROVEMENTS, RAZE EXISTING OR ERECT NEW PARTY WALLS OR BUILDINGS,**  
32 **SUBDIVIDE OR DEVELOP LAND, DEDICATE LAND TO PUBLIC USE OR GRANT**  
33 **PUBLIC OR PRIVATE EASEMENTS, AND MAKE OR VACATE PLATS AND ADJUST**  
34 **BOUNDARIES;**



1           **(9) DONATE A CONSERVATION EASEMENT ON REAL PROPERTY,**  
2 **OR CONSENT TO THE DONATION OF A CONSERVATION EASEMENT ON REAL**  
3 **PROPERTY BY A PERSONAL REPRESENTATIVE OF AN ESTATE OF WHICH THE**  
4 **TRUSTEE IS A LEGATEE, IN ORDER TO OBTAIN THE BENEFIT OF THE ESTATE TAX**  
5 **EXCLUSION ALLOWED UNDER § 2031(C) OF THE INTERNAL REVENUE CODE OF**  
6 **1986, AS AMENDED, IF:**

7                   **(I) THE GOVERNING INSTRUMENT AUTHORIZES OR**  
8 **DIRECTS THE DONATION OF A CONSERVATION EASEMENT ON THE REAL**  
9 **PROPERTY; OR**

10                   **(II) EACH BENEFICIARY WHO HAS AN INTEREST IN THE**  
11 **REAL PROPERTY THAT WOULD BE AFFECTED BY THE CONSERVATION EASEMENT**  
12 **CONSENTS IN WRITING TO THE DONATION;**

13           **(10) ENTER INTO A LEASE AS LESSOR OR LESSEE, INCLUDING A**  
14 **LEASE OR OTHER ARRANGEMENT FOR EXPLORATION AND REMOVAL OF**  
15 **NATURAL RESOURCES, WITH OR WITHOUT THE OPTION TO PURCHASE OR**  
16 **RENEW, FOR A PERIOD WITHIN OR EXTENDING BEYOND THE DURATION OF THE**  
17 **TRUST;**

18           **(11) GRANT AN OPTION INVOLVING A SALE, LEASE, OR OTHER**  
19 **DISPOSITION OF TRUST PROPERTY OR ACQUIRE AN OPTION FOR THE**  
20 **ACQUISITION OF PROPERTY, INCLUDING AN OPTION EXERCISABLE BEYOND THE**  
21 **DURATION OF THE TRUST, AND EXERCISE AN OPTION SO ACQUIRED;**

22           **(12) INSURE THE PROPERTY OF THE TRUST AGAINST DAMAGE OR**  
23 **LOSS AND INSURE THE TRUSTEE, THE AGENTS OF THE TRUSTEE, AND**  
24 **BENEFICIARIES AGAINST LIABILITY ARISING FROM THE ADMINISTRATION OF**  
25 **THE TRUST;**

26           **(13) ABANDON OR DECLINE TO ADMINISTER PROPERTY OF NO**  
27 **VALUE OR OF INSUFFICIENT VALUE TO JUSTIFY THE COLLECTION OR**  
28 **CONTINUED ADMINISTRATION OF THE PROPERTY;**

29           **(14) WITH RESPECT TO POSSIBLE LIABILITY FOR VIOLATION OF**  
30 **ENVIRONMENTAL LAW:**

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

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

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

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

11                   **(V) PAY THE EXPENSE OF AN INSPECTION, REVIEW,**  
12 **ABATEMENT, OR REMEDIAL ACTION TO COMPLY WITH ENVIRONMENTAL LAW;**

13                   **(15) PAY OR CONTEST A CLAIM, SETTLE A CLAIM BY OR AGAINST**  
14 **THE TRUST, AND RELEASE, IN WHOLE OR IN PART, A CLAIM BELONGING TO THE**  
15 **TRUST;**

16                   **(16) PAY TAXES, ASSESSMENTS, COMPENSATION OF THE TRUSTEE**  
17 **AND OF EMPLOYEES AND AGENTS OF THE TRUST, AND OTHER EXPENSES**  
18 **INCURRED IN THE ADMINISTRATION OF THE TRUST;**

