Article - Estates and Trusts

§1–101.

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

(b) "Administrative probate" has the meaning stated in § 5–301 of this article.

(c) "Book" includes a form of electronic recordation.

(d) "Child" has the meaning stated in §§ 1–205 through 1–208 of this title.

(e) "County" includes Baltimore City.

(f) "Court" has the meaning stated in § 2–101 of this article.

(g) "Domestic partnership" has the meaning stated in § 6–101(a) of the Health – General Article.

(h) (1) "Environmental law" means a federal, State, or local law, rule, regulation, or ordinance that relates to the protection of the environment.

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

(i) "Heir" means a person entitled to property of an intestate decedent pursuant to §§ 3–101 through 3–110 of this article.

(j) (1) "Interested person" means:

(i) A person named as executor in a will;

(ii) A person serving as personal representative after judicial or administrative probate;

(iii) A legatee in being, whether the legatee's interest is vested or contingent, except that a legatee whose interest has been fully paid or fully adeemed ceases to be an "interested person" on receipt of payment or notice of the ademption;

(iv) An heir even if the decedent dies testate, except that an heir of a testate decedent ceases to be an "interested person" when the register has given notice pursuant to § 2–210 or § 5–403(a) of this article;

(v) An heir or legatee whose interest is contingent solely on whether some other heir or legatee survives the decedent by a stated period if the other heir or legatee has died within that period;

(vi) A surviving spouse who has timely filed an election to take an elective share under § 3–403 of this article, except that the surviving spouse ceases to be an "interested person" on the election being withdrawn or ruled ineffective by a court of competent jurisdiction; or

(vii) A person who timely files a petition to caveat under § 5–207 of this article, except that the person ceases to be an "interested person" once the caveat proceeding has been disposed of.

(2) "Interested person" includes:

(i) A minor or other person under a disability; or

(ii) The judicially appointed guardian, committee, conservator or trustee for such person, if any, and if none, then the parent or other person having assumed responsibility for such person.

(3) "Interested person" does not include an assignee of a legatee or an heir.

(k) "Issue" has the meaning stated in § 1–209 of this title.

(l) "Judicial probate" has the meaning stated in § 5–401 of this article.

(m) "Legacy" means any property disposed of by will, including property disposed of in a residuary clause and assets passing by the exercise by the decedent of a testamentary power of appointment.

(n) (1) "Legatee" means a person who under the terms of a will would receive a legacy.

(2) "Legatee" includes a trustee.

(3) "Legatee" does not include a beneficiary of an interest under the trust.

(o) "Letters" include letters testamentary and letters of administration.

(p) "Maryland Rules" means the rules promulgated by the Supreme Court of Maryland under the authority of the Constitution and laws of Maryland.

(q) "Net estate" means the property of the decedent exclusive of the family allowance and enforceable claims against the estate, except as used in §§ 3–102 and 3–203 of this article.

(r) (1) "Personal representative" includes an executor or administrator.

(2) "Personal representative" does not include a special administrator.

(s) (1) "Property" includes both real and personal property, and any right or interest therein.

(2) "Property" refers to:

(i) All real and personal property of a decedent; and

(ii) Any right or interest therein which does not pass, at the time of the decedent's death, to another person by the terms of the instrument under which it is held, or by operation of law.

(t) "Register" has the meaning stated in § 2–201 of this article.

(u) "Registered domestic partner" means an individual in a registered domestic partnership.

(v) "Registered domestic partnership" means a domestic partnership that is registered in accordance with § 2–214 of this article.

(w) "Representation" has the meaning stated in § 1–210 of this title.

(x) "Special administrator" means an administrator appointed as provided in § 6–401 of this article.

(y) "Surviving registered domestic partner" means the registered domestic partner of a decedent at the time of the decedent's death.

(z) "Trust company" means an institution that is authorized to exercise trust or fiduciary powers and that:

(1) Is organized under the laws of this State as a State bank, trust company, or savings bank;

(2) Is organized under the laws of the United States and:

(i) Has its principal office in this State;

(ii) 1. Has an office in this State that is not its principal office; and

2. Meets the definition of a trust institution under 12 U.S.C. § 1841(c)(2)(D); or

(iii) 1. Has an office in this State that is not its principal office; and

2. Accepts deposits at its office in this State; or

(3) Is organized under the laws of another state as a bank, trust company, or savings bank and:

(i) 1. Has an office in this State that is not its principal office;

2. Meets the definition of a trust institution under 12 U.S.C. § 1841(c)(2)(D); and

3. Is a direct or indirect subsidiary of a bank holding company that has a direct or indirect bank, trust company, or savings bank subsidiary that has an office in this State at which deposits are accepted; or

(ii) 1. Has an office in this State that is not its principal office; and

2. Accepts deposits at its office in this State.

(aa) "Will" has the meaning stated in § 4–101 of this article.

§1–102.

(a) When a writing is required to be verified by this article, verification is sufficient if the writing is signed by the person required to make the verification, and if it contains the representation contained in subsection (b) of this section.

(b) The form of verification is:

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing document are true and correct to the best of my knowledge, information, and belief.

(c) Every inventory, account, and other document containing recitations of fact must be verified.

§1–103.

(a) (1) Unless personal service or some other method of notice is expressly required in this article or by the Maryland Rules, the first notice required to be given a person is sufficient if deposited as first-class mail, postage prepaid, addressed to the addressee at the address last known to the sender.

(2) At the expense of the estate, the orphans' court may require or the personal representative may elect to have the first notice given by restricted delivery mail, postage prepaid, return receipt requested, addressed to the addressee at the address last known to the sender, with delivery restricted to the addressee.

(b) A subsequent notice is sufficient if deposited as first-class mail, postage prepaid, addressed to the same address at which the first notice was received or, after notice in writing from the addressee of a change of address, to his new address.

(c) If no return receipt is received apparently signed by the addressee, and there is no proof of actual notice, no action taken in a proceeding may prejudice the rights of the person entitled to notice unless proof is made by verified writing to the satisfaction of the court or register that reasonable efforts to locate the addressee and warn him of the pendency of the action have been made.

(d) If the person to whom notice is sent is a minor or disabled person, and the minority or disability was not known to the sender at the time of the first notice, but was later discovered, any subsequent notice shall be sent to the judicially appointed guardian, if any, or, if none, the parent of the minor or disabled person, or other person who has assumed responsibility for the minor or disabled person.

(e) (1) A person, including a guardian or a guardian ad litem, may waive notice by a writing signed by the person or the person's attorney and filed in the proceeding.

(2) A personal representative is not required to give notice to himself or herself.

§1–104.

This article is dedicated to the memory of Roger D. Redden, Esquire.

§1–105.

(a) (1) The purpose of the estates of decedents law is to simplify the administration of estates, to reduce the expenses of administration, to clarify the law governing estates of decedents, and to eliminate any provisions of prior law which are archaic, often meaningless under modern procedure and no longer useful.

(2) This article shall be liberally construed and applied to promote its underlying purpose.

(b) Unless otherwise expressly provided, whenever the estates of decedents law states that a fact is presumed, the presumption is rebuttable.

§1–201.

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

(b) "Assisted reproduction" has the meaning stated in § 5–1001 of the Family Law Article.

(c) "Father" has the meaning stated in § 5–1001 of the Family Law Article.

(d) "Mother" has the meaning stated in § 5–1001 of the Family Law Article.

§1–201.1.

In the absence of express language to the contrary, the rules of construction contained in this subtitle shall be applied in construing all provisions of the estates of decedents law and the terms of a will.

§1–202.

(a) A surviving spouse is not:

(1) A person who has received an absolute divorce from the decedent or whose marriage to the decedent has been validly annulled;

(2) Except as provided in subsection (b) of this section, a person who has voluntarily appeared in a proceeding in which an absolute divorce between the decedent and the survivor, or an annulment of their marriage was obtained, even though not recognized as valid in this State;

(3) A person who participates in a marriage ceremony with a third person, after a decree or judgment of divorce or annulment obtained by the decedent; or

(4) A person who has been convicted of bigamy while married to the decedent.

(b) Subsection (a)(2) of this section does not apply if the parties to the divorce or annulment subsequently remarry each other.

§1–203.

(a) Degrees of relationship shall be reckoned according to the method of the civil law by beginning with either of the persons in question, ascending to the common ancestor, and then descending to the other person.

(b) One degree shall be counted for each step both ascending and descending.

§1–204.

A relative of the half blood has the same status as a relative of the whole blood of the same degree.

§1–205.

(a) A child includes:

(1) A natural child, an adopted child, and a child to the extent provided in §§ 1–206 through 1–208 of this subtitle; and

(2) A child conceived from the genetic material of a person after the death of the person if:

(i) The person consented in a written record to use of the person's genetic material for posthumous conception in accordance with the requirements of § 20–111 of the Health – General Article;

(ii) The person consented in a written record to be the parent of a child posthumously conceived using the person's genetic material;

(iii) The child is born within 2 years of the person's death; and

(iv) With respect to any trust, the person was the creator of the trust and the trust became irrevocable on or after October 1, 2012.

(b) A child does not include a stepchild, a foster child, or a grandchild or more remote descendant.

§1–206.

(a) A child born or conceived during a marriage or registered domestic partnership is presumed to be the child of both spouses or registered domestic partners.

(b) (1) A child conceived by means of assisted reproduction during the marriage or registered domestic partnership of the child's mother with the consent of the mother's spouse or registered domestic partner is the child of both spouses for all purposes.

(2) Consent of the mother's spouse or registered domestic partner is presumed.

(3) A child conceived by means of assisted reproduction after the death of the mother's spouse or registered domestic partner and using the genetic material of the mother's spouse or registered domestic partner is the child of both spouses or registered domestic partners if the child qualifies as a child of the mother's spouse or registered domestic partner under § 1–205(a)(2) of this subtitle.

§1–207.

(a) (1) An adopted child shall be treated as a natural child of the child's adopting parent or parents.

(2) Except as provided in paragraph (3) of this subsection, on adoption a child may not be considered a child of either natural parent.

(3) On adoption by the spouse of a natural parent, the child shall still be considered the child of that natural parent.

(b) A child who has been adopted more than once shall be considered to be a child of the parent or parents who have adopted the child most recently and shall cease to be considered a child of the child's previous parents.

§1–208.

(a) A child born to or conceived by individuals who are not married or in a registered domestic partnership is the child of the child's mother.

(b) A child born to or conceived by individuals who are not married or in a registered domestic partnership is the child of the individual who did not give birth to the child if:

(1) The individual has been judicially determined to be the child's parent in an action brought under Title 5, Subtitle 10 of the Family Law Article, and that determination has not been modified or set aside;

(2) The individual and the child's mother consented to the conception of the child by means of assisted reproduction with the shared express intent to be the parents of the child, subject to the conditions under § 1–205(a)(2) of this subtitle if the child is conceived after the death of the individual; or

(3) The child's mother identifies the individual as the other biological parent of the child and the individual agrees.

(c) There is a rebuttable presumption that a child born to or conceived by individuals who are not married or in a registered domestic partnership is the child of an individual who did not give birth to the child if the individual:

(1) Has acknowledged himself or herself, in writing, to be a parent of the child;

(2) Has openly and notoriously recognized the child to be the individual's child; or

(3) Has subsequently married or registered a domestic partnership with the mother and has acknowledged himself or herself, orally or in writing, to be a parent of the child.

§1–208.1.

(a) An individual who is the presumed parent of a child under this subtitle shall be considered to be the child's parent for all purposes, including inheritance, custody and visitation, support obligations, and Child in Need of Assistance proceedings, unless the presumption of parentage is rebutted in accordance with this section.

(b) (1) Except as provided in subsection (c) of this section, a presumption of parentage under this subtitle may be rebutted only if a court of competent

jurisdiction determines in a written order that it is in the best interest of the child to receive and consider evidence that could rebut the presumption.

(2) A written order that it is not in the best interest of the child to rebut a presumption of parentage:

(i) Conclusively establishes that the presumed parent is a parent of the child for all purposes; and

(ii) May be modified or set aside only on the basis of fraud, mistake, or irregularity.

(c) An individual who is the putative father of a child in a proceeding under Title 5, Subtitle 10 of the Family Law Article may obtain and use evidence of blood or genetic testing in the proceeding to the extent authorized under Title 5, Subtitle 10 of the Family Law Article to rebut a presumption of parentage under § 1–208(c)(1) or (2) of this subtitle, regardless of whether it is in the best interest of the child.

(d) Subject to subsections (b) and (c) of this section, a presumption of parentage under this subtitle may be rebutted by:

(1) Evidence of blood or genetic testing;

(2) Testimony of the mother, the presumed parent, or another individual, that the presumed parent did not have access to the mother at the time of conception; or

(3) Any other competent evidence that the presumed parent is not the father of the child.

§1–209.

(a) In construing all provisions of the estates of decedents law and, unless a contrary intention is indicated, in construing the terms of a will, issue means every living lineal descendant except a lineal descendant of a living lineal descendant.

(b) A person who is treated as a child of a person pursuant to §§ 1–205 through 1–208 of this subtitle shall be considered for all purposes as:

(1) A lineal descendant of the person; and

(2) Except as provided in subsection (a) of this section, a lineal descendant of all persons of whom the person is a lineal descendant.

§1–210.

(a) When provision is made for representation in this article, the shares shall be determined in accordance with subsections (b) and (c) of this section.

(b) (1) In the case of issue of the decedent, the property shall be divided into as many equal shares as there are children of the decedent who survive the decedent and children of the decedent who did not survive the decedent but of whom issue did survive the decedent.

(2) Each child of the decedent who did survive the decedent shall receive one share and the issue of each child of the decedent who did not survive the decedent but of whom issue did survive the decedent shall receive one share apportioned by applying to the children and other issue of each nonsurviving child of the decedent the pattern of representation provided for in this subsection for the children and other issue of the decedent and repeating that pattern with respect to succeeding generations until all shares are determined.

(c) (1) In the case of issue of a parent, grandparent, or great–grandparent of the decedent, the property shall be divided into as many equal shares as there are lineal descendants of either, or of both, of the pair of parents, grandparents, or great–grandparents, as the case may be, of the nearest degree of relationship to the decedent of whom any survived the decedent and who did so survive, and lineal descendants of the same degree who did not survive the decedent but of whom issue did survive the decedent.

(2) Each lineal descendant of the nearest degree surviving the decedent shall receive one share and the issue of each deceased lineal descendant of that degree who left issue surviving the decedent shall receive one share apportioned in the manner of representation set forth for issue of the decedent in subsection (b) of this section.

§1–210.1.

(a) Unless a contrary intention expressly appears, subsection (b) of this section applies to the provisions of a will requiring that upon the occurrence of an event, distribution shall be made by representation or per stirpes to the issue of one specified person.

(b) (1) On the occurrence of the event designated by the will, the property to be distributed shall be divided into as many equal shares as there are children of the person whose issue are to take by representation or per stirpes, excluding those children who were not living at the time of the occurrence of the event and did not leave issue who were living at the time of the occurrence of the event.

(2) Distribution of the shares shall be made as follows:

(i) One share shall be distributed to each child, who was living at the time of the occurrence of the event; and

(ii) One share shall be distributed among the issue of each child who was not living but who left issue who were living at the time of the occurrence of the event in the same manner distribution is to be made to the issue of one specified person as provided by this subsection.

(c) Unless a contrary intention expressly appears, subsection (d) of this section applies to the provisions of a will requiring that on the occurrence of an event, distribution shall be made by representation or per stirpes to the issue of:

(1) Several persons indicated in the will who are specifically named or in any manner described, designated, or identified; or

(2) Persons who are members of a class that is specifically named, or in any manner described, designated, or identified.

(d) (1) When the person whose issue are to take by representation or per stirpes is a person who is a member of a class or is one of several indicated persons in a will, on the occurrence of the event designated by the will, the property to be distributed shall be divided into as many equal shares as there are:

(i) Members of the class or indicated persons, as the case may be, who are living at the time of the occurrence of the event; and

(ii) Members of the class or indicated persons, as the case may be, who were not living at the time of the occurrence of the event, but who left issue who were living at the time of the occurrence of the event.

(2) Each share shall be divided into as many equal portions as there are children of each member of the class or each indicated person whose issue are to take by representation or per stirpes, excluding those children who were not living at the time of the occurrence of the event and who did not leave issue who were living at the time of the occurrence of the event.

(3) Distribution of the equal portions shall be distributed as follows:

(i) One portion shall be distributed to each child who was living at the occurrence of the event; and

(ii) The equal portion allocated to a child who was not living but who left issue who were living at the time of the occurrence of the event, shall be distributed in the same manner as distribution is to be made to the issue of one specified person as provided by subsection (b) of this section.

§1–301.

(a) All property of a decedent shall be subject to the estates of decedents law, and upon the person's death shall pass directly to the personal representative, who shall hold the legal title for administration and distribution, without any distinction, preference, or priority as between real and personal property.

(b) The court may determine questions of title to personal property not exceeding $50,000 in value for the purpose of determining what personal property is properly includable in an estate that is the subject of a proceeding before the court.

§1–401.