19                   **(17) EXERCISE ELECTIONS WITH RESPECT TO FEDERAL, STATE,**  
20 **AND LOCAL TAXES;**

21                   **(18) SELECT A MODE OF PAYMENT UNDER AN EMPLOYEE BENEFIT**  
22 **OR RETIREMENT PLAN, ANNUITY, OR LIFE INSURANCE PAYABLE TO THE**  
23 **TRUSTEE, EXERCISE RIGHTS UNDER THE PLAN, ANNUITY, OR LIFE INSURANCE,**  
24 **INCLUDING EXERCISE OF THE RIGHT TO INDEMNIFICATION FOR EXPENSES AND**  
25 **AGAINST LIABILITIES, AND TAKE APPROPRIATE ACTION TO COLLECT THE**  
26 **PROCEEDS;**

27                   **(19) MAKE LOANS OUT OF TRUST PROPERTY, INCLUDING LOANS**  
28 **TO A BENEFICIARY ON TERMS AND CONDITIONS THE TRUSTEE CONSIDERS TO BE**  
29 **FAIR AND REASONABLE UNDER THE CIRCUMSTANCES, AND ON WHICH THE**  
30 **TRUSTEE HAS A LIEN ON FUTURE DISTRIBUTIONS FOR REPAYMENT OF THE**  
31 **LOANS;**

32                   **(20) PLEDGE TRUST PROPERTY TO GUARANTEE LOANS MADE BY**  
33 **OTHERS TO THE BENEFICIARY;**

1           **(21) APPOINT A TRUSTEE TO ACT IN ANOTHER JURISDICTION WITH**  
2 **RESPECT TO TRUST PROPERTY LOCATED IN THE OTHER JURISDICTION, CONFER**  
3 **ON THE APPOINTED TRUSTEE ALL OF THE POWERS AND DUTIES OF THE**  
4 **APPOINTING TRUSTEE, REQUIRE THAT THE APPOINTED TRUSTEE FURNISH**  
5 **SECURITY, AND REMOVE A TRUSTEE APPOINTED UNDER THIS PARAGRAPH;**

6           **(22) (I) PAY AN AMOUNT DISTRIBUTABLE TO A BENEFICIARY**  
7 **WHO IS UNDER A LEGAL DISABILITY OR WHO THE TRUSTEE REASONABLY**  
8 **BELIEVES IS INCAPACITATED, BY PAYING THE AMOUNT DIRECTLY TO THE**  
9 **BENEFICIARY OR APPLYING THE AMOUNT FOR THE BENEFIT OF THE**  
10 **BENEFICIARY;**

11           **(II) PAY THE AMOUNT DESCRIBED IN ITEM (I) OF THIS ITEM**  
12 **TO THE GUARDIAN OF THE PROPERTY OF THE BENEFICIARY, OR, IF THE**  
13 **BENEFICIARY DOES NOT HAVE A GUARDIAN OF THE PROPERTY, THE GUARDIAN**  
14 **OF THE PERSON OF THE BENEFICIARY;**

15           **(III) PAY THE AMOUNT DESCRIBED IN ITEM (I) OF THIS ITEM**  
16 **TO THE CUSTODIAN OF THE BENEFICIARY UNDER THE UNIFORM TRANSFERS TO**  
17 **MINORS ACT, AND, FOR THAT PURPOSE, CREATE A CUSTODIANSHIP;**

18           **(IV) IF THE TRUSTEE DOES NOT KNOW OF A GUARDIAN OF**  
19 **THE PROPERTY, GUARDIAN OF THE PERSON, OR CUSTODIAN, PAY THE AMOUNT**  
20 **DESCRIBED IN ITEM (I) OF THIS ITEM TO AN ADULT RELATIVE OR OTHER**  
21 **PERSON HAVING LEGAL CARE OR CUSTODY OF THE BENEFICIARY, TO BE**  
22 **EXPENDED ON BEHALF OF THE BENEFICIARY; OR**

23           **(V) MANAGE THE AMOUNT DESCRIBED IN ITEM (I) OF THIS**  
24 **ITEM AS A SEPARATE FUND ON BEHALF OF THE BENEFICIARY, SUBJECT TO THE**  
25 **CONTINUING RIGHT OF THE BENEFICIARY TO WITHDRAW THE DISTRIBUTION;**

26           **(23) ON DISTRIBUTION OF TRUST PROPERTY OR THE DIVISION OR**  
27 **TERMINATION OF A TRUST, MAKE DISTRIBUTIONS IN DIVIDED OR UNDIVIDED**  
28 **INTERESTS, ALLOCATE PARTICULAR ASSETS IN PROPORTIONATE OR**  
29 **DISPROPORTIONATE SHARES, VALUE THE TRUST PROPERTY FOR THOSE**  
30 **PURPOSES, AND ADJUST FOR RESULTING DIFFERENCES IN VALUATION;**

31           **(24) RESOLVE A DISPUTE CONCERNING THE INTERPRETATION OF**  
32 **THE TRUST OR THE ADMINISTRATION OF THE TRUST BY MEDIATION,**  
33 **ARBITRATION, OR OTHER PROCEDURE FOR ALTERNATIVE DISPUTE**  
34 **RESOLUTION;**

1           **(25) PROSECUTE OR DEFEND AN ACTION, A CLAIM, OR A JUDICIAL**  
2 **PROCEEDING IN ANY JURISDICTION TO PROTECT TRUST PROPERTY AND THE**  
3 **TRUSTEE IN THE PERFORMANCE OF THE DUTIES OF THE TRUSTEE;**

4           **(26) SIGN AND DELIVER CONTRACTS AND OTHER INSTRUMENTS**  
5 **THAT ARE USEFUL TO ACHIEVE OR FACILITATE THE EXERCISE OF THE POWERS**  
6 **OF THE TRUSTEE;**

7           **(27) PURCHASE AND PAY FROM TRUST PRINCIPAL THE PREMIUMS**  
8 **ON LIFE INSURANCE; AND**

9           **(28) ON TERMINATION OF THE TRUST, EXERCISE THE POWERS**  
10 **APPROPRIATE TO WIND UP THE ADMINISTRATION OF THE TRUST AND**  
11 **DISTRIBUTE THE TRUST PROPERTY TO THE PERSONS ENTITLED TO THE TRUST**  
12 **PROPERTY.**

13 **14.5–817.**

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

17           **(2) THE RIGHT OF A BENEFICIARY TO OBJECT TO A PROPOSED**  
18 **DISTRIBUTION UNDER PARAGRAPH (1) OF THIS SUBSECTION TERMINATES IF**  
19 **THE BENEFICIARY DOES NOT NOTIFY THE TRUSTEE OF AN OBJECTION WITHIN**  
20 **60 DAYS AFTER THE PROPOSAL WAS SENT BUT ONLY IF THE PROPOSAL**  
21 **INFORMED THE BENEFICIARY OF THE RIGHT TO OBJECT AND OF THE TIME**  
22 **ALLOWED FOR OBJECTION.**

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

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

30 **14.5–901.**

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

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

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

5           **(1) COMPEL THE TRUSTEE TO PERFORM THE DUTIES OF THE**  
6 **TRUSTEE;**

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

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

11           **(4) ORDER A TRUSTEE TO ACCOUNT;**

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

14           **(6) SUSPEND THE TRUSTEE;**

15           **(7) REMOVE THE TRUSTEE AS PROVIDED IN § 14.5-706 OF THIS**  
16 **TITLE;**

17           **(8) REDUCE OR DENY COMPENSATION TO THE TRUSTEE;**

18           **(9) SUBJECT TO § 14.5-909 OF THIS SUBTITLE, VOID AN ACT OF**  
19 **THE TRUSTEE, IMPOSE A LIEN OR A CONSTRUCTIVE TRUST ON TRUST**  
20 **PROPERTY, OR TRACE TRUST PROPERTY WRONGFULLY DISPOSED OF AND**  
21 **RECOVER THE PROPERTY OR PROCEEDS FROM THE PROPERTY; OR**