(a) A provision in an account agreement, as defined in § 1–204(b)(2) of the Financial Institutions Article, for a transfer on death is nontestamentary and shall be effective according to the provisions of § 1–204 of the Financial Institutions Article.

(b) Transfers pursuant to § 1–204 of the Financial Institutions Article are effective in the form and manner prescribed by that section and are not to be considered testamentary.

(c) Transfers on death pursuant to an operating agreement of a limited liability company or a partnership agreement of a general or limited partnership are effective according to the operating agreement or partnership agreement and are not to be considered testamentary.

§1–402.

(a) A transfer–on–death deed made in accordance with the requirements of Title 14, Subtitle 10 of the Real Property Article is effective according to the provisions of that subtitle.

(b) Transfers of real property under Title 14, Subtitle 10 of the Real Property Article are effective as provided under that subtitle and are not testamentary.

§2–101.

In the estates of decedents law, the word "court" means the orphans' court in a county, or the court exercising the jurisdiction of the orphans' court in a county.

§2–102.

(a) (1) The court may:

(i) Conduct judicial probate;

(ii) Direct the conduct of a personal representative;

(iii) Summon witnesses; and

(iv) Issue orders that may be:

1. Required in the course of the administration of an estate of a decedent; or

2. Necessary to determine the value or sources of payment of an elective share under § 3–413 of this article.

(2) The court may not, under pretext of incidental power or constructive authority, exercise any jurisdiction not expressly conferred.

(b) The court may not establish rules of practice and procedure inconsistent with the Maryland Rules or with any statute.

(c) An interested person may petition the court to resolve any question concerning an estate or its administration.

(d) This section may not be construed to limit the court's authority under § 1–301(b) of this article.

§2–103.

The court has the same legal and equitable powers to effectuate its jurisdiction, punish contempts, and carry out its orders, judgments, and decrees as a court of record with general jurisdiction in equity.

§2–104.

The Maryland Rules for the summoning of a witness, and for depositions and discovery, apply to all actions.

§2–105.

(a) In a controversy in the court, an issue of fact may be determined by the court.

(b) (1) At the request of an interested person made within the time determined by the court, the issue of fact may be determined by a court of law.

(2) When the request is made before the court has determined the issue of fact, the court shall transmit the issue to a court of law.

(c) After the determination of the issue, whether by the court or after transmission to a court of law, the court shall enter an appropriate judgment or decree.

(d) This section does not apply where the estate is administered under the jurisdiction of a court having general equity jurisdiction.

§2–106.

(a) (1) Except as provided in this section and unless a different time is prescribed by local law, the court shall be held in each county at the usual place of holding court in the county, on the second Tuesday of February, April, June, August, October, and December, and more often if need be, according to its own adjournment.

(2) One of the judges of the court, in the absence of the others, shall have power to hold court at a stated time of adjournment only for the purpose of adjourning.

(3) Two judges shall have full power to do an act which the court is or may be authorized by law to perform, and two of them shall have power to hold court on a day not named in an adjournment, on the application of a person having pressing business in the court, if notice be given to any interested person, and the register records that notice has been given.

(4) One of the judges, in the absence of the others on account of prolonged illness, or in case of vacancy, shall have full power to do an act which the court is authorized by law to do, provided there is attached to the proceedings or papers in each case a certificate signed by the register, certifying to the vacancy or prolonged illness of the judge or judges not attending court on that day.

(5) If the court does not meet on a day fixed for its meeting and is not adjourned as provided, the register shall adjourn the court from day to day until a meeting is had according to law.

(b) (1) The sessions of the Court in Baltimore City shall continue from 10 a.m. to 4 p.m., if necessary for the transaction of the business of the Court.

(2) (i) In Baltimore City, a judge of the Orphans' Court who is also an attorney–at–law has full power to do any act which the Court is or may be authorized by law to perform, including the power to hold court on a day not named in an adjournment.

(ii) On request of any interested party filed within the time determined by the Court, two judges shall be required to act for the Court.

(c) In Montgomery County, a judge of the Circuit Court for Montgomery County at the time sitting as the Orphans' Court for the County shall have full power to do an act which the Orphans' Court of the County is or shall be authorized to perform, including the power to hold court on a day not named in an adjournment as provided.

(d) (1) Each judge of the Court for Prince George's County shall spend at least 3 days each week in the conduct of the business of the Court.

(2) (i) Subject to subparagraph (ii) of this paragraph, in Prince George's County, a judge of the Orphans' Court who is also an attorney–at–law has full power to do any act which the Court is or may be authorized to perform, including the power to hold court on a day not named in an adjournment.

(ii) On request of any interested party, two judges shall be required to act for the Court.

(3) If necessary to transact business before the Court, court may be convened 5 days each week.

(e) (1) In Harford County, the provisions of subsection (a) of this section do not apply.

(2) A judge of the Circuit Court for Harford County shall sit as the Orphans' Court for the County at the time or times established by the judges of the County Circuit Court and shall have full power to do any act which the Orphans' Court of the County is or shall be authorized to perform, including the power to hold court on a day not named in an adjournment.

(f) (1) The sessions of the Court in Baltimore County shall continue from 10 a.m. to 4 p.m., if necessary for the transaction of the business of the Court.

(2) A judge of the Orphans' Court in Baltimore County who is also an attorney–at–law has full power to do any act that the Court is authorized by law to perform, including the power to hold court on a day not named in an adjournment.

(g) (1) In Charles County, the sessions of the Court shall be held on at least one day each week, as determined by the Court, for the transaction of business.

(2) In Howard County, the sessions of the Court shall be held as determined by the Court for the transaction of business.

(h) In Anne Arundel County, the sessions of the Court shall be held at least 2 full business days each week, and more often if necessary, for the transaction of business.

(i) If an orphans' court judge of a county is unable to serve for any reason, the Chief Justice of the Supreme Court of Maryland may assign, on a temporary basis, an orphans' court judge of another county to sit for the judge who is unable to serve.

(j) In Cecil County, the sessions of the Court shall be held every Tuesday for the transaction of the business of the Court, and more often if need be, according to its own adjournment.

§2–107.

(a) (1) Except in Harford County and Montgomery County, the Governor shall designate and commission one of the three judges of the Court in each county as Chief Judge of the Court.

(2) Full power and authority are vested in each judge designated and commissioned as chief judge to act as chief judge.

(3) Any writ and other process tested in the name of the chief judge is valid for any purpose.

(b) (1) A reference in the estates of decedents law to the chief judge of the court of a county means, with regard to Harford County or Montgomery County, the judge of the circuit court then sitting as the Orphans' Court.

(2) A reference to the judges of the court in plural number means, with respect to Harford County or Montgomery County, the judge of the circuit court then sitting as the Orphans' Court, unless the section otherwise specifically provides.

§2–108.

(a) (1) Except in Montgomery County and Harford County, the judges of the courts shall receive compensation and allowances as prescribed by law.

(2) Unless otherwise provided, the compensation shall be paid in monthly installments.

(3) Mileage or travel expenses may not be allowed to a judge for attending sessions of the judge's court except as specifically provided.

(b) (1) Each of the judges of the Court for Allegany County shall receive an annual salary set by the County Commissioners in accordance with Title 28, Subtitle 1 of the Local Government Article.

(2) Each judge shall also receive an expense allowance in the amount of $600 annually, to be paid at the rate of $50 monthly.

(c) (1) Each of the judges of the Court for Anne Arundel County shall receive an annual compensation as set by the County Executive and the County Council.

(2) Each judge shall also receive an expense allowance up to $150 per month for personal expenses incidental to the judge's duties, to be paid by the Comptroller of Anne Arundel County each month on presentation of an itemized voucher in accordance with rules and regulations prescribed by the Comptroller.

(d) (1) (i) Each judge of the Court of Baltimore City shall receive an annual compensation as determined by the Mayor and City Council of Baltimore City.

(ii) Each judge who was in active service on or after January 1, 1984, shall be paid after the termination of active service, if the judge is then at least 60 years of age or when the judge shall attain 60 years of age, a pension or salary as determined by the Mayor and City Council of Baltimore City.

(2) (i) The surviving spouse of every elected judge of the Court of Baltimore City shall be paid one–half of the pension to which the judge's spouse was entitled at the time of the judge's death, or would have become entitled to by reason of attaining 60 years of age.

(ii) In each instance, the pension shall be paid to the spouse until remarriage or death.

(iii) The provisions of this subsection shall not apply in the case of a spouse who was married to a sitting judge for a period of less than 3 years before

the judge's death, and to a retired judge for a period less than 3 years before the judge's retirement.

(e) Each of the judges of the Court for Baltimore County shall receive an annual compensation as set by the County Executive and the County Council in accordance with Article 4 of the Baltimore County Code.

(f) (1) Each of the judges of the Court for Calvert County shall receive as annual compensation the sum of $8,925.

(2) The salary of the Chief Judge is $9,130.

(3) The County Commissioners may provide additional funds for expenses for the judges.

(g) Each of the judges of the Court for Caroline County shall receive an annual salary as determined by the County Commissioners, but not less than $5,000.

(h) (1) Each of the judges of the Court for Carroll County shall receive an annual compensation of $15,000, to be paid monthly.

(2) The annual salary of the Chief Judge is $16,500, to be paid in equal monthly installments.

(3) Each judge and the Chief Judge shall also be allowed $200 annually for traveling expenses, payable quarterly.

(i) (1) Each of the judges of the Court for Cecil County shall receive an annual compensation of:

(i) $5,500 for fiscal year 2015;

(ii) $6,500 for fiscal year 2016;

(iii) $7,500 for fiscal year 2017; and

(iv) $8,750 for fiscal year 2018 and each subsequent fiscal year.

(2) Each judge shall also receive an allowance for traveling expenses of $1,500 annually, to be paid quarterly by the county.

(j) (1) The annual salary for each judge of the Court for Charles County is:

(i) $12,000 for calendar year 2018;

(ii) $12,250 for calendar year 2019;

(iii) $12,500 for calendar year 2020;

(iv) $12,750 for calendar year 2021; and

(v) $13,000 for calendar year 2022 and each subsequent calendar year.

(2) Beginning in calendar year 2019, the Chief Judge shall receive an additional $500 annually.

(3) Each judge is entitled to $500 each year for travel expenses, payable quarterly.

(k) (1) Each of the judges of the Court for Dorchester County shall receive an annual salary as determined by the County Council, but not less than $6,000.

(2) Each judge shall also receive an expense allowance as determined by the County Council, but not less than $1,000 annually.

(l) (1) The Chief Judge of the Court for Frederick County shall receive an annual compensation of $11,000.

(2) Each of the associate judges of the Court for Frederick County shall receive an annual compensation of $10,000.

(3) Each judge also shall receive reimbursement for expenses actually incurred in the performance of duties, up to $700 per year, to be paid by the Board of County Commissioners each month on presentation of an itemized voucher.

(m) (1) Each of the judges of the Court for Garrett County shall receive an annual salary set by the Board of County Commissioners in accordance with §§ 32.43 and 32.44 of the Public Local Laws of Garrett County.

(2) (i) Each judge shall be reimbursed for traveling to and from the sessions of the Court at the rate Garrett County pays for mileage.

(ii) Each judge shall also receive an amount for expenses for every day's attendance on the sessions of the Court set by the Board of County

Commissioners in accordance with §§ 32.43 and 32.44 of the Public Local Laws of Garrett County.

(n) (1) Each associate judge of the Court for Howard County shall receive an annual compensation, to be paid monthly, of:

(i) $12,000 for fiscal year 2019;

(ii) $14,000 for fiscal year 2020;

(iii) $16,000 for fiscal year 2021; and

(iv) $18,000 for fiscal year 2022.

(2) The Chief Judge shall receive an annual compensation, to be paid monthly, of:

(i) $13,500 for fiscal year 2019;

(ii) $15,500 for fiscal year 2020;

(iii) $17,500 for fiscal year 2021; and

(iv) $19,500 for fiscal year 2022.

(3) Each judge shall also receive an expense allowance, in addition, up to $50 per month, for personal expenses incidental to the judge's duties, to be paid by the Treasurer of Howard County each month on presentation of an itemized voucher.

(o) (1) Each of the judges of the Court for Kent County shall receive a salary as set by the County Commissioners.

(2) (i) Each judge shall receive an allowance for travel expenses in accordance with the county budget.

(ii) The County Commissioners shall pay quarterly to each judge the travel allowance provided in subparagraph (i) of this paragraph.

(p) Each judge of the Court for Prince George's County shall receive an annual compensation as determined by the County Executive and County Council.

(q) (1) Each of the judges of the Court for Queen Anne's County shall receive a salary as set by the County Commissioners.

(2) (i) Each judge shall receive an allowance for travel expenses in accordance with the County budget.

(ii) The County Commissioners shall pay quarterly to each judge the travel allowance provided in subparagraph (i) of this paragraph.

(r) (1) The Chief Judge of the Court for St. Mary's County shall receive an annual salary of $11,000, with a 1.5% annual increase.

(2) Each associate judge of the Court for St. Mary's County shall receive an annual salary of $10,000, with a 1.5% annual increase.

(3) In addition, each judge shall:

(i) Receive annually $150 for each year served; and

(ii) Be allowed $1,000 annually for traveling expenses, payable quarterly.

(s) (1) The Chief Judge of the Court for Somerset County shall receive an annual salary of $5,200 to be paid quarterly.

(2) Each of the associate judges of the Court for Somerset County shall receive an annual salary of $4,800 to be paid quarterly.

(3) Each judge shall also receive a daily allowance for traveling expenses of $55 for every day's attendance on the sessions of the Court.

(t) Each of the judges of the Court for Talbot County shall receive a salary as set by the County Council.

(u) (1) As compensation each of the judges of the Court for Washington County shall receive an annual compensation as set by the County Commissioners of Washington County under Title 28, Subtitle 2 of the Local Government Article.

(2) The County Commissioners may provide for an expense allowance as the County Commissioners determine.

(v) (1) Each judge of the Court for Wicomico County shall receive an annual salary of $11,600 to be paid quarterly.

(2) Each judge shall also receive an annual allowance for traveling expenses of $1,560 to be paid quarterly.

(w) (1) The Board of County Commissioners of Worcester County shall determine the compensation for judges of the Court for Worcester County but the compensation may not be less than the sum of $30 for every day's attendance on the sessions of the Court.

(2) The judges shall also receive an allowance for traveling expenses of $1,600 annually.

(x) (1) Except in Montgomery, Frederick, Carroll, Talbot, Cecil, Kent, Queen Anne's, Garrett, and Harford counties and Baltimore City, and except as otherwise provided in this subsection, a county shall pay a pension, in the same manner as salaries are paid during active service, to each judge of the Orphans' Court who:

(i) Has terminated active service;

(ii) Has reached 60 years of age; and

(iii) Has completed at least two terms of office.

(2) Except as provided in this section, the salary or pension shall be the greater of:

(i) $1,200 annually; or

(ii) An annual amount calculated at the rate of 4% of the last annual amount of compensation multiplied by the number of years or partial years of service, not exceeding 12 years.

(3) An Orphans' Court judge in Somerset County and Worcester County is eligible for a pension under this subsection only if the judge is in office on or before July 1, 1979.

(4) In Wicomico County, an Orphans' Court judge who has completed at least 12 years in office is eligible for a pension under this subsection.

(5) In Prince George's County, the salary or pension to each Orphans' Court judge shall be the greater of:

(i) $1,200 annually; or

(ii) An annual amount calculated at the rate of 4% of the last annual amount of compensation multiplied by the number of years or partial years of service, not exceeding 20 years.

(6) In Allegany County, the pension for an Orphans' Court judge shall be the greater of:

(i) $1,200 annually; or

(ii) 1. Except as provided in item 2 of this subparagraph, an annual amount calculated at the rate of 4% of the last annual amount of compensation multiplied by the number of years of service, not exceeding 24 years; or

2. An annual amount equal to two–thirds of the last annual amount of compensation if the judge has more than 16 years of service.

(7) (i) This paragraph applies only in Baltimore County.

(ii) An Orphans' Court judge is eligible for a pension under this subsection only if the judge was in office on or after January 1, 2022.

(iii) The pension shall be the greater of:

1. $1,200 annually; or

2. An annual amount calculated at the rate of 4% of the last annual amount of compensation multiplied by the number of years of service beginning on or after January 1, 2022, not exceeding 24 years.

(iv) 1. Subject to subsubparagraph 2 of this subparagraph and except as provided in subsubparagraph 3 of this subparagraph, a surviving spouse of an Orphans' Court judge shall be paid one–half of the pension to which the judge was entitled at the time of the judge's death, or would have been entitled on attaining 60 years of age.

2. A pension shall be paid to a surviving spouse until the surviving spouse's death or remarriage.

3. A surviving spouse is not entitled to a pension if the surviving spouse was married to an active or retired judge for a period of less than 3 years before the active judge's death or the retired judge's retirement.

(v) The County Council shall establish, by law:

1. Requirements for an Orphans' Court judge to contribute to the pension system;

2. Procedures and requirements for purchasing eligibility service credit; and

3. Any other provisions necessary to carry out this paragraph.

(8) The pension or salary may be suspended during any month the judge is a full–time employee of any county or of this State.