22           **(10) ORDER OTHER APPROPRIATE RELIEF.**

23 **14.5-902.**

24           **(A) A TRUSTEE WHO COMMITS A BREACH OF TRUST IS LIABLE TO THE**  
25 **BENEFICIARIES AFFECTED BY THE BREACH FOR THE GREATER OF:**

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

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

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

6           **(2) A TRUSTEE WHO RECEIVED A BENEFIT FROM A BREACH OF**  
7 **TRUST UNDER THIS SUBSECTION IS NOT ENTITLED TO CONTRIBUTION FROM**  
8 **ANOTHER TRUSTEE TO THE EXTENT OF THE BENEFIT RECEIVED.**

9 **14.5-903.**

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

13 **14.5-904.**

14           **(A) A BENEFICIARY MAY NOT COMMENCE A PROCEEDING AGAINST A**  
15 **TRUSTEE FOR BREACH OF TRUST MORE THAN 1 YEAR AFTER THE DATE THE**  
16 **BENEFICIARY OR THE REPRESENTATIVE OF THE BENEFICIARY WAS SENT A**  
17 **REPORT THAT ADEQUATELY DISCLOSED THE EXISTENCE OF A POTENTIAL CLAIM**  
18 **FOR BREACH OF TRUST AND INFORMED THE BENEFICIARY OR THE**  
19 **REPRESENTATIVE OF THE BENEFICIARY OF THE TIME ALLOWED FOR**  
20 **COMMENCING A PROCEEDING.**

21           **(B) A REPORT ADEQUATELY DISCLOSES THE EXISTENCE OF A**  
22 **POTENTIAL CLAIM FOR BREACH OF TRUST IF THE REPORT PROVIDES**  
23 **SUFFICIENT INFORMATION SO THAT THE BENEFICIARY OR REPRESENTATIVE**  
24 **KNOWS OF THE POTENTIAL CLAIM OR SHOULD HAVE INQUIRED INTO THE**  
25 **EXISTENCE OF THE CLAIM.**

26           **(C) NO BENEFICIARY SHALL COMMENCE A JUDICIAL PROCEEDING**  
27 **AGAINST A TRUSTEE FOR BREACH OF TRUST AFTER THE EARLIER OF:**

28           **(1) THE EXPIRATION OF AN APPLICABLE TIME PERIOD FOR**  
29 **COMMENCING THE ACTION AS PROVIDED BY MARYLAND LAW; OR**

30           **(2) THREE YEARS AFTER THE FIRST TO OCCUR OF:**

31           **(I) THE REMOVAL, OR RESIGNATION, OF THE TRUSTEE;**

1                   **(II) THE TERMINATION OF THE INTEREST OF THE**  
2 **BENEFICIARY IN THE TRUST; OR**

3                   **(III) THE TERMINATION OF THE TRUST.**

4 **14.5-905.**

5           **IF THE HAPPENING OF AN EVENT, INCLUDING MARRIAGE, DIVORCE,**  
6 **PERFORMANCE OF EDUCATIONAL REQUIREMENTS, DEATH, BIRTH, OR**  
7 **ADOPTION, AFFECTS THE ADMINISTRATION OR DISTRIBUTION OF A TRUST, A**  
8 **TRUSTEE WHO HAS EXERCISED REASONABLE CARE TO ASCERTAIN THE**  
9 **HAPPENING OF THE EVENT IS NOT LIABLE FOR A LOSS RESULTING FROM THE**  
10 **LACK OF KNOWLEDGE OF THE TRUSTEE.**