(9) Notwithstanding any provision of this section an Orphans' Court judge may not receive a pension under this section if the judge is receiving any other State pension based on service as an Orphans' Court judge.

§2–109.

A judge of the court may not act as an attorney at law in a civil or criminal matter during a term of office if the matter is:

(1) (i) Within the jurisdiction of the court in any county or Baltimore City; and

(ii) Related to the administration of an estate or a guardianship of a minor; or

(2) Related to the preparation of an estate plan or estate planning documents that might come within the jurisdiction of the court in any county or Baltimore City following the death of any individual.

§2–201.

(a) "Register" means the register of wills of a county.

(b) When an estate is being administered in equity, "register" means the clerk of the court.

§2–202.

(a) Each register shall devote the register's full working time to the duties of the register's office.

(b) The register shall not practice law during the term of the register's office.

§2–202.1.

Before assuming the duties of office, each deputy and clerk of a register shall take and subscribe the following oath:

I, (name), do swear that I will not for money, profit, or malice delay any person who applies to me for any business of the office of the register, or directly or indirectly ask, take, exact, demand, or receive from or charge to that person to my own use any fee or reward for any service I may do as a deputy or clerk of the register, and that in charging the fees of the office of the register I will not willingly charge other or higher fees than the law allows.

§2–203.

(a) Except as provided in subsection (d) of this section with respect to an estate being administered or about to be administered in the office of the register, a register, deputy, clerk, or any other employee may not ask for, take, or receive from a person a fee, commission, gratuity, gift, or reward for performing a service.

(b) The service referred to in subsection (a) of this section includes:

(1) Giving advice;

(2) Referring business;

(3) Performing a service other than for actual expenses of travel incurred in connection with the probate of a will; or

(4) Acting as agent, representative or in any other capacity for a surety corporation for which compensation is given directly or indirectly.

(c) Any person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 for each offense.

(d) This section does not apply to the payment of a fee authorized by § 2–206 of this subtitle.

§2–204.

(a) (1) At the time of assuming office, the register shall give bond to the State.

(2) The provisions of § 2–105(b), (d), (e), and (f) of the Courts Article shall be applicable to the bond.

(3) The bond shall be for the term of the register's office in the form and for the penalty the Comptroller prescribes, with the advice of the Legislative Auditor.

(4) The Comptroller may require that the penalty of a bond be supplemented or increased.

(b) If the register fails to give bond before the register acts as register, the register is guilty of a misdemeanor and on conviction shall pay a fine of $1,000.

§2–205.

(a) (1) It is the intent of this section that each register shall receive a fair and adequate compensation for the effort and duties required of the register by the register's office.

(2) The volume and character of work done by the register shall be in comparison to the salary fixed by the Board of Public Works for each of the other registers.

(b) (1) Each register is entitled to receive an annual salary of not more than the salary of a State employee at grade 26, step 20 of the State of Maryland Standard and Bargaining Salary Scale in effect on the day before the day that the register begins a new term of office.

(2) Any change in the salary paid under the State of Maryland Standard and Bargaining Salary Scale during the term of office of a register may not apply to the incumbent register, but the changed rate shall take effect at the beginning of the next following term of office.

(3) The salary of each register shall be determined by the Board of Public Works.

(4) In determining the annual salary of the register, the Board of Public Works shall be guided in the exercise of its discretion by:

(i) The population of the county determined by the last official United States census;

(ii) The dollar volume of total fees and taxes collected and excess fees turned over to the State for each of the preceding 5 years by the office of the register for which the salary is being fixed; and

(iii) Other pertinent data which have relation to the reasonableness of the salary in relation to the work done and volume handled by the office.

(c) (1) The salaries of the registers shall be paid semimonthly from the fees and receipts of the office, after deducting the expenses of the office.

(2) Expenses include salaries of deputies and clerks, books, stationery, office supplies, and other necessary and customary expenses of doing business.

(d) (1) (i) If the fees and receipts of the office are insufficient in any fiscal year to pay all or a part of the expenses of the office and authorized salary of a register, the deficiency shall be funded from the taxes remitted to the Comptroller by the register during that fiscal year.

(ii) Written authority for the transfer of funds shall be first obtained from the Comptroller.

(2) In the event that tax collections for the fiscal year are insufficient, the Comptroller shall make up the deficit from excess fees remitted from all other registers.

§2–206.

(a) (1) In this subsection, "poverty" means:

(i) At the time of the decedent's death, the decedent's family household income was less than 50% of the median family income for the State as reported in the Federal Register; or

(ii) The personal representative is represented by an attorney retained through the Maryland Legal Services Corporation.

(2) The registers of wills are entitled to charge and collect the fees listed in this section for the performance of their duties.

(3) Unless otherwise provided by law, a register of wills is not required to record any document filed with the register or provide to any person a copy of a document until the appropriate fee for the document has been paid.

(4) A register of wills shall waive any fees under this section for the administration of an estate if:

(i) The real property of the decedent subject to administration in the State is:

1. To be transferred to an heir of the decedent who resides on the property; or

2. Encumbered by a lien against the property and subject to sale under Title 14, Subtitle 8 of the Tax – Property Article; and

(ii) The estate is unable to pay the fees by reason of poverty.

(b) (1) For taking probate of wills and furnishing 2 certified copies of the will and codicils, granting letters of administration and furnishing 12 certificates of letters, issuing warrants to appraise, entering on estate docket, filing elections of surviving spouses to take intestate shares, filing renunciations and disclaimers, filing and recording wills, bonds, inventories, accounts of sale, releases, administration accounts, petitions and orders, and other papers filed in the administration of decedents' estates not otherwise specified in subsections (c) through (l) of this section, the probate fees shall be as stated under paragraph (2) of this subsection.

(2) Probate fees shall be assessed on the value of the probate estate at the following rates:

If the	Value of the Probate Estate Is At Least	But Less Than	The Fee Is
(i)	—	$50,000	$0
(ii)	$50,000	$100,000	$100
(iii)	$100,000	$500,000	$200
(iv)	$500,000	$1,000,000	$1,000

(v)	$1,000,000	$2,500,000	$2,000
(vi)	$2,500,000	$5,000,000	$5,000
(vii)	$5,000,000	$7,500,000	$7,500
(viii)	$7,500,000	$10,000,000	$10,000
(ix)	$10,000,000	—	$10,000 plus .02% of excess over $10,000,000

(3) Except as provided in paragraph (4) of this subsection, for purposes of determinations under paragraph (2) of this subsection, the value of a probate estate is the amount, as reflected in the administration accounts filed in the proceedings, that equals:

(i) The sum of:

1. The value of all inventories filed in the proceedings;

2. All principal and income receipts; and

3. All increases realized on a disposition, other than a distribution to beneficiaries, of any probate asset; less

(ii) All decreases realized on a disposition, other than a distribution to beneficiaries, of any probate asset.

(4) (i) If an estate proceeds through modified administration, for the purpose of determining the appropriate fee under paragraph (2) of this subsection, the value of an estate is the gross value of the probate assets reported on the final report under modified administration.

(ii) A register of wills shall assess and collect the probate fee when the personal representative files the final report.

(5) (i) Except as provided in subparagraph (ii) of this paragraph, the register shall assess and collect the probate fee when the first administration account is filed.

(ii) If there are any additions to the value of a probate estate, as reflected in any subsequent administration account, the register shall:

1. Assess an additional fee in an amount equal to the excess of:

A. The fee as determined under paragraph (2) of this subsection based on the value of the probate estate as reflected in the currently filed administration account; over

B. The fee as determined under paragraph (2) of this subsection based on the value of the probate estate as reflected in the most recent previously filed administration account; and

2. Collect the additional fee when the subsequent administration account is filed.

(c) For furnishing an additional letter of administration, with seal $1

(d) For a certified copy of a record, if expressly required by law or a person, with seal $1

(e) For an exemplified copy of a record, if expressly required by law or a person, with seal $2

(f) For recording a claim against an estate of a deceased person, for each..$3

(g) For recording papers in caveat or other controversial matter, for the petitioner $20

(h) For transcribing papers filed in caveat or other controversial proceedings when taken to higher court, per page or part of a page $2

(i) For recording papers filed in caveat or other controversial proceedings, when mandate of higher court is filed, per page or part of a page $2

(j) For copies of a paper or record, including plain certification and seal, per page or part of a page $2

(k) For photostatic or other artificially reproduced copies of a paper or record, per page or part of a page .....50 cents

(l) For receiving a will for deposit during the lifetime of the testator $5

(m) For filings regarding a guardianship proceeding, for the petitioner . $20

(n) For receiving and paying over an inheritance tax due the State, the register is allowed a commission of 25% of the inheritance tax.

(o) For all proceedings involving a foreign personal representative, a single fee of 1% of the gross value of the estate.

(p) For a copy of a recording of a hearing before an orphan's court $25

(q) For the actual cost charged by the financial institution of a check returned for insufficient funds or other reason.

(r) For the actual cost of all certified mailings, registered mailings, or other method of process except first–class mail.

§2–207.

(a) (1) Every register shall return annually to the Comptroller a full and accurate account of the fees and receipts of the register's office and of the expenses incident to the proper conduct of the register's office.

(2) The account shall be verified and in the form and supported by the proof prescribed by the Comptroller.

(b) The excess of fees and receipts over expenses shall be delivered by the register to the Comptroller with each report.

(c) The Comptroller shall deposit the fees received under this section in the General Fund of the State.

§2–208.

(a) In addition to other powers and duties provided for in this title, each register has the additional powers and duties specified in this section.

(b) (1) The register shall appoint deputies and clerks required for the efficient operation of the register's office.

(2) Appointments and compensation of deputies and clerks shall be approved by the Comptroller.

(3) When qualified, every deputy shall have the power and authority to act in the place of the register and every act performed by a deputy shall have the force and effect as if performed by the register.

(c) (1) The register shall receive, file, and store safely every original paper and record left in the register's custody, in a repository of the courthouse as the court may direct.

(2) The County Commissioners, County Council, or the Mayor and City Council of Baltimore shall provide and keep in repair the repository at its expense.

(d) (1) The register shall keep a proper docket showing the grant of letters and a short entry of every paper filed in the court and every order of the court or the register, setting forth the nature of the order or paper.

(2) The docket shall be similar in every respect to the dockets required to be kept in the offices of the equity courts.

(3) The dockets shall be subject to supervision, examination, and control as ordered by the Comptroller.

(e) The register shall make out and issue every summons, process, or order of the court and, in every respect, act under the control and direction of the court as the clerk of a court of law acts under the direction of the court of law.

(f) (1) The register shall issue and certify under the seal of the court a copy of any part of the proceedings in the court or in the register's office which a person may demand.

(2) Unless otherwise provided by law or order of a court of competent jurisdiction, any person may, without charge, inspect, examine, and make memoranda or notes from an index or paper filed with the register.

(g) (1) Each register shall attend each meeting of the court and, under the direction of the court, make full and fair entries of court proceedings.

(2) The register may also record by photographic process in strong bound books every probated will, and record by photographic process every other paper filed in the court or in the register's office in a manner, consistent with the provisions of § 2–211 of this subtitle, as may be prescribed by the Comptroller and the State Archives to insure uniformity throughout the State.

(h) Except Saturdays, Sundays, Fridays when a legal holiday falls on a Saturday, and legal holidays, the register shall attend the register's office daily in person or by deputy unless prevented by sickness, accident or necessity.

(i) The register shall audit every account filed with the register and examine in detail every voucher which may be submitted to substantiate payments made by a personal representative.

(j) The register shall inform the court of a default in the past of a personal representative which may come to the register's attention.

(k) The register shall keep a seal of the court and the register.

§2–209.

(a) Any will, probated, or any paper filed in the office of the register may not be delivered out of the office to any person.

(b) When a will or other paper is properly demanded for introduction in evidence, it shall be presented under the care of the register or the register's deputy.

(c) (1) The register may comply with subsection (a) of this section by retaining a permanent paper file of a probated will in the office and a copy of any other file associated with the estate in paper, photographic, microprocessed, magnetic, mechanical, electronic, digital, or any other medium if the copy is maintained in a manner that:

(i) Is clear and legible;

(ii) Accurately reproduces the original document in its entirety, including any attachments to the document;

(iii) Is capable of producing a clear and legible hard copy of the original document; and

(iv) Preserves evidence of any signature contained on the document.

(2) No sooner than 180 days following the closing of an estate, the register may dispose of any file associated with the estate other than the will if a copy of the file is retained by the register in accordance with paragraph (1) of this subsection.

(3) In consultation with the Comptroller and the State Archives to ensure uniform application throughout the State, the register shall develop standards in accordance with paragraph (1) of this subsection.

§2–210.

Within five days after receiving the text of the first published newspaper notice as provided in § 7–103 of this article and the written notice from the personal representative of the names and addresses of the heirs and legatees as provided in § 7–104 of this article, the register shall forward to each such person a copy of the newspaper notice published according to § 7–104 of this article, in the manner prescribed in § 1–103(a) of this article, directed according to the information received from the personal representative.

§2–211.

(a) The register shall maintain in the register's office, for the purpose of recording the proceedings in connection with the administration of estates, a wills record book, an administration proceedings record book, a release record book, and a claims docket in addition to the claims against the nonresident decedents book described in § 5-503 of this article.

(b) Immediately upon the administrative or judicial probate of a will the register shall record it, with every paper incidental to probate, in the wills record book, and the register shall index it under the name of the decedent.

(c) Upon the final approval of the final administration account, all inventories, accounts, petitions, notices to creditors, and orders of court shall be recorded by the register in the administration proceedings record book, and indexed under the name of the decedent.

(d) Every release shall be promptly recorded by the register in the release record book, in the order of their filing, and shall be indexed under the name of the releasor.

(e) (1) Every claim filed with the register under the provisions of § 8-104(c) of this article shall be entered by the register in the claims docket promptly upon receipt so that the record shall show the name of the claimant, the nature of the claim, and the amount of the claim.

(2) Every entry relating to an estate or a decedent shall be indexed under the name of the decedent.

§2–212.

(a) In cooperation with the registers, the Attorney General shall:

(1) Make available to the public basic instructional materials to assist the public in the procedure and preparation of forms for probate; and

(2) Review the instructional materials on a regular basis and update them as necessary.

(b) The registers and designated employees of the registers shall:

(1) Provide the materials required under subsection (a) of this section to the public; and

(2) Assist and advise any person who requests assistance or advice in the preparation of any forms for administrative probate under this article.

§2–213.

A register shall make available to the public information about registering with the State donor registry.

§2–214.

(a) (1) Subject to the requirements of paragraph (2) of this subsection, two individuals may register a domestic partnership by filing a declaration of domestic partnership with the register of wills in the county in which the domestic partners are domiciled.

(2) A declaration of domestic partnership filed with the register of wills shall:

(i) Include:

1. The full legal name of each domestic partner;

2. The home address of each domestic partner;

3. The date of birth of each domestic partner; and

4. The Social Security number of each party who has a Social Security number;

(ii) Be signed directly by each party, or by another individual, at the express direction of the party and in the party's presence;

(iii) Be signed in the physical presence of a notary public or before a notary public through communication technology in accordance with Title 18, Subtitle 2 of the State Government Article; and

(iv) Affirm under penalty of perjury that each domestic partner is:

1. At least 18 years old;

2. The sole domestic partner of the other;

3. Not married; and

4. In a committed relationship with the other individual.

(b) The register of wills may refuse to register a domestic partnership if the declaration of domestic partnership does not meet the requirements of subsection (a)(2) of this section.

(c) The register may charge a fee of up to $25 for the filing of a declaration of domestic partnership.

(d) (1) The register shall maintain adequate records of declarations of domestic partnership, amendments to declarations of domestic partnership, and termination statements.

(2) Except as provided in paragraphs (3) and (4) of this subsection, a declaration of domestic partnership filed with a register of wills is a public record.

(3) The register shall deny inspection of the part of a declaration of domestic partnership that contains the home address of either domestic partner.

(4) Except as provided in § 4–334 of the General Provisions Article, the Social Security number of a party may not be disclosed as part of the public record of the declaration of domestic partnership.

(e) (1) (i) Except as provided under paragraph (2) of this subsection, a domestic partnership may be terminated by filing a declaration of termination with the register.

(ii) A declaration of termination shall:

1. Be signed by both parties; or

2. If the declaration of termination is not signed by both parties, include a statement that a copy of the declaration of termination has been served on the nonsigning party.

(iii) A declaration of termination filed under this paragraph is effective 6 months after the date of filing.

(2) (i) If a domestic partnership has been abandoned by one of the domestic partners, the abandoned domestic partner may file a declaration of termination not earlier than 6 months after the abandonment.

(ii) A declaration of termination filed under this paragraph shall:

1. Include a statement that the filing party has not been in contact with the nonfiling party for at least 6 months preceding the date of filing; and

2. If the location of the nonfiling party is known, include a statement that a copy of the declaration of termination has been served on the nonfiling party.

(iii) A declaration of termination filed under this paragraph is effective immediately.

(f) (1) A registered domestic partnership terminates immediately on:

(i) Certification of marriage of either domestic partner; or

(ii) The death of either domestic partner.

(2) This subsection may not be interpreted to terminate any rights or benefits otherwise enjoyed by or owed to a surviving registered domestic partner.

(g) (1) The surviving partner of a registered domestic partnership shall qualify for the following benefits:

(i) The share of a surviving spouse or surviving registered domestic partner of an intestate decedent in accordance with § 3–102 of this article;

(ii) The family allowance for a surviving spouse or surviving registered domestic partner of an intestate decedent in accordance with § 3–201 of this article;

(iii) Priority of appointment as the personal representative for a surviving spouse, surviving registered domestic partner, and children of an intestate decedent in accordance with § 5–104(3) of this article; and

(iv) The inheritance tax exemption under § 7–203(l)(3) of the Tax – General Article.

(2) The surviving domestic partner of a registered domestic partnership is not entitled to elect to take an elective share of the estate under § 3–403 of this article.

(h) (1) If the laws of another jurisdiction establishing a relationship other than marriage are substantially similar to the requirements of this section, the relationship established by the other jurisdiction shall be recognized as a registered domestic partnership in the State.

(2) (i) The register shall establish, update, and maintain a certified list of jurisdictions with laws of domestic partnership that are substantially similar to the provisions of this section.

(ii) If the register has not certified that the laws of another jurisdiction are substantially similar to the requirements of this section, but the laws of that jurisdiction establish a relationship, regardless of the term or phrase used by the jurisdiction, that has the rights and responsibilities of marriage, the relationship shall be recognized by the register as a registered domestic partnership in the State and the register shall include that jurisdiction in the certified list under subparagraph (i) of this paragraph.

(3) The register shall broadly construe the term "substantially similar" to maximize the recognition of relationships from other jurisdictions as registered domestic partnerships in the State.

§2–215.

(a) In this section, "electronic", "sign", and "will" have the meanings stated in § 4–101 of this article.

(b) (1) A register shall accept any document, except an original will, that is filed:

(i) Electronically through a system established by the register; and

(ii) In accordance with the Maryland Rules.

(2) Nothing in this subsection may be construed to prohibit the filing of a document in paper form with a register.

(c) A register may not refuse to accept any document based on the manner in which it was signed.

§2–301.

(a) (1) The register may appoint a reasonable number of standing appraisers to serve at the register's pleasure.

(2) Subject to the approval of the Comptroller, the register may fix the conditions of their employment and their remuneration.

(b) (1) If a register exercises the register's authority to appoint standing appraisers, all property required to be independently appraised but not appraised by special appraisers under § 7–202(e) of this article shall be appraised by standing appraisers.

(2) If a register does not appoint standing appraisers, the register shall, with respect to any estate which contains property required to be independently appraised but not appraised by special appraisers, appoint general appraisers as provided in § 2–302 of this subtitle.

(c) An appraisal fee is payable only to a person making an appraisal requested by the personal representative, and is always subject to review by the court.

§2–302.

(a) On application by the personal representative in accordance with § 7–202(b) of this article for the appointment of general appraisers, the register shall designate one or more qualified persons not related to the decedent nor interested in the administration.

(b) On designation of the general appraisers, the register shall issue a warrant authorizing and directing them jointly to appraise all property of the estate of the decedent required to be independently appraised but not specially appraised under § 7–202(e) of this article.

(c) If an appraiser shall fail to act, the register shall make a new designation and issue a new warrant on application by the personal representative.

§2–303.

(a) An appraiser shall perform his duty expeditiously.

(b) (1) The appraisal shall be in columnar form, and state generally each item that has been appraised and the value of each item in dollars and cents.

(2) The appraisal shall contain a statement signed and verified by the appraisers certifying that they have impartially valued the property described in the appraisal to the best of their skill and judgment.

(c) The appraisal shall immediately on completion and verification be delivered to the personal representative.

§3–101.

Any part of the net estate of a decedent not effectively disposed of by the decedent's will shall be distributed by the personal representative to the heirs of the decedent in the order prescribed in this subtitle.

§3–102.

(a) Subject to subsections (b) and (c) of this section, the share of a surviving spouse or registered domestic partner shall be the entire intestate estate.

(b) If there is a surviving minor child, the share shall be one–half.

(c) If there is no surviving minor child, but there is surviving issue who are not issue of the surviving spouse or registered domestic partner, the share shall be the first $100,000 plus one–half of the residue.

(d) For the purposes of this section, the net estate shall be calculated without a deduction for the tax as defined in § 7–308 of the Tax – General Article.

§3–103.

The net estate, exclusive of the share of the surviving spouse or registered domestic partner, or the entire net estate if there is no surviving spouse or registered domestic partner, shall be divided equally among the surviving issue, by representation as defined in § 1–210 of this article.

§3–104.

(a) If there is no surviving issue, spouse, or registered domestic partner, the personal representative shall distribute the net estate, subject to §§ 3–111 and 3–112 of this subtitle, as follows:

(1) To the surviving parents equally;

(2) If only one parent survives, to the survivor; or

(3) If neither parent survives, to the issue of the parents, by representation.

(b) (1) If there is no surviving parent or issue of a parent, the net estate shall be distributed:

(i) One–half to each pair of grandparents equally;

(ii) If only one grandparent of a pair survives, one–half to the survivor; or

(iii) If neither grandparent of a pair survives, one–half to the issue of that pair of grandparents, by representation.

(2) In the event that neither of one pair of grandparents and none of the issue of either of that pair survives, the one–half share applicable shall be distributed to:

(i) The other pair of grandparents;

(ii) The survivor of the other pair of grandparents; or

(iii) The issue of either of the other pair of grandparents, in the same manner as prescribed for their half share.

(c) (1) In this subsection, "stepchild" means the child of any spouse of the decedent, if the spouse was not divorced from the decedent.

(2) If there is no surviving blood relative entitled to inherit under this section, the net estate shall be divided into as many equal shares as there are:

(i) Stepchildren of the decedent who survive the decedent; and

(ii) Stepchildren of the decedent who did not survive the decedent but of whom issue did survive the decedent.

(3) (i) Each stepchild of the decedent who did survive the decedent shall receive one share.

(ii) The issue of each stepchild of the decedent who did not survive the decedent but of whom issue did survive the decedent shall receive one share apportioned by applying the pattern of representation set forth in § 1–210 of this article.

§3–105.

(a) (1) (i) The provisions of this subsection are applicable if there is no person entitled to take under §§ 3–102 through 3–104 of this subtitle.

(ii) The provisions of this subsection do not apply to any portion of a decedent's estate that is comprised of land that is the subject of an application for a certificate of reservation for public use under Title 13, Subtitle 3 of the Real Property Article.

(2) (i) If an individual was a recipient of long–term care benefits under the Maryland Medical Assistance Program at the time of the individual's death, the net estate shall be converted to cash and paid to the Maryland Department of Health, and shall be applied for the administration of the program.

(ii) If the provisions of subparagraph (i) of this paragraph are not applicable, the net estate shall be converted to cash and paid to the board of education in the county in which the letters were granted, and shall be applied for the use of the public schools in the county.

(b) (1) After payment has been made to the Maryland Department of Health or to the board of education, if a claim for refund is filed by a relative within the fifth degree living at the death of the decedent or by the personal representative of the relative, and the claim is allowed, the claimant shall be entitled to a refund, without interest, of the sum paid.

(2) A claim for refund under this subsection may not be filed after the later of:

(i) 3 years after the death of the decedent; or

(ii) 1 year after the time of distribution of the property.

§3–106.

(a) If a decedent dies intestate as to a part of the decedent's net estate, property which the decedent gave in the decedent's lifetime to an heir shall be treated as an advancement against the share of the latter of the net estate if declared in writing by the decedent or acknowledged in writing by the heir to be an advancement.

(b) For this purpose the property advanced shall be valued as of the time the heir came into possession or enjoyment of the property.

(c) If the recipient of the property fails to survive the decedent, the property shall be taken into account in computing the share of the issue of the recipient.

(d) An advancement to an heir other than the surviving spouse may not increase the share of the surviving spouse under § 3–102 of this subtitle.

§3–107.

(a) A child of the decedent who is conceived before the death of the decedent, but born afterwards shall inherit as if the child had been born in the lifetime of the decedent.

(b) No other after–born relation may be considered as entitled to distribution in the relation's own right unless:

(1) The decedent had consented in a written record to use of the decedent's genetic material for posthumous conception in accordance with the requirements of § 20–111 of the Health – General Article;

(2) The decedent consented in a written record to be the parent of a child posthumously conceived using the person's genetic material; and

(3) The child posthumously conceived using the decedent's genetic material is born within 2 years after the death of the decedent.

§3–108.

The parent or the parent's relations of a person can inherit only if the person is treated as the child of the parent in accordance with § 1–205(a)(2) or § 1–208 of this article.

§3–109.

A person who is related to the decedent through two lines of relationship is entitled to only a single share based on the relationship which would entitle the person to the larger share.

§3–110.

(a) If a descendant, ancestor, or descendant of an ancestor of the decedent, fails to survive the decedent by 30 full days, the descendant, ancestor, or descendant of an ancestor of the decedent:

(1) Shall be considered to have predeceased the decedent for purposes of intestate succession; and

(2) Is not to be entitled to the rights of an heir.

(b) If the time of death of the decedent or of the descendant, ancestor, or descendant of an ancestor of the decedent, who would otherwise be an heir, or the times of death of both, cannot be determined, so that it cannot be established that the descendant, ancestor, or descendant of an ancestor of the decedent has survived the decedent by 30 full days, the descendant, ancestor, or descendant of an ancestor of the decedent may not be considered to have survived for the required period.

§3–111.

A surviving parent is not entitled under § 3-104 of this subtitle to a distribution of the net estate of a child of the parent if:

(1) (i) The parent is convicted under §§ 3-303 through 3-308, § 3-323, § 3-601, or § 3-602 of the Criminal Law Article; or

(ii) The parent committed any act prohibited under §§ 3-303 through 3-308, § 3-323, § 3-601, or § 3-602 of the Criminal Law Article;

(2) The other parent of the child is the victim of the crime or act described under item (1) of this section; and

(3) The other parent of the child is a child of the parent.

§3–112.

(a) A surviving parent is not entitled under § 3-104 of this subtitle to a distribution of the net estate of a minor child of the parent if the parent:

(1) Abandoned the child; or

(2) Willfully failed to contribute to the support of the child for at least 3 consecutive years immediately preceding the death of the child or for the life of the child, whichever is less.

(b) A parent shall be deemed to have abandoned a minor child under subsection (a)(1) of this section if the conduct of the parent demonstrates a settled purpose willfully and intentionally to relinquish all parental rights and duties with respect to the child and to renounce and forsake the child entirely.

§3–201.

(a) A surviving spouse or registered domestic partner is entitled to receive an allowance of $10,000 for personal use.

(b) An allowance of $5,000 for the use of each unmarried child of the decedent who has not attained the age of 18 years at the time of the death of the decedent shall be paid by the personal representative as provided in § 13–501 of this article.

§3–202.

The estates of dower and curtesy are abolished.

§3–301.

(a) A will may not be revoked by the subsequent birth, adoption, or legitimation of a child by the testator except under the circumstances referred to in § 4–105(3) of this article.

(b) A child described in subsection (a) of this section or issue, if any, of such child who does not survive the testator, is entitled to a share in the estate to be determined and paid in accordance with §§ 3–302 and 3–303 of this subtitle, if:

(1) The will contains a legacy for a child of the testator but makes no provision for a person who becomes a child of the testator subsequent to the execution of the will;

(2) The child was born, adopted, or legitimated after the execution of the will;

(3) The child, or the child's issue, survive the testator; and

(4) The will does not expressly state that the child, or the child's issue, should be omitted.

§3–302.

(a) A child permitted to share in the estate of a decedent under § 3–301 of this subtitle shall receive from the personal representative an amount equal to the lesser of:

(1) The distribution which the child would have taken in the event of intestacy; or

(2) The value of all legacies to children of the testator and issue of deceased children divided by the total number of children of the testator who survive the testator and deceased children leaving issue who take under this subtitle, including the pretermitted child.

(b) The issue of a pretermitted child who did not survive the testator may take the amount by representation.

§3–303.

(a) Property distributed pursuant to § 3–302 of this subtitle shall be paid by the personal representative from the legacies of children of the testator and issue of deceased children who take by representation.

(b) (1) Each person shall contribute in the proportion which the person's legacy bears to all legacies of children of the testator and issue of deceased children taking by representation.

(2) Instead of contributing an interest in specific property to the pretermitted child, a legatee may pay the pretermitted child or the child's issue, in cash or other property acceptable to the pretermitted child or the child's issue, an amount equal to the fair market value of the interest in specific property as of the date of death of the testator.

§3–401.

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

(b) "Augmented estate" means an estate as calculated under § 3–404 of this subtitle.

(c) "Court" means:

(1) Except with respect to a proceeding under § 12–502 of the Courts Article or as otherwise provided under the Maryland Rules, the orphans' court, or the court exercising the jurisdiction of the orphans' court, for the county in which the election under § 3–403 of this subtitle is filed; or

(2) With respect to the enforcement of payment of an elective share or any portion thereof under § 3–410 of this subtitle, the court having jurisdiction over the property from which the payment is to be made.

(d) "Estate subject to election" means the portion of an augmented estate that is subject to election as calculated under § 3–404 of this subtitle.

(e) "Marital trust" means any trust created for the exclusive lifetime benefit of the spouse of a decedent or of the settlor of the trust if:

(1) The spouse is entitled to all income from the property held by the trust, payable annually or at more frequent intervals, or has a usufruct interest for life in the property; and

(2) The spouse has the power to compel the trustees of the trust to convert unproductive assets into income–producing assets.

(f) "Person responsible for filing the estate tax return" means the person responsible for filing a Maryland estate tax return for a decedent under § 7–305 of the Tax – General Article, regardless of whether a Maryland estate tax return actually is required to be filed for the decedent.

(g) "Probate estate" means all property passing by testate succession.

(h) "Qualifying joint interest" means an interest in property held as a joint tenant with right of survivorship or equivalent, or a tenancy–by–the–entireties equal to:

(1) In the case of a joint tenancy with right of survivorship or equivalent, the greater of:

(i) The tenant's fractional interest in the property; or

(ii) The percentage of the property's value, exclusive of income or appreciation, contributed by the tenant; or

(2) In the case of a tenancy–by–the–entireties, one–half of the value of the property.

(i) (1) "Qualifying lifetime transfer" means:

(i) An irrevocable transfer made during the lifetime of the transferor in which the transferor retained for a period actually terminating at or after the transferor's death:

1. Possession of the property;

2. The right to receive the income from the property;

3. The use or enjoyment of the property;

4. A qualifying joint interest;

5. A qualifying power of disposition; or

6. The right to receive an annuity or other periodic payment from the property, including, without limitation, a periodic payment based on the value of the property;

(ii) An irrevocable transfer made during the lifetime of the transferor in which the transferor retained an interest described in item (i) of this paragraph that actually terminated before the transferor's death, and the remaining value of the property transferred then passed to a recipient other than the transferor or the transferor's spouse; or

(iii) Any other irrevocable transfer made during the lifetime of the transferor, other than a transfer to the transferor's spouse.

(2) "Qualifying lifetime transfer" does not include a transfer made in accordance with a bona fide sale for adequate consideration in money or money's worth.

(j) "Qualifying power of disposition" means a power, whether or not the holder has the capacity to exercise that power, by which the holder, during the life of the holder or on the holder's death, may:

(1) Appoint the property subject to the power to the holder, the holder's estate, the holder's creditors, or the creditors of the holder's estate, unless the power of appointment is not created, directly or indirectly, by the holder and is limited by an ascertainable standard relating to the holder's health, education, support, or maintenance;

(2) Designate the recipient or recipients of the property on the holder's death, including in accordance with a beneficiary designation, a payable on death designation, or a transfer on death designation; or

(3) Determine, alter, or amend the possession or enjoyment of, or the right to income from, the property subject to the power if the power was created, directly or indirectly, by the holder.

(k) "Revocable" has the meaning stated in § 14.5–103 of this article.

(l) "Revocable trust of the decedent" means any trust of which a decedent was the settlor that was revocable by the decedent before the decedent's death or incapacity.

(m) "Settlor" has the meaning stated in § 14.5–103 of this article.

(n) "Spousal benefits" means the aggregate value of property passing to or in trust for the benefit of the surviving spouse by reason of a decedent's death and property held for the benefit of the surviving spouse in any trust created during a decedent's lifetime of which the decedent was a settlor, reduced by:

(1) With respect to property that the decedent owned jointly with the surviving spouse, that portion of the value of the property that is not included in the estate subject to election;

(2) The value of assets passing by reason of the decedent's death to any trust of which the surviving spouse is not the sole beneficiary during the surviving spouse's lifetime;

(3) The value of assets held in any trust created during the decedent's lifetime of which:

(i) The decedent was a settlor; and

(ii) The surviving spouse is not the sole beneficiary during the surviving spouse's lifetime;

(4) One–quarter of the aggregate value of assets passing by reason of the decedent's death to, or held at the time of the decedent's death in, any marital trust;

(5) One–third of the aggregate value of assets passing by reason of the decedent's death to, or held at the time of the decedent's death in, any trust, whether testamentary or created during the decedent's lifetime:

(i) Excluding a trust described under item (4) of this subsection;

(ii) Of which the decedent was a settlor, if the trust was created during the decedent's lifetime;

(iii) That is held for the exclusive lifetime benefit of the surviving spouse; and

(iv) From which the trustees may make distributions to or for the benefit of the surviving spouse in accordance with a standard not more restrictive than that under § 14–402(b)(3) of this article; and

(6) The entire value of any trust for the exclusive lifetime benefit of the surviving spouse that is not a marital trust and is not described under item (5) of this subsection.