11 **14.5-906.**

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

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

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

20                   **(3) WAS UNREASONABLE UNDER THE CIRCUMSTANCES.**

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

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

31 **14.5-907.**

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

5           **(1) THE CONSENT, RELEASE, OR RATIFICATION OF THE**  
6 **BENEFICIARY WAS INDUCED BY IMPROPER CONDUCT OF THE TRUSTEE; OR**

7           **(2) AT THE TIME OF THE CONSENT, RELEASE, OR RATIFICATION,**  
8 **THE BENEFICIARY DID NOT KNOW OF THE RIGHTS OF THE BENEFICIARY OR OF**  
9 **THE MATERIAL FACTS RELATING TO THE BREACH.**

10 **14.5-908.**

11           **(A) EXCEPT AS OTHERWISE PROVIDED IN THE CONTRACT, A TRUSTEE IS**  
12 **NOT PERSONALLY LIABLE ON A CONTRACT PROPERLY ENTERED INTO BY THE**  
13 **TRUSTEE IN THE FIDUCIARY CAPACITY OF THE TRUSTEE IN THE COURSE OF**  
14 **ADMINISTERING THE TRUST IF THE TRUSTEE IN THE CONTRACT DISCLOSED THE**  
15 **FIDUCIARY CAPACITY.**

16           **(B) A CLAIM BASED ON A CONTRACT ENTERED INTO BY A TRUSTEE IN**  
17 **THE FIDUCIARY CAPACITY OF THE TRUSTEE, ON AN OBLIGATION ARISING FROM**  
18 **OWNERSHIP OR CONTROL OF TRUST PROPERTY, OR ON A TORT COMMITTED IN**  
19 **THE COURSE OF ADMINISTERING A TRUST, MAY BE ASSERTED IN A JUDICIAL**  
20 **PROCEEDING AGAINST THE TRUSTEE IN THE FIDUCIARY CAPACITY OF THE**  
21 **TRUSTEE, REGARDLESS OF WHETHER THE TRUSTEE IS PERSONALLY LIABLE**  
22 **FOR THE CLAIM.**

23 **14.5-909.**

24           **(A) IN THE ABSENCE OF ACTUAL KNOWLEDGE OR OF REASONABLE**  
25 **CAUSE TO INQUIRE AS TO WHETHER A TRUSTEE IS IMPROPERLY EXERCISING**  
26 **POWER, A PERSON DEALING WITH A TRUSTEE NEED NOT INQUIRE WHETHER A**  
27 **TRUSTEE IS PROPERLY EXERCISING THE POWER OF THE TRUSTEE, AND IS**  
28 **PROTECTED AS IF THE TRUSTEE PROPERLY EXERCISED THE POWER.**

29           **(B) A PERSON NEED NOT SEE TO THE PROPER APPLICATION OF TRUST**  
30 **ASSETS PAID OR DELIVERED TO A TRUSTEE.**

31 **14.5-910.**

32           **(A) INSTEAD OF FURNISHING A COPY OF THE TRUST INSTRUMENT TO A**  
33 **PERSON OTHER THAN A BENEFICIARY, THE TRUSTEE MAY FURNISH TO THE**



1 PERSON A CERTIFICATION OF TRUST CONTAINING THE FOLLOWING  
2 INFORMATION:

3 (1) THAT THE TRUST EXISTS AND THE DATE THE TRUST  
4 INSTRUMENT WAS EXECUTED;

5 (2) THE IDENTITY OF THE SETTLOR;

6 (3) THE IDENTITY AND ADDRESS OF THE CURRENTLY ACTING  
7 TRUSTEE;

8 (4) THE POWERS OF THE TRUSTEE IN THE PENDING  
9 TRANSACTION;

10 (5) THE REVOCABILITY OR IRREVOCABILITY OF THE TRUST AND  
11 THE IDENTITY OF A PERSON HOLDING A POWER TO REVOKE THE TRUST;

12 (6) THE AUTHORITY OF COTRUSTEES TO SIGN OR OTHERWISE  
13 AUTHENTICATE AND WHETHER THE AUTHENTICATION OF ALL OR FEWER THAN  
14 ALL OF THE COTRUSTEES IS REQUIRED IN ORDER TO EXERCISE POWERS OF THE  
15 TRUSTEE;

16 (7) THE TAXPAYER IDENTIFICATION NUMBER OF THE TRUST,  
17 UNLESS THE TAXPAYER IDENTIFICATION NUMBER IS ALSO THE SOCIAL  
18 SECURITY NUMBER OF A SETTLOR; AND

19 (8) THE MANNER AND NAME IN WHICH TITLE TO TRUST  
20 PROPERTY MAY BE TAKEN.