(o) "Value" means:

(1) For an asset included in the gross estate of a decedent under § 7–301(b) of the Tax – General Article, the value of the asset under Title 7, Subtitle 3 of the Tax – General Article, if a Maryland estate tax return is required to be filed with respect to the decedent; and

(2) For any other asset, the value of the asset under § 7–202 of this article, regardless of whether the asset is required to be reported on an inventory.

§3–402.

The purposes of this subtitle are:

(1) To ensure that a surviving spouse is reasonably provided for during the surviving spouse's remaining lifetime; and

(2) Subject to item (1) of this section, to provide a testator flexibility in ordering the testator's affairs.

§3–403.

The surviving spouse may elect to take an elective share of an estate subject to election as follows:

(1) If there is surviving issue, the elective share shall equal one–third of the value of the estate subject to election, reduced by the value of all spousal benefits; or

(2) If there is no surviving issue, the elective share shall equal one–half of the value of the estate subject to election, reduced by the value of all spousal benefits.

§3–404.

(a) (1) Subject to paragraph (2) of this subsection, the value of the decedent's augmented estate shall be calculated by totaling the value of:

(i) The probate estate of the decedent;

(ii) All revocable trusts of the decedent;

(iii) All property with respect to which the decedent, immediately before death, held a qualifying power of disposition;

(iv) All qualifying joint interests of the decedent; and

(v) All qualifying lifetime transfers of the decedent.

(2) If a property interest is included in the augmented estate under more than one item of paragraph (1) of this subsection, only the item resulting in the largest augmented estate shall apply.

(b) The estate subject to election shall be calculated by reducing the value of the decedent's augmented estate by:

(1) Funeral and administration expenses payable from the augmented estate;

(2) Family allowances payable from the augmented estate;

(3) Enforceable claims and debts against any part of the augmented estate;

(4) The value of any assets included in the augmented estate that, at the time of the decedent's death, were held in a trust of which the decedent is not a settlor, if:

(i) The assets were not previously owned by the decedent; or

(ii) The assets were previously owned by the decedent but were sold by the decedent in accordance with a bona fide sale for adequate consideration in money or money's worth;

(5) The value of any assets included in the augmented estate under subsection (a)(1)(iii) of this section that, at the time of the decedent's death, were held:

(i) In a trust established under § 1917(c)(2)(B)(iii), (c)(2)(B)(iv), (d)(4)(A), or (d)(4)(C) of the Social Security Act;

(ii) In an account established under § 529A of the Internal Revenue Code; or

(iii) In a special needs trust for the benefit of an individual who is disabled as defined in § 1614(a)(3) of the Social Security Act;

(6) The value of any property included in the augmented estate under subsection (a)(1)(iii), (iv), or (v) of this section, the disposition of which the surviving spouse of the decedent consented to in writing during the decedent's lifetime other than by means of spousal consent to split–gift treatment under the federal gift tax laws;

(7) The value of any qualifying lifetime transfer of the decedent described in § 3–401(i)(1)(ii) of this subtitle where:

(i) The initial transfer took place before the decedent's marriage to the surviving spouse of the decedent; or

(ii) The decedent's interest in the property transferred terminated more than 2 years before the decedent's death;

(8) The value of any qualifying lifetime transfer of the decedent described in § 3–401(i)(1)(iii) of this subtitle that occurred before the later of:

(i) The decedent's marriage to the surviving spouse of the decedent; or

(ii) 2 years before the decedent's death;

(9) The value of any interest in real property included in the augmented estate by reason of the decedent's retention of a life estate in the real property if:

(i) At the time of the decedent's death, the decedent held no qualifying power of disposition over the real property; and

(ii) The decedent's life estate in the property was created more than 2 years before the decedent's death; and

(10) The value of the proceeds of an insurance policy on the decedent's life in excess of the net cash surrender value of the policy immediately before the decedent's death or, in the case of term insurance, in excess of the total premiums paid, if:

(i) The proceeds are included in the augmented estate;

(ii) The proceeds are payable to a charity or to or for the exclusive lifetime benefit of an ancestor, a descendant, a step–descendant, or a sibling of the decedent; and

(iii) 1. The policy was purchased before the decedent's marriage to the surviving spouse of the decedent;

2. The policy was purchased more than 5 years before the decedent's death; or

3. The surviving spouse of the decedent consented in writing during the decedent's lifetime to the disposition of the proceeds as described in item (ii) of this item.

(c) (1) The value of a qualifying lifetime transfer described under § 3–401(i)(1)(i) of this subtitle shall be determined as if the property still was owned by the transferor.

(2) The value of a qualifying lifetime transfer described under § 3–401(i)(1)(ii) of this subtitle shall be determined as of the date of the termination of the transferor's interest in the transferred property.

(3) The value of a qualifying lifetime transfer described under § 3–401(i)(1)(iii) of this subtitle shall be determined as of the date of the transfer.

§3–405.

(a) The right of election of a surviving spouse:

(1) Is personal to the surviving spouse;

(2) Is not transferable; and

(3) Cannot be exercised after the surviving spouse's death.

(b) Subject to subsection (c) of this section, if the surviving spouse is a minor or incapacitated within the meaning of § 17–101(c) of this article, the election may be exercised by:

(1) An order of the court having jurisdiction of the person or property of the minor or incapacitated person;

(2) A guardian of the property of the surviving spouse who has been specifically authorized to make the election by order of the court having supervision of the guardianship; or

(3) An agent designated by the surviving spouse under a power of attorney that specifically authorizes the agent to make the election.

(c) (1) Before a guardian of the property of the surviving spouse or an agent designated by the surviving spouse under a power of attorney may exercise a right of election under subsection (b) of this section, the guardian of the property or the agent shall deliver notice of the election to:

(i) All interested persons in the decedent's estate; and

(ii) All persons who would inherit from the surviving spouse under Subtitle 1 of this title if the surviving spouse died intestate and unmarried at the time the election is made.

(2) An exercise of a right of election under subsection (b) of this section is valid unless:

(i) Within 30 days following the delivery of notice of the election in accordance with paragraph (1) of this subsection, a person makes an objection to the election in the court in which the election was filed; and

(ii) Following a hearing on that objection, the court rules that the election is not in the best interests of the surviving spouse.

§3–406.

(a) The right of election of a surviving spouse may be waived before or after marriage by a written contract, agreement, or waiver signed by the party waiving the right of election.

(b) Unless the waiver provides to the contrary, a waiver of "all rights", or equivalent language, in the property or estate of a present or prospective spouse or a complete property settlement entered into after or in anticipation of separation or divorce is a waiver of all rights of family allowance and elective share by each spouse in the property of the other and the right to letters under § 5–104 of this article, and is an irrevocable renunciation by each spouse of all benefits that would otherwise pass to the spouse from the other by intestate succession, by elective share, or by virtue of a will or revocable trust of the present or prospective spouse executed before the waiver or property settlement.

§3–407.

(a) (1) The election by a surviving spouse to take an elective share shall be made within the later of:

(i) 9 months after the date of the decedent's death; or

(ii) 6 months after the first appointment of a personal representative.

(2) (i) Within the period for making an election, the surviving spouse may file with the court a petition for an extension of time, with a copy given to the personal representative.

(ii) For good cause shown, the court may extend the time for election for a period not to exceed 3 months at a time.

(b) The surviving spouse may withdraw the election at any time before the expiration of the time for making the election to take an elective share.

§3–408.

(a) (1) An election to take an elective share under this subtitle:

(i) Shall be in writing and signed by the surviving spouse or other person entitled to make the election under § 3–405 of this subtitle; and

(ii) 1. Shall be filed in the court in which the personal representative of the decedent was appointed; or

2. If no personal representative of the decedent has been appointed, shall be filed in the court for the jurisdiction in which the venue would be proper under § 5–103 of this article.

(2) Notice of the filing of an election to take an elective share under paragraph (1) of this subsection may be delivered to:

(i) The trustee of each revocable trust of the decedent; or

(ii) The person responsible for filing the estate tax return, if different from the trustee.

(b) The election may be in the following form:

"I, A.B., surviving spouse of C. D., late of the County (City) of…… elect to take my elective share of the decedent's estate subject to election under § 3–403 of the Estates and Trusts Article of the Annotated Code of Maryland.

……
(Signature)".

§3–409.

(a) On receipt of a written request by the surviving spouse, all information necessary to calculate the elective share under this subtitle shall be delivered to the surviving spouse by, as applicable:

(1) The personal representative of the decedent;

(2) The trustee of any revocable trust of the decedent; or

(3) The person responsible for filing the estate tax return.

(b) (1) The filing of an election to take the elective share under § 3–407 of this subtitle is deemed to give adequate notice of the election to, as applicable:

(i) The personal representative of the decedent;

(ii) The trustee of any revocable trust of the decedent; or

(iii) The person responsible for filing the estate tax return.

(2) The person receiving notice of an election to take the elective share under paragraph (1) of this subsection shall promptly deliver notice of the election to each person from whom any portion of the elective share may be payable.

(c) Within 60 days after the date a trustee of a revocable trust of the decedent acquires knowledge of the decedent's death, the trustee shall notify the

surviving spouse of the existence of the trust, of the identity of the trustees, and of the surviving spouse's right to request a copy of the trust instrument.

(d) On receipt of a written request by the personal representative of the decedent, the trustee of any revocable trust of the decedent, or the person responsible for filing the estate tax return, the surviving spouse shall deliver to the person making the request all information relevant to the calculation of the elective share under this subtitle that is in the possession of the surviving spouse and not otherwise available to the person making the request.

§3–410.

(a) This section does not apply if payment of the elective share of a surviving spouse is otherwise provided for in:

(1) (i) The decedent's will; or

(ii) The instrument governing any trust of which the decedent was the settlor; or

(2) A written agreement between the persons responsible for paying the elective share that is approved by the court.

(b) (1) Subject to paragraph (2) of this subsection, the elective share of a surviving spouse shall be paid:

(i) From the portion of the decedent's probate estate that is included in the estate subject to election and does not constitute any part of the spousal benefits;

(ii) To the extent the elective share is not fully paid as provided in item (i) of this paragraph:

1. From the portion of any revocable trust of the decedent that is included in the estate subject to election and does not constitute any part of the spousal benefits; and

2. If there is more than one revocable trust of the decedent that is included in the estate subject to election, by apportionment among the trusts in proportion to the value of the assets of each revocable trust that are available to satisfy the elective share; and

(iii) To the extent the elective share is not fully paid as provided in items (i) and (ii) of this paragraph, by the recipients of any other portions of the

estate subject to election that do not constitute any part of the spousal benefits, prorated among the recipients in proportion to the value of the assets received by each recipient.

(2) If any payment required by this subsection is preempted by federal law or is to be made from either a trust established under § 1917(c)(2)(B)(iii), (c)(2)(B)(iv), (d)(4)(A), or (d)(4)(C) of the Social Security Act, an account established under § 529A of the Internal Revenue Code, or a special needs trust for the benefit of an individual who is disabled as defined in § 1614(a)(3) of the Social Security Act, the portion of the elective share payable under this subsection shall be apportioned among those recipients whose benefits are not preempted under federal law or who are not beneficiaries of those trusts or accounts.

(c) Unless the surviving spouse and the payor agree otherwise in writing, each person required to pay a portion of the elective share under this section shall make payment:

(1) In a manner that is deemed to be in accordance with the terms and purposes of any instrument governing the disposition of the portion of the estate subject to election from which the portion of the elective share is to be paid; and

(2) (i) In cash;

(ii) With a prorated share of each item of property from which that portion of the elective share can be paid; or

(iii) With other property acceptable to the surviving spouse, in an amount equal to the fair market value of that portion of the elective share to be paid by the payor.

(d) A payor or any other third party, other than the personal representative of the decedent, the trustee of any revocable trust of the decedent, or the person responsible for filing the estate tax return, is not liable for having made a payment or transferred an item of property, or any other benefit from which the elective share might be paid, to a beneficiary designated in a governing instrument or beneficiary designation if the payment or transfer is made:

(1) In good faith reliance on the validity of the governing instrument or beneficiary designation on request and satisfactory proof of the death of the decedent; and

(2) Before the payor or other third party receives written notice of the election by the surviving spouse to receive the elective share under this subtitle.

§3–411.

(a) On the election of the surviving spouse to take an elective share under this subtitle, all property or other benefits that would have passed to the surviving spouse under the will, other than any portion of the spousal benefits, shall be treated as if the surviving spouse had died before the execution of the will.

(b) The surviving spouse and a person claiming through the surviving spouse may not receive property under the will, other than property forming any portion of the spousal benefits.

§3–412.

(a) (1) On the final payment of an elective share, the personal representative of the decedent, the trustee of any revocable trust of the decedent, or the person responsible for filing the estate tax return, as appropriate, shall file with the register for the county in which the election under § 3–403 of this subtitle is filed a signed statement, which has been verified by the surviving spouse, stating the value of the elective share and that the elective share has been paid in full.

(2) On the request of the surviving spouse, the personal representative of the decedent, the trustee of any revocable trust of the decedent, or the person responsible for filing the estate tax return, the register shall redact from the statement filed in accordance with paragraph (1) of this subsection the value of the elective share.

(b) (1) On the request of the surviving spouse, the personal representative of the decedent, the trustee of any revocable trust of the decedent, the person responsible for filing the estate tax return, any payor of any portion of the elective share, or any other person having an interest in the assets from which the elective share has been paid, the register shall certify in writing the accuracy of the calculation and payment of the elective share.

(2) If a certification is requested under this subsection, the surviving spouse, the personal representative of the decedent, the trustee of any revocable trust of the decedent, the person responsible for filing the estate tax return, and any payor of any portion of the elective share shall deliver to the register any information and documentation that the register may deem necessary to verify the accurate calculation of the elective share and the payment of the elective share in full.

(3) The register may not disclose any information or documentation submitted to the register in accordance with paragraph (2) of this subsection.

§3–413.

In an action arising under this subtitle, a court may:

(1) On a showing of clear and convincing evidence, modify:

(i) The calculation of the value of an augmented estate;

(ii) The calculation of the value of an estate subject to election;

(iii) The calculation of the value of spousal benefits; or

(iv) The sources of payment of an elective share;

(2) Consider the circumstances of any transfer or arrangement, including:

(i) The extent of control retained by the decedent;

(ii) The motivation for the transfer or arrangement;

(iii) The familial relationship between the decedent and the beneficiary of the transfer or arrangement;

(iv) The degree, if any, to which the transfer or arrangement deprives the surviving spouse of property that otherwise might form part of the value of the augmented estate, estate subject to election, or spousal benefits;

(v) The degree, if any, to which the transfer or arrangement provides a benefit to the surviving spouse beyond what would be available to the surviving spouse as part of the elective share;

(vi) The length and nature of the relationship between the decedent and the surviving spouse;

(vii) The nature and value of the surviving spouse's assets; and

(viii) The relationship of the beneficiary of the transfer or arrangement to any previous owner of the property subject to the transfer or arrangement;

(3) Award reasonable attorney's fees;

(4) Pass orders requiring the holder or recipient of any portion of an augmented estate, an estate subject to election, or spousal benefits to provide any

information that the court considers necessary to determine the value or sources of payment of an elective share; and

(5) Transmit issues of fact relating to the value or sources of payment of an elective share to the circuit court of the county in which the election under § 3–403 of this subtitle is filed.

§4–101.

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

(b) "Electronic" means technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(c) "Electronic presence" means two or more individuals communicating in real time using electronic audio–visual means to the same extent as if the individuals were in the physical presence of each other.

(d) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(e) "Electronic will" means a will containing one or more electronic signatures and executed in compliance with this subtitle.

(f) "Physical presence" means being close enough to see, hear, and speak with another individual without using electronic audio–visual means.

(g) "Record" means information readable as text that is inscribed on a tangible medium or that is stored in an electronic medium and retrievable in perceivable form.

(h) "Remotely witnessed will" means a will that is:

(1) Signed by the testator under circumstances where a witness is in the electronic presence, but not the physical presence, of the testator when the witness attests to and signs the will; and

(2) Executed, prepared, and certified in compliance with § 4–102 of this subtitle.

(i) "Sign" means, with present intent to authenticate or adopt a record, to:

(1) Execute or adopt a tangible symbol; or

(2) Attach to or logically associate with the record an electronic symbol, sound, or process.

(j) "Supervising attorney" means an individual who has been admitted to practice law before the courts of this State and is in good standing.

(k) "Will" means a record that the testator intends to adopt as the testator's codicil or testamentary instrument and that:

(1) (i) Appoints a personal representative;

(ii) Revokes or revises another will;

(iii) Nominates a guardian;

(iv) Directs the disposition of the testator's property; or

(v) Expressly excludes or limits the right of an individual or class to succeed to property of a decedent passing by intestate succession;

(2) Is executed in the form prescribed under §§ 4–102 through 4–104 of this subtitle; and

(3) Has not been revoked in a manner provided by § 4–105 of this subtitle.

§4–102.

(a) Any person may make a will if the person is 18 years of age or older, and legally competent to make a will.

(b) Except as provided in §§ 4–103 and 4–104 of this subtitle and subsection (f) of this section, every will shall be:

(1) In writing;

(2) Signed by the testator, or by some other person for the testator, in the testator's physical presence and by the testator's express direction; and

(3) Attested and signed by two or more credible witnesses in:

(i) The physical presence of the testator; or

(ii) The electronic presence of the testator, provided that an electronic will or remotely witnessed will satisfies the requirements under subsection (c) or (d) of this section.

(c) An electronic will or remotely witnessed will executed under this subsection shall satisfy the following requirements:

(1) At the time the testator and witnesses sign the will, the testator and all witnesses shall be in the physical presence or electronic presence of one another and a supervising attorney, who may be one of the witnesses unless the will is signed, acknowledged, and sworn to before the supervising attorney as described in item (5)(iii)2 of this subsection;

(2) At the time the testator signs the will, the testator shall be a resident of, or physically located in, the State;

(3) Each witness who is in the electronic presence of the testator when the witness attests and signs the will, or provides an electronic signature on the will, shall be a resident of the United States and be physically located in the United States at the time the witness attests and signs the will;

(4) The testator and witnesses shall sign the same will or any counterpart thereof; and

(5) The supervising attorney shall create a certified will that shall include:

(i) A true, complete, and accurate paper version of all pages of the will including the original signatures or electronic signatures of the testator and all witnesses;

(ii) A signed original paper certification by the supervising attorney stating the date that the supervising attorney observed the testator and witnesses sign the will and that the supervising attorney took reasonable steps to verify:

1. That the certified will includes a true, complete, and accurate paper version of all pages of the will;

2. That the signatures contained in the certified will are the original signatures of each party signing the same paper will, or any counterpart thereof, and electronic signatures of each party signing the same electronic will, or any counterpart thereof;

3. That the testator and each of the witnesses signed the same will or any counterpart thereof;

4. The identity of each witness and that each witness who was not in the physical presence of the testator when the witness attested and signed the will, or provided an electronic signature on the will, was a resident of the United States and physically located in the United States at the time that the witness attested and signed the will; and

5. The identity of the testator and that the testator was a resident of, or was physically located in, the State at the time that the testator signed the will; and

(iii) An acknowledgement of the testator and the affidavits of the attesting witnesses before:

1. A notary public, under seal, attached or annexed to the will, in substantially the following form and content:

The State of Maryland.
County of _____.
Before me, the undersigned notary public, on this day personally appeared _____, _____, and _____, known to me to be the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument and, all of these persons being by me duly sworn, _____, the testator, declared to me and to the witnesses in my physical or electronic presence that the said instrument is the testator's will, that the testator is of sound mind, and that the testator had willingly signed or willingly directed another to sign the will under no constraint or undue influence, and executed it in the physical or electronic presence of the witnesses as a free and voluntary act for the purposes therein expressed, and that the witnesses, in the physical or electronic presence and at the request of the testator, signed the will as witnesses, and that to the best of the witnesses' knowledge the testator was at least 18 years old, of sound mind, and under no constraint or undue influence.

_____ Testator

_____ Witness

_____ Witness

Subscribed, sworn and acknowledged before me by _____, the testator, and subscribed and sworn to before me by _____ and _____, witnesses, this _____ day of _____, ____.

_____ Seal _____ Notary Public; or

2. The supervising attorney, attached or annexed to the will, in substantially the following form and content:

Before me, the undersigned supervising attorney, on this day personally appeared _____, _____, and _____, known to me to be the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, and the testator declared to me and to the witnesses in my physical or electronic presence that the said instrument is the testator's will, that the testator is of sound mind, and that the testator had willingly signed or willingly directed another to sign the will under no constraint or undue influence, and executed it in the physical or electronic presence of the witnesses as a free and voluntary act for the purposes therein expressed, and that the witnesses, in the physical or electronic presence and at the request of the testator, signed the will as witnesses, and that to the best of the witnesses' knowledge the testator was at least 18 years old, of sound mind, and under no constraint or undue influence.

_____ Testator

_____ Witness

_____ Witness

Subscribed, sworn and acknowledged before me by _____, the testator, and subscribed and sworn to before me by _____ and _____, witnesses, this _____ day of _____, ____.
_____ Supervising attorney.

(d) An electronic will or remotely witnessed will executed under this subsection shall satisfy the following requirements:

(1) At the time the testator and witnesses sign the will, the testator and all witnesses shall be in the physical presence or electronic presence of one another;

(2) The requirements under subsection (c)(2) through (4) of this section shall be satisfied; and

(3) The testator shall create a certified will that shall include:

(i) A true, complete, and accurate paper version of all pages of the will including the original signatures or electronic signatures of the testator and all witnesses; and

(ii) An original paper certification signed and acknowledged by the testator in the physical presence or electronic presence of a notary public, who may not be one of the witnesses, stating:

1. The date that the testator and witnesses signed the will; and

2. That the testator took reasonable steps to verify the same facts and information required under subsection (c)(5)(ii) of this section.

(e) (1) Once the supervising attorney or testator creates a certified will as provided in subsection (c) or (d) of this section, the certified will shall be deemed to be the original will of the testator for all purposes under this article.

(2) The date of execution for a certified will described under paragraph (1) of this subsection shall be the date of execution stated in the certified will.

(f) A will executed in conformance with the provisions of Executive Order 20.04.10.01, authorizing remote witnessing and electronic signing of certain documents, shall be deemed to have been signed and witnessed in conformity with this section if the will was signed and witnessed during the time that the executive order was in effect.

§4–103.

(a) A will entirely in the handwriting of a testator who is serving in the armed services of the United States is a valid holographic will if signed by the testator outside of a state of the United States, the District of Columbia, or a territory of the United States even if there are no attesting witnesses.

(b) A holographic will is void one year after the discharge of the testator from the armed services unless the testator has died prior to expiration of the year or does not then possess testamentary capacity.

§4–104.

If a testator is physically outside the State at the time the testator executes the will, the will is properly executed if it is:

(1) In writing;

(2) Signed by the testator or by some other person on the testator's behalf, in the testator's physical presence, and by the testator's express direction; and

(3) Executed in conformity with:

(i) The provisions of § 4–102 of this subtitle;

(ii) The law of the domicile of the testator; or

(iii) The law of the place where the testator is physically located at the time the testator signs the will.

§4–105.

(a) Except as provided in subsection (b) of this section, a will, or any part of it, may not be revoked in any manner.

(b) A will may be revoked under the following circumstances:

(1) By provision in a subsequent, validly executed will that:

(i) Revokes any prior will or part of it either expressly or by necessary implication; or

(ii) Expressly republishes an earlier will that had been revoked by an intermediate will but is still in existence;

(2) By burning, cancelling, tearing, or obliterating the will, by the testator, or by some other person in the testator's presence and by the testator's express direction and consent;

(3) By subsequent marriage of the testator followed by the birth, adoption, or legitimation of a child by the testator provided the child or the child's descendant survives the testator; and all wills executed before the marriage shall be revoked; or

(4) By an absolute divorce of a testator and the testator's spouse or the annulment of the marriage, either of which occurs subsequent to the execution of the testator's will; and all provisions in the will relating to the spouse, and only those provisions, shall be revoked unless otherwise provided in the will or decree.

§4–106.

If a testator makes a subsequent will intended to revoke a prior will, the destruction or other revocation of the subsequent will does not revive the prior will unless the will is still in existence and is republished with the same formalities as are required for the execution of a will in this subtitle.

§4–107.

The terms of any writing which is in existence when a will or trust instrument is executed, including but not limited to a statement of administrative provisions and fiduciary powers recorded in a record office of this State, may be incorporated into the will or trust instrument by reference to it to the extent the language of the will or trust instrument manifests an intent to do so and describes the writing sufficiently to permit its identification. Nothing in this section shall be construed as casting doubt upon the validity of incorporation by reference made prior to the adoption of this section.

§4–201.

Except as otherwise provided in this subtitle, a person having custody of a will who is not the testator of the will has a duty to maintain custody of the will and unless authorized by the testator may not:

(1) Destroy or dispose of the will;

(2) Disclose the contents of the will to any other person; or

(3) Deliver the will to any person other than the testator.

§4–202.

(a) (1) Subject to subsection (b) of this section, a will may be deposited for safekeeping:

(i) By the testator, or by the testator's agent, with the register of the county in which the testator resides; or

(ii) By any person having custody of the will, other than the testator or the testator's agent, with the register of the county in which the testator resides or in which the testator resided when the will was executed.

(2) The register shall give a receipt for the will, on the payment of the required fee.

(b) (1) The will shall be enclosed in a sealed wrapper, which shall have endorsed on it "Will of," followed by:

(i) The name of the testator;

(ii) The testator's address; and

(iii) The testator's Social Security number, if available.

(2) The register shall endorse on the will:

(i) The date it was received; and

(ii) The name of the person from whom it was received.

(3) The will is not to be delivered or opened except as provided in this subtitle.

(c) During the lifetime of the testator a deposited will may be delivered only to the testator, or to a person authorized by the testator in writing to receive it.

(d) After being informed of the death of the testator, the register shall:

(1) Open the will;

(2) Notify the personal representative named in the will, and any other person the register considers appropriate, that the will is on deposit with the register;

(3) Retain the will as a deposited will until it is offered for probate; and

(4) Keep a photographic copy of a will transmitted elsewhere for probate.

§4–203.

(a) A person having custody of the testator's will shall deliver the will to:

(1) The testator, on demand of the testator;

(2) A court appointed guardian of the testator's property, on demand of the guardian; or

(3) An attorney in fact acting under a durable power of attorney signed by the testator expressly authorizing the attorney in fact to demand custody of the will, on demand of the attorney in fact.

(b) (1) After the death of a testator, a person having custody of the testator's will shall deliver the will to the register for the county in which administration should be had pursuant to § 5–103 of this article.

(2) The custodian may inform an interested person of the contents of the will.

(c) A custodian who willfully fails or refuses to deliver a will as required under this section is liable to a person aggrieved for the damages sustained by reason of the failure or refusal.

§4–204.

(a) An attorney who has custody of a will may dispose of the will in accordance with this section if:

(1) The attorney is licensed to practice law in the State;

(2) At least 25 years have elapsed since the date of the execution of the will;

(3) The attorney has no knowledge of and, after diligent inquiry cannot ascertain, the address of the testator; and

(4) To the best of the attorney's knowledge, the will is not subject to a contract to make or not to revoke a will or devise.

(b) (1) Except as provided under subsection (c) of this section, an attorney authorized to dispose of a will under this section shall file the will with the register of the county where the testator resided when the will was executed along with an affidavit certifying that the conditions of subsection (a) of this section have been met.

(2) The register shall charge and collect any fee established under § 2–206 of this article for the filing of the will and affidavit.

(3) On the filing of the will and affidavit under paragraph (1) of this subsection, the register may destroy the will but shall retain an electronic copy of the will and affidavit.

(c) An attorney authorized to dispose of a will under this section may destroy the will without notice to any person or court if the will has not been offered for probate within 10 years following the death of the testator.

(d) (1) The disposal or destruction of a will in accordance with this section may not be construed as a revocation of the will under § 4–105 of this title.

(2) The contents of a will disposed of or destroyed in accordance with this section may be proven by other types of evidence.

§4–205.

(a) A person who violates any provision of this subtitle shall be liable to a person aggrieved for the damages sustained as a result of the violation.

(b) An attorney or register who disposes of a will in accordance with this subtitle is not liable to the testator or any other person for any damages sustained by the testator or other person as a result of the disposal.

§4–206.

The robbery or larceny of a will shall be punished in the same manner as the robbery or larceny of goods and chattels.

§4–301.

Any individual, firm, trust, partnership, unincorporated association, corporation, or a governmental body may be a legatee.

§4–401.

A legatee, other than the testator's spouse, who fails to survive the testator by 30 full days is considered to have predeceased the testator, unless the will of the testator:

(1) Expressly creates a presumption that the legatee is considered to survive the testator; or

(2) Requires that the legatee survives the testator for a stated period in order to take under the will and the legatee survives for the stated period.

§4–402.

There is a presumption that a will passes all property the testator owns at the time of the testator's death, including property acquired after the execution of the will.

§4–403.

(a) Unless a contrary intent is expressly indicated in the will, a legacy may not lapse or fail because of the death of a legatee after the execution of the will but prior to the death of the testator if the legatee is:

(1) Actually and specifically named as legatee;

(2) Described or in any manner referred to, designated, or identified as legatee in the will; or

(3) A member of a class in whose favor a legacy is made.

(b) A legacy described in subsection (a) of this section shall have the same effect and operation in law to direct the distribution of the property directly from the estate of the person who owned the property to those persons who would have taken the property if the legatee had died, testate or intestate, owning the property.

(c) Creditors of the deceased legatee shall have no interest in the property, whether the claim is based on contract, tort, tax obligations, or any other item.

§4–404.

(a) Unless a contrary intent is expressly indicated in the will, property failing to pass under a void or inoperative legacy, and which is not provided for in § 4–403 of this subtitle, shall be distributed as part of the estate of the testator to those persons, including legatees, who would have taken the property if the void or inoperative legacy had not existed.

(b) Where a legacy to one of two or more residuary legatees is void or inoperative, the other residuary legacies shall be augmented proportionately by the property which is the subject of the legacy.

§4–405.

Unless a contrary intent is expressly indicated in the will, a specific legacy includes additional or substituted securities if:

(1) Securities are the subject of a specific legacy;

(2) After the execution of the will other securities of the same or another entity are distributed to the testator because of the testator's ownership of the original securities, whether as a result of a partial liquidation, stock dividend, stock split, merger, consolidation, reorganization, recapitalization, redemption, exchange, or other transaction; and

(3) The securities are part of the estate of the testator at the time of the testator's death.

§4–406.

(a) Unless a contrary intent is expressly indicated in the will, a legacy of specific property shall pass subject to a security interest, lien, or renewal, extension, or refinancing of a security interest or lien on the property that existed at the time of execution of the will.

(b) If a security interest or lien is created or attaches initially after the execution of the will, the legatee is entitled to exoneration.

§4–407.

Subject to the terms of the instrument creating the power, a residuary clause in a will exercises a power of appointment held by the testator only if:

(1) An intent to exercise the power is expressly indicated in the will; or

(2) The instrument creating the power of appointment fails to provide for disposition of the subject matter of the power upon its nonexercise.

§4–408.

Unless a contrary intent is expressly indicated in the will, a legacy passes to the legatee the entire interest of the testator in the property which is the subject of the legacy.

§4–409.

A legacy for charitable use may not be void because of an uncertainty with respect to the donees:

(1) If the will making the legacy also contains directions for the formation of a corporation to take the legacy; and

(2) (i) If the legacy is immediate and not subject to a life estate, a corporation is formed in accordance with the directions, capable and willing to receive and administer the legacy, within 12 months from the probate of the will; or

(ii) If the legacy is subject to a life estate, a corporation shall be formed at a time between probate of the will and the end of 12 months following the expiration of a life estate or life estates.

§4–410.

Unless a contrary intent is expressly indicated in the will, in a legacy the following words mean a lack or a failure of issue in the lifetime, or at the time of the death of the person, and not an indefinite failure of the person's issue:

(1) "Die without issue";

(2) "Die without leaving issue"; or

(3) Other words which may imply either a lack or a failure of issue of a person in the person's lifetime, or at the time of the person's death, or an indefinite failure of the person's issue.

§4–411.

(a) A legacy may be made in form or in substance to the trustee in accordance with the terms of a written inter vivos trust, including an unfunded life insurance trust although the settlor has reserved all rights of ownership in the insurance contracts, if the trust instrument has been executed and is in existence prior to or contemporaneously with the execution of the will and is identified in the will, without regard to the size or character of the corpus of the trust or whether the settlor is the testator or a third person.

(b) The legacy is valid even if the trust is subject to amendment or modification or may be terminated or revoked after the will is executed whether by the settlor or any other person, or if the trust instrument or an amendment to it was not executed in the manner required by the estates of decedents law for wills.

(c) Unless the will provides otherwise:

(1) The legacy is valid even if the trust was amended or modified after the will was executed, and the legacy shall be given effect in accordance with the terms of the trust as they appear in writing on the date of death of the testator, including any amendment or modification;

(2) Property passing under the legacy passes directly from the personal representative to the trustee of the inter vivos trust, becomes a part of the assets of the trust, and is not considered held under a separate testamentary trust;

(3) An entire revocation of the trust prior to the death of the testator makes the legacy inoperative within the meaning of § 4–404 of this subtitle, even though the revocation was not effected in the manner provided by this article for the revocation of wills; and

(4) Subject to paragraph (3) of this subsection, a termination of the trust in accordance with its terms, or by its exhaustion, or by operation of law, or for another reason does not invalidate the legacy.