21 (B) A CERTIFICATION OF TRUST MAY BE SIGNED OR OTHERWISE  
22 AUTHENTICATED BY A TRUSTEE.

23 (C) A CERTIFICATION OF TRUST SHALL STATE THAT THE TRUST HAS  
24 NOT BEEN REVOKED, MODIFIED, OR AMENDED IN A MANNER THAT WOULD  
25 CAUSE THE REPRESENTATIONS CONTAINED IN THE CERTIFICATION OF TRUST  
26 TO BE INCORRECT.

27 (D) A CERTIFICATION OF TRUST NEED NOT CONTAIN THE DISPOSITIVE  
28 TERMS OF A TRUST.

29 (E) A RECIPIENT OF A CERTIFICATION OF TRUST MAY REQUIRE THE  
30 TRUSTEE TO FURNISH COPIES OF THOSE EXCERPTS FROM THE ORIGINAL TRUST

1 INSTRUMENT AND LATER AMENDMENTS WHICH DESIGNATE THE TRUSTEE AND  
2 CONFER ON THE TRUSTEE THE POWER TO ACT IN THE PENDING TRANSACTION.

3 (F) A PERSON WHO ACTS REASONABLY IN RELIANCE ON A  
4 CERTIFICATION OF TRUST WITHOUT KNOWLEDGE THAT THE REPRESENTATIONS  
5 CONTAINED IN THE CERTIFICATION ARE INCORRECT IS NOT LIABLE FOR THE  
6 ACT.

7 (G) WHILE ACTING REASONABLY UNDER THE CIRCUMSTANCES, A  
8 PERSON WHO ENTERS INTO A TRANSACTION IN RELIANCE ON A CERTIFICATION  
9 OF TRUST MAY ENFORCE THE TRANSACTION AGAINST THE TRUST PROPERTY AS  
10 IF THE REPRESENTATIONS CONTAINED IN THE CERTIFICATION WERE CORRECT.

11 (H) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PERSON TO OBTAIN  
12 A COPY OF THE TRUST INSTRUMENT IN A JUDICIAL PROCEEDING CONCERNING  
13 THE TRUST.

14 **SUBTITLE 10. MISCELLANEOUS PROVISIONS.**

15 **14.5-1001.**

16 THE PROVISIONS OF THIS TITLE GOVERNING THE LEGAL EFFECT,  
17 VALIDITY, OR ENFORCEABILITY OF ELECTRONIC RECORDS OR ELECTRONIC  
18 SIGNATURES, AND OF CONTRACTS FORMED OR PERFORMED WITH THE USE OF  
19 THOSE RECORDS OR SIGNATURES, CONFORM TO THE REQUIREMENTS OF § 102  
20 OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT  
21 (15 U.S.C. § 7002) AND SUPERSEDE, MODIFY, AND LIMIT THE REQUIREMENTS  
22 OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

23 **14.5-1002.**

24 IF A PROVISION OF THIS TITLE OR THE APPLICATION OF A PROVISION TO  
25 A PERSON OR CIRCUMSTANCES IS HELD INVALID, THE INVALIDITY DOES NOT  
26 AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE WHICH CAN BE  
27 GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO  
28 THIS END THE PROVISIONS OF THIS TITLE ARE SEVERABLE.

29 **14.5-1003.**

30 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE:

31 (1) THIS TITLE APPLIES TO ALL TRUSTS CREATED BEFORE, ON,  
32 OR AFTER OCTOBER 1, 2012;