§4–412.

(a) (1) A legacy may be made in form or substance to the trustee under the terms of a testamentary trust established under another will.

(2) The legacy is valid even if the testamentary trust or the will establishing the trust was not in existence when the will containing the legacy was executed, if:

(i) The will establishing the testamentary trust was executed, or was last modified with respect to the terms of the trust, prior to the death of the testator of the will containing the legacy;

(ii) The will establishing the testamentary trust is offered for probate prior to, or within 9 months after the death of the testator of the will containing the legacy; and

(iii) The will establishing the testamentary trust is admitted to probate.

(b) Unless the will otherwise provides:

(1) Property passing under the legacy passes from the personal representative directly to the trustee of the testamentary trust, becomes a part of the assets of the trust, and is not considered as held under a separate testamentary trust; and

(2) A termination of the trust in accordance with its terms, by its exhaustion, by operation of law, or otherwise, does not invalidate the legacy.

§4–413.

If probable cause exists for instituting proceedings, a provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is void.

§4–414.

(a) In this section, "will" includes another written instrument of similar import.

(b) (1) Unless a will executed on or after June 1, 1947, clearly indicates otherwise, "child", "descendant", "heir", "issue", or any equivalent term in the will includes an adoptee whether the will was executed before or after a court entered an order for adoption.

(2) Unless a will executed on or before May 31, 1947, clearly indicates otherwise, "child", "descendant", "heir", "issue", or any equivalent term in the will includes an adoptee if, on or after January 1, 1945, a court entered an interlocutory order for adoption or, if none, a final order for adoption.

§4–501.

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

(b) "Agent" means an individual:

(1) Authorized to make health care decisions on behalf of a principal by a power of attorney for health care; or

(2) Expressly authorized to make an anatomical gift on behalf of a principal by a record signed by the principal.

(c) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(d) (1) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift.

(2) "Decedent" includes:

(i) A stillborn infant; and

(ii) Subject to restrictions imposed by law other than this subtitle, a fetus.

(3) "Decedent" does not include a blastocyst, embryo, or fetus that is the subject of an induced abortion.

(e) (1) "Disinterested witness" means a witness other than:

(i) A spouse, child, parent, sibling, grandchild, grandparent, or guardian of an individual who makes, amends, revokes, or refuses to make an anatomical gift; or

(ii) Another adult who exhibits special care and concern for an individual who makes, amends, revokes, or refuses to make an anatomical gift.

(2) "Disinterested witness" does not include a person to which an anatomical gift may pass under § 4–509 of this subtitle.

(f) (1) "Document of gift" means a donor card or any other record used to make an anatomical gift.

(2) "Document of gift" includes a statement or symbol on a driver's license, an identification card, or a donor registry.

(g) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(h) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts as provided in § 4–516 of this subtitle.

(i) (1) "Driver's license" means a license or permit issued by the Motor Vehicle Administration to operate a vehicle, whether or not conditions are attached to the license or permit.

(2) "Driver's license" includes a learner's permit.

(j) "Emancipated minor" means a person under the age of 18 years who is:

(1) Married;

(2) A parent;

(3) Serving in the military;

(4) Emancipated by court order;

(5) Living separately from the parents of the person and is self–supporting; or

(6) Emancipated for another purpose recognized by law.

(k) "Eye bank" means a person that:

(1) Is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes;

(2) Is accredited by the Eye Bank Association of America or the American Association of Tissue Banks; and

(3) Has a permit issued in accordance with Title 17, Subtitle 3 of the Health – General Article.

(l) (1) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual.

(2) "Guardian" does not include a guardian ad litem, unless the guardian ad litem is authorized by a court to consent to donation.

(m) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(n) "Identification card" means an identification card issued by the Motor Vehicle Administration.

(o) "Know" means to have actual knowledge.

(p) (1) "Nontransplant tissue bank" means a person that recovers, screens, procures, transports, stores, or arranges for the storage and distribution of a body or part solely for the purpose of research, training, or education.

(2) "Nontransplant tissue bank" includes:

(i) The State Anatomy Board;

(ii) A program for a purpose described in paragraph (1) of this subsection operated by officers or employees of the United States; or

(iii) A nonprofit organization described in paragraph (1) of this subsection permitted to operate under § 5–409 of the Health – General Article.

(3) "Nontransplant tissue bank" does not include:

(i) An eye bank;

(ii) An organ procurement organization; or

(iii) A transplant tissue bank.

(q) "OCME" means the Office of the Chief Medical Examiner.

(r) "Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(s) "Parent" means a parent whose parental rights have not been terminated.

(t) (1) "Part" means an organ, an eye, or tissue of a human being.

(2) "Part" does not include the whole body.

(u) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(v) "Procurement organization" means an eye bank, an organ procurement organization, or a tissue bank.

(w) (1) "Prospective donor" means an individual who is dead or whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education.

(2) "Prospective donor" does not include an individual who has made a refusal.

(x) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner

consistent with existing medical criteria necessary for the making of an anatomical gift.

(y) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(z) "Record" means information that is inscribed on a tangible medium or is stored in an electronic or any other medium and is retrievable in perceivable form.

(aa) "Refusal" means a record created under § 4–505 of this subtitle that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(bb) "Sign" means to:

(1) Have present intent to authenticate or adopt a record; and

(2) (i) Execute or adopt a tangible symbol; or

(ii) Attach to or logically associate with the record an electronic symbol, sound, or process.

(cc) (1) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law.

(2) "Technician" includes an enucleator.

(dd) (1) "Tissue" means a portion of the human body other than an organ or eye.

(2) "Tissue" does not include:

(i) Blood unless the blood is donated for the purpose of research or education; or

(ii) An ovum or sperm for the purpose of creating an embryo to use in therapy, research, or education, unless the anatomical gift is made by the donor to the spouse of the donor.

(ee) "Tissue bank" means a transplant tissue bank or nontransplant tissue bank.

(ff) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(gg) "Transplant tissue bank" means a person that is licensed, accredited, or regulated under federal or State law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue in accordance with Title 17, Subtitle 3 of the Health – General Article.

§4–502.

This subtitle applies to an anatomical gift or an amendment to, a revocation of, or a refusal to make an anatomical gift whenever made.

§4–503.

(a) Subject to § 4–506 of this subtitle, an anatomical gift may be made during the life of a donor for the purpose of transplantation, therapy, research, or education by:

(1) (i) A donor who is an adult; or

(ii) A donor who is a minor, if the minor is:

1. Emancipated; or

2. Authorized under State law to apply for a driver's license because the donor is at least 15 years and 9 months old;

(2) An agent of a donor, unless a power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of a donor, if the donor is an unemancipated minor; or

(4) A guardian of a donor.

(b) A donor may make an anatomical gift:

(1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) By will;

(3) During a terminal illness or an injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) As provided in subsection (c) of this section.

(c) (1) A donor or other person authorized to make an anatomical gift under this section may make a gift by:

(i) A donor card or other record signed by the donor or other person making the gift; or

(ii) Authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry.

(2) If a donor or other person authorized to make an anatomical gift under this section is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall:

(i) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or other person; and

(ii) State that the record has been signed and witnessed as provided in item (i) of this paragraph.

(d) Revocation, suspension, expiration, or cancellation of a driver's license or an identification card that indicates an anatomical gift does not invalidate the gift.

(e) (1) An anatomical gift made by will takes effect on the donor's death whether or not the will is probated.

(2) If a will that makes an anatomical gift is invalidated after the donor's death, the anatomical gift does not become invalid.

(f) On or after July 1, 2022, a person who elects to be a donor may designate any of the following purposes for the anatomical gift:

(1) Research and education; and

(2) Transplantation and therapy.

(g) (1) By July 1, 2022, the organ procurement organization or its designated affiliate shall produce and provide to each Motor Vehicle Administration location educational materials that include definitions of:

(i) Anatomical gift;

(ii) Research and education; and

(iii) Transplantation and therapy.

(2) Each Motor Vehicle Administration location shall prominently display the educational materials and make available the educational materials to prospective donors on request.

(h) The Motor Vehicle Administration shall adopt regulations by July 1, 2022, to carry out subsections (f) and (g) of this section.

§4–504.

(a) Subject to § 4–506 of this subtitle, a donor or any other person authorized to make an anatomical gift under § 4–503 of this subtitle may amend or revoke an anatomical gift by:

(1) A record signed by:

(i) The donor;

(ii) The other person; or

(iii) Subject to subsection (b) of this section, if the donor or other person is physically unable to sign, another individual acting at the direction of the donor or the other person; or

(2) A later–executed document of gift that expressly or by inconsistency amends or revokes the previous anatomical gift or portion of the anatomical gift.

(b) A record signed in accordance with subsection (a)(1)(iii) of this section shall:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that the record has been signed and witnessed as provided in item (1) of this subsection.

(c) Subject to § 4–506 of this subtitle, a donor or any other person authorized to make an anatomical gift under § 4–503 of this subtitle may revoke the anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) During a terminal illness of a donor, or while a donor is injured, the donor may amend or revoke an anatomical gift that was not made by will by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift by will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

(f) (1) An anatomical gift made by a donor designation on a driver's license or an identification card may be revoked by giving written notice to the Motor Vehicle Administration in accordance with § 12–303 of the Transportation Article.

(2) A donor may make a gift by authorizing that a statement or symbol indicating that the donor has made a gift be included on a donor registry.

§4–505.

(a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) A record signed by:

(i) The individual; or

(ii) Subject to subsection (b) of this section, if the individual is physically unable to sign, another individual acting at the direction of the individual;

(2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) During a terminal illness of the individual or while the individual is injured, any form of communication addressed to at least two adults, at least one of whom is a disinterested witness.

(b) A record signed in accordance with subsection (a)(1)(ii) of this section shall:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) State that the record has been signed and witnessed as provided in item (1) of this subsection.

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) In a manner for making a refusal provided in subsection (a) of this section;

(2) By subsequently making an anatomical gift in accordance with § 4–503 of this subtitle that is inconsistent with the refusal; or

(3) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in § 4–506(h) of this subtitle, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

§4–506.

(a) Except as otherwise provided in subsection (g) of this section and subject to subsection (f) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made:

(1) An anatomical gift of the donor's body or part under § 4–503 of this subtitle; or

(2) An amendment to an anatomical gift of the donor's body or part under § 4–504 of this subtitle.

(b) A donor's revocation of an anatomical gift of the donor's body or part under § 4–504 of this subtitle is not a refusal and does not bar another person specified in § 4–501 or § 4–507 of this subtitle from making an anatomical gift of the donor's body or part under § 4–503 or § 4–508 of this subtitle.

(c) If a person other than a donor makes an unrevoked anatomical gift of the donor's body or part under § 4–503 of this subtitle, or an amendment to an anatomical gift of the donor's body or part under § 4–504 of this subtitle, another person may not make, amend, or revoke the gift of the donor's body or part under § 4–508 of this subtitle.

(d) A revocation of an anatomical gift of a donor's body or part under § 4–504 of this subtitle by a person other than the donor does not bar another person from making an anatomical gift of the body or part under § 4–503 or § 4–508 of this subtitle.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under § 4–503 of this subtitle, an anatomical gift of a part is not a refusal to give another part or a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under § 4–503 of this subtitle, an anatomical gift of a part for one or more of the purposes set forth in § 4–503 of this subtitle is not a limitation on the making of an anatomical gift of the part for any other purpose by the donor or other person under § 4–503 or § 4–508 of this subtitle.

(g) If a donor who is an unemancipated minor dies, a reasonably available parent or guardian of the donor may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a reasonably available parent or guardian of the minor may revoke the minor's refusal.

§4–507.

(a) Subject to subsections (b) and (c) of this section and except as prohibited under §§ 4–505 and 4–506 of this subtitle, in accordance with the order of priority listed, a member of one of the following classes of individuals who is reasonably available may make an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under § 4–503(b) of this subtitle immediately before the decedent's death;

(2) The persons who were acting as the guardians of the decedent at the time of the death of the decedent;

(3) The spouse or domestic partner of the decedent;

(4) The adult children of the decedent;

(5) The parents of the decedent;

(6) The adult siblings of the decedent;

(7) The adult grandchildren of the decedent;

(8) The grandparents of the decedent;

(9) An adult who exhibited special care and concern for the decedent; or

(10) Another person having the authority to dispose of the body of the decedent.

(b) (1) If there is more than one member of a class listed in subsection (a)(1), (3), (4), (5), (6), (7), or (9) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under § 4–509 of this subtitle knows of an objection by another member of the class.

(2) If an objection to an anatomical gift is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) of this section is reasonably available to make or to object to the making of an anatomical gift.

§4–508.

(a) A person authorized to make an anatomical gift under § 4–507 of this subtitle may make an anatomical gift:

(1) By a document of gift signed by the person making the gift; or

(2) By an oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) (1) Subject to subsection (c) of this section, an anatomical gift by a person authorized under § 4–507 of this subtitle may be amended or revoked orally or in a record by a reasonably available member of a prior class.

(2) If more than one member of a prior class is reasonably available, the gift made by a person authorized under § 4–507 of this subtitle may be:

(i) Amended only if a majority of the reasonably available members agree to the amendment; or

(ii) Revoked only if:

1. A majority of the reasonably available members agree to the revocation; or

2. The reasonably available members are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

§4–509.

(a) An anatomical gift may be made to the following persons named in a document of gift:

(1) A hospital, an accredited medical school, a dental school, a college or university, an organ procurement organization, the State Anatomy Board, or a nontransplant tissue bank for research, training, or education;

(2) Subject to subsection (b) of this section, if the individual is the recipient of the part, an individual designated by the person making the anatomical gift; or

(3) An eye bank or a transplant tissue bank.

(b) If an anatomical gift to an individual under subsection (a)(2) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (g) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) of this section but identifies the purpose for which an anatomical gift may be used, the following provisions apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ; or

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) For the purpose of subsection (c) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used:

(1) For transplantation or therapy, if suitable; or

(2) If the gift cannot be used for transplantation or therapy, for research or education.

(e) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (a) of this section and does not identify the purpose of the gift, the gift passes in accordance with subsection (g) of this section.

(f) (1) Except as provided in paragraph (2) of this subsection, if a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift passes in accordance with subsection (g) of this section and may be used for transplantation, research, education, or therapy.

(2) If a donor registered a document of gift described under paragraph (1) of this subsection before July 1, 2022, the gift may only be used for transplantation or therapy.

(g) For purposes of subsections (b), (e), and (f) of this section, the following provisions apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank;

(2) If the part is tissue, the gift passes to the appropriate tissue bank; and

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) Other than an anatomical gift under subsection (a)(2) of this section, an anatomical gift of an organ for transplantation or therapy, research, or education passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass in accordance with subsections (a) through (h) of this section, or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) (1) A person may not accept an anatomical gift if the person knows that:

(i) The gift was not effectively made under § 4–503 or § 4–508 of this subtitle; or

(ii) The decedent made a refusal under § 4–505 of this subtitle that was not revoked.

(2) For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(k) Except as otherwise provided in subsection (a)(2) of this section, nothing in this subtitle affects the allocation of organs for transplantation or therapy.

§4–511.

(a) A document of gift need not be delivered during the lifetime of a donor to be effective.

(b) On or after the death of an individual, a person in possession of a document of gift or a refusal to make an anatomical gift regarding the individual shall allow examination and copying of the document of gift or refusal by:

(1) A person authorized to make or object to the making of the anatomical gift; or

(2) A person to which the gift could pass under § 4–509 of this subtitle.

§4–512.

(a) Whenever a hospital refers an individual who is dead or whose death is imminent to a procurement organization to ascertain whether the individual has made an anatomical gift, the organization shall make a reasonable search of any national and local donor registry that exists for the geographical area in which the individual resides.

(b) (1) When a hospital refers an individual who is dead or whose death is imminent to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education.

(2) During the examination period, measures necessary to ensure the medical suitability of a part from a prospective donor:

(i) May not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent; and

(ii) May be administered, unless it is determined that the administration of those measures would not provide the prospective donor with appropriate end–of–life care consistent with reasonable medical judgment.

(c) Unless prohibited by law other than this subtitle, at any time after a donor's death, the person to which a part passes under § 4–509 of this subtitle may conduct a reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(d) Unless prohibited by law other than this subtitle, an examination under subsection (b) or (c) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(e) On the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows that the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(f) (1) On a referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for a person listed in § 4–507 of this subtitle having priority to make an anatomical gift on behalf of a prospective donor.

(2) If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, the procurement organization shall promptly advise the other person of all relevant information.

(g) (1) Subject to §§ 4–509(i) and 4–519 of this subtitle, after the death of the donor, the rights of a person to which a part passes under § 4–509 of this subtitle are superior to the rights of all others with respect to the part.

(2) The person to which a part passes under § 4–509 of this subtitle may accept or reject an anatomical gift in whole or in part.

(3) Subject to the terms of a document of gift and this subtitle, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and the use of remains in a funeral service.

(4) If an anatomical gift of a part is made under § 4–509 of this subtitle, on the death of the donor and before embalming, burial, or cremation, the person to which the part passes shall have the part removed without unnecessary mutilation.

(h) A physician who attends a decedent at death and a physician who determines the time of a decedent's death may not participate in the procedures for removing or transplanting a part from the decedent.

(i) (1) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

(2) An organ procurement organization may recover a donated body part from the body of a donor on behalf of an eye bank or tissue bank.

(j) Each hospital in the State shall enter into an agreement or affiliation with a procurement organization for coordination of procurement and use of anatomical gifts.

§4–513.

(a) (1) Except as provided in subsection (b) of this section, if removal of a part from an individual is intended to occur after the individual's death, a person may not for valuable consideration knowingly purchase or sell the part for transplantation or therapy.

(2) A person that violates paragraph (1) of this subsection is guilty of a felony and on conviction is subject to a fine not exceeding $50,000 or imprisonment not exceeding 5 years or both.

(b) (1) A person may charge a reasonable amount of money for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

(2) The prohibition in subsection (a) of this section does not apply to blood and plasma.

(c) (1) A person may not, in order to obtain financial gain, intentionally falsify, forge, conceal, deface, or obliterate a document of gift, an amendment or revocation of a document of gift, or a refusal.

(2) A person who violates paragraph (1) of this subsection is guilty of a felony and on conviction is subject to a fine not exceeding $50,000 or imprisonment not exceeding 5 years or both.

§4–514.

(a) A person that acts in accordance with this subtitle or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, a criminal prosecution, or an administrative proceeding.

(b) A person making an anatomical gift or the donor's estate is not liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended, or revoked under this subtitle, a person may rely on representations of an individual listed in § 4–507(a)(2) through (9) of this subtitle relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

§4–515.

(a) A document of gift is valid if executed in accordance with:

(1) This subtitle;

(2) The laws of the state or country where it was executed; or

(3) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this State governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or an amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

§4–516. IN EFFECT

(a) In this section, "qualified nonprofit entity" means a procurement organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or an entity exempt from taxation under § 501(c)(3) of the Internal Revenue Code that actively functions in a supporting relationship to one or more procurement organizations if the procurement organization or other entity has a board of directors whose members are experienced in:

(1) Organ, tissue, and eye donation;

(2) Working with donors and donor families; and

(3) Educating the public about the importance of the process of organ, tissue, and eye donation.

(b) (1) The Secretary of Health shall contract with a qualified nonprofit entity for the establishment, maintenance, and operation of a donor registry.

(2) The Secretary of Health shall use funds from the Organ and Tissue Donation Awareness Fund as required under § 13–901 of the Health – General Article and any other funds as may be appropriate to compensate the nonprofit entity contracted with under paragraph (1) of this subsection for the reasonable cost of establishing, maintaining, and operating the donor registry, including the reasonable cost of public education programs to increase public awareness about the existence and purpose of the registry and organ, tissue, and eye donation.

(c) The Motor Vehicle Administration shall cooperate with the qualified nonprofit entity contracted with under subsection (b)(1) of this section for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amending of, or revoking of an anatomical gift.

(d) A donor registry shall be accessible 24 hours a day and 7 days a week to allow:

(1) A donor to include on the donor registry a statement or symbol that the donor has made or amended an anatomical gift;

(2) A donor to revoke an anatomical gift; or

(3) A procurement organization to obtain relevant information on the donor registry to determine, at the death or imminent death of a donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(e) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at the death or imminent death of the donor or prospective donor, whether the donor or prospective donor has made or amended an anatomical gift.

(f) (1) This section does not prohibit a person from creating or maintaining a donor registry that is not established by or under contract with the State.

(2) A registry that is not established by or under contract with the State shall comply with subsections (d) and (e) of this section.

§4–516. // EFFECTIVE SEPTEMBER 30, 2027 PER CHAPTERS 273 AND 274 OF 2022 //

(a) In this section, "qualified nonprofit entity" means a procurement organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or an entity exempt from taxation under § 501(c)(3) of the Internal Revenue Code that actively functions in a supporting relationship to one or more procurement organizations if the procurement organization or other entity has a board of directors whose members are experienced in:

(1) Organ, tissue, and eye donation;

(2) Working with donors and donor families; and

(3) Educating the public about the importance of the process of organ, tissue, and eye donation.

(b) (1) The Secretary of Health shall contract with a qualified nonprofit entity for the establishment, maintenance, and operation of a donor registry.

(2) The Secretary of Health shall use funds from the Organ and Tissue Donation Awareness Fund as required under § 13–901 of the Health – General Article and any other funds as may be appropriate to compensate the nonprofit entity contracted with under paragraph (1) of this subsection for the reasonable cost of establishing, maintaining, and operating the donor registry, including the reasonable cost of public education programs to increase public awareness about the existence and purpose of the registry and organ, tissue, and eye donation.

(c) The Motor Vehicle Administration shall cooperate with the qualified nonprofit entity contracted with under subsection (b)(1) of this section for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amending of, or revoking of an anatomical gift.

(d) A donor registry shall be accessible 24 hours a day and 7 days a week to allow:

(1) A donor to include on the donor registry a statement or symbol that the donor has made or amended an anatomical gift;

(2) A donor to revoke an anatomical gift; or

(3) A procurement organization to obtain relevant information on the donor registry to determine, at the death or imminent death of a donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(e) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at the death or imminent death of the donor or prospective donor, whether the donor or prospective donor has made or amended an anatomical gift.

(f) (1) This section does not prohibit a person from creating or maintaining a donor registry that is not established by or under contract with the State.

(2) A registry that is not established by or under contract with the State shall comply with subsections (d) and (e) of this section.

§4–517.

(a) In this section, "advance health care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor in accordance with §§ 5–601 through 5–618 of the Health – General Article containing the prospective donor's direction concerning a health–care decision for the prospective donor.

(b) (1) (i) If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy:

1. The prospective donor's attending physician and prospective donor shall confer to resolve the conflict; or

2. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive shall act for the donor to resolve the conflict.

(ii) If there is not an agent or the agent is not reasonably available, another person authorized by a law other than this subtitle to make health care decisions on behalf of the prospective donor shall act for the donor to resolve the conflict.

(2) Information relevant to the resolution of the conflict under this subsection may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under § 4–507 of this subtitle.

(3) Before resolution of a conflict under this subsection, measures necessary to ensure the medical suitability of a part from a prospective donor may be administered unless it is determined that the administration of those measures would not provide the prospective donor with appropriate end–of–life care, consistent with reasonable medical judgment.

(4) If the conflict under this subsection is not resolved expeditiously, the direction of the declaration or advance health care directive controls.

§4–518.

(a) OCME and procurement organizations shall cooperate with each other to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

(b) If OCME receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body or part is under the jurisdiction of OCME and a postmortem examination is going to be performed, unless OCME denies recovery in accordance with § 4–519 of this subtitle, OCME or OCME's designee shall conduct the postmortem examination of the body or part in a manner and within a period compatible with its preservation for the purposes of the gift.

(c) (1) A part may not be removed from the body of a decedent under the jurisdiction of OCME for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift or an authorization given by OCME in accordance with subsection (d) of this section.

(2) The body of a decedent under the jurisdiction of OCME may not be delivered to a person for research or education unless the body is the subject of an anatomical gift or an authorization given by OCME in accordance with subsection (d) of this section.

(3) This subsection does not preclude OCME from performing a postmortem examination of the body or part of a decedent under the jurisdiction of OCME for the purposes of education, training, and research required by OCME.

(d) (1) The Chief Medical Examiner, the deputy chief medical examiner, or an assistant medical examiner may provide a part on the request of a procurement organization under the following conditions:

(i) The medical examiner has charge of a decedent who may provide a suitable part for transplant;

(ii) A reasonable, unsuccessful search has been made by the procurement organization as required by § 4–512(f) of this subtitle to contact the persons authorized under § 4–507 of this subtitle to make an anatomical gift;

(iii) No objection by the persons authorized under § 4–507 of this subtitle to make an anatomical gift is known by the medical examiner; and

(iv) The provision of the part for transplant will not interfere with the subsequent course of an investigation or autopsy.

(2) (i) If the Chief Medical Examiner has obtained a written or verbal statement from the procurement organization that a reasonable, unsuccessful search was conducted prior to the removal of a part for transplantation, the Chief Medical Examiner, the deputy chief medical examiner, an assistant chief medical examiner, and the procurement organization are not civilly liable if a person authorized under § 4–507 of this subtitle to make an anatomical gift is subsequently located and contends that the authorization of that person was required to make the gift.

(ii) A verbal statement under subparagraph (1) of this paragraph shall be documented in the medical record of the decedent.

§4–519.

(a) (1) On request of a procurement organization, OCME shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of OCME.

(2) If a body or part of a decedent is medically suitable for transplantation, therapy, research, or education, OCME shall release postmortem examination results to the procurement organization that made a request under paragraph (1) of this subsection.

(3) If relevant to transplantation or therapy, a procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from OCME.

(b) OCME may conduct a postmortem examination by reviewing medical records, laboratory test results, X–rays, other diagnostic results, and other information that OCME determines may be relevant to the examination.

(c) A person that has information requested by OCME in accordance with subsection (b) of this section, shall provide the information as expeditiously as possible to allow OCME to conduct the postmortem examination within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(d) OCME and a procurement organization shall cooperate in the timely removal of a part from a decedent if:

(1) An anatomical gift has been or might be made of a part of the decedent whose body is under the jurisdiction of OCME and a postmortem examination is not required; or

(2) OCME determines that a postmortem examination is required but that the recovery of the part that is the subject of the anatomical gift will not interfere with the examination.

(e) (1) OCME and procurement organizations shall enter into an agreement setting forth protocols and procedures to govern relations between the parties when an anatomical gift of a part from a decedent under the jurisdiction of OCME has been or might be made, but OCME believes that the recovery of the part could interfere with the postmortem examination into the decedent's cause or manner of death.

(2) Decisions regarding the recovery of organs, tissue, and eyes under this subsection shall be made in accordance with the agreement described in paragraph (1) of this subsection.

(3) If OCME denies recovery of an anatomical gift, the procurement organization may request that OCME reconsider the denial and allow the recovery to proceed.

(4) The parties shall evaluate the effectiveness of the protocols and procedures agreed to under this subsection at regular intervals, but no less frequently than every 2 years.

(f) If OCME or a designee allows recovery of a part under subsection (d) or (e) of this section, on request, the procurement organization shall cause the physician or technician who removes the part to provide OCME with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.

(g) If OCME or a designee is required to be present at a removal procedure under subsection (e) of this section, on request, the procurement organization requesting the recovery of the part shall reimburse OCME or a designee for the additional costs incurred in complying with subsection (f) of this section.

§4–520.

In applying and construing this subtitle, which is a uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the provisions of this subtitle.

§4–521.

This subtitle modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(a) of that act, 15 U.S.C. Section 7001 et seq., or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

§4–522.

This subtitle may be cited as the Maryland Revised Uniform Anatomical Gift Act.

§4–601.

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

(b) "Authorized person" or "person authorized to act in connection with international wills" means a person, including a member of the diplomatic and consular service of the United States designated by Foreign Service Regulations, who, under § 4–609 of this subtitle or by the laws of the United States, is empowered to supervise the execution of international wills.

(c) "International will" means a will executed in conformity with §§ 4–602 through 4–605 of this subtitle.

§4–602.

(a) A will is valid as regards form, irrespective particularly of the place where the will has been made, the location of the assets, and the nationality, domicile, or residence of the testator, if the will is made in the form of an international will complying with the requirements of this subtitle.

(b) The invalidity of a will as an international will does not affect its formal validity as a will of another kind.

(c) This subtitle does not apply to any form of testamentary disposition made by two or more persons in one instrument.

§4–603.

(a) An international will:

(1) Shall be made in writing;

(2) Does not need to be written by the testator;

(3) May be written in any language; and

(4) May be written by hand or by any other means.

(b) (1) The testator shall declare in the presence of at least two witnesses and a person authorized to act in connection with international wills that the document is the testator's will and that the testator knows the contents of the document.

(2) The testator need not inform the witnesses or the authorized person of the contents of the will.

(c) In the presence of the witnesses and of the authorized person, a testator shall:

(1) Sign the will; or

(2) If the testator has previously signed the will, acknowledge the testator's signature.

(d) (1) If a testator is unable to sign, the absence of the testator's signature does not affect the validity of the will if:

(i) The testator indicates the reason for the testator's inability to sign; and

(ii) The authorized person makes note on the will of the reason for the testator's inability to sign.

(2) If a testator is unable to sign, another person present, including the authorized person or one of the witnesses, may sign the testator's name for the testator if:

(i) The other person signs at the direction of the testator; and

(ii) The authorized person makes note on the will of the other person signing the testator's name at the direction of the testator.

(3) Notwithstanding paragraph (2) of this subsection, a person is not required to sign the testator's name at the testator's direction.

(e) The witnesses and the authorized person shall there and then attest the will by signing their names in the presence of the testator.

§4–604.

(a) (1) The signatures required under § 4–603 of this subtitle shall be placed at the end of the will.

(2) If the will consists of more than one sheet, each sheet shall be numbered.

(3) If a will consists of more than one sheet, each sheet shall be signed by:

(i) The testator; or

(ii) 1. If the testator is unable to sign the testator's name, a person signing at the direction of the testator; or

2. If there is no person signing at the direction of the testator, the authorized person.

(b) The date of the will shall be:

(1) The date of the authorized person's signature on the will; and

(2) Noted at the end of the will by the authorized person.

(c) (1) The authorized person shall ask the testator whether the testator wishes to make a declaration concerning the safekeeping of the testator's will.

(2) If the testator responds by an express request for the safekeeping of the will, the place where the testator intends to have the will kept shall be included in the certificate described under § 4–605 of this subtitle.

(d) A will executed in compliance with § 4–603 of this subtitle is not invalid solely because the will does not comply with this section.

§4–605.

(a) An authorized person shall attach to the will a certificate to be signed by the authorized person establishing that the requirements for valid execution of an international will have been met.

(b) The authorized person shall keep a copy of the certificate and deliver a copy to the testator.

(c) A certificate under this section shall be substantially in the following form:

"CERTIFICATE

(Convention of October 26, 1973)

I, _____ (name, address, and capacity), a person authorized to act in connection with international wills, certify that on _____ (date)
at_____(place)_____(testator)_____(name, address, and date and place of birth) in my presence and that of the witnesses: _____ (name, address, and date and place of birth); and _____ (name, address, and date and place of birth) has declared that the attached document is the testator's will and that the testator knows the contents of the will.

I further certify that in my presence and in the presence of the witnesses:

(1) the testator has signed the will or has acknowledged the testator's signature previously affixed;

(2) following a declaration of the testator stating that the testator was unable to sign the testator's will for the following reason _____, I have noted this declaration on the will and the signature has been affixed by _____ (name and address);

(3) the witnesses and I have signed the will;

(4) each page of the will has been signed by _____ (name and address) and numbered;

(5) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;

(6) the witnesses met the conditions requisite to act as such according to the law under which I am acting; and

(7) the testator has requested me to include the following statement concerning the safekeeping of the testator's will: _____.

PLACE OF EXECUTION _____

DATE _____

SIGNATURE _____ and, if necessary, SEAL".

§4–606.

(a) In the absence of evidence to the contrary, the certificate of an authorized person under § 4–605 of this subtitle is conclusive of the formal validity of the instrument as a will under this subtitle.

(b) The absence or irregularity of a certificate does not affect the formal validity of a will under this subtitle.

§4–607.

An international will is subject to the ordinary rules of revocation of wills.

§4–608.

(a) Sections 4–601 through 4–607 of this subtitle derive from Annex to Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will.

(b) In interpreting and applying this subtitle, regard shall be given to its international origin and the need for uniformity in its interpretation.

§4–609.

An individual who has been admitted to practice law before the courts of this State and who is currently licensed to do so is an authorized person under this subtitle.

§5–101.

(a) This subtitle is applicable to the portion of the probate proceeding which relates to the probate of a will, if any, and the grant of letters.

(b) Probate of a will, if any, and the grant of letters, may be accomplished after filing of a petition for probate by:

(1) Administrative probate by the register of wills as described in Subtitle 3 of this title; or

(2) Judicial probate by the court as described in Subtitle 4 of this title.

§5–102.

(a) Unless it is admitted to administrative or judicial probate, or recorded as provided in § 5–504 of this title, a will is ineffective to transfer property or to nominate a personal representative.

(b) Except for a foreign personal representative, a person may not qualify as or exercise the powers and duties of a personal representative unless the person has been appointed administratively or judicially.

§5–103.

(a) The venue for administrative or judicial probate is in:

(1) If the decedent was domiciled in the State, the county in which the decedent was domiciled at the time of death;

(2) If the decedent was not domiciled in the State but was domiciled in the United States, the county in which the petitioner believes the largest part in value of the property of the decedent in the State was located at the time of death;

(3) If the decedent was not domiciled in the State but previously resided in the State and was not domiciled in the United States, the county in which the petitioner believes the decedent last resided in the State;

(4) If the decedent was not domiciled in the State and had not previously resided in the State and was not domiciled in the United States, the county in which the petitioner believes:

(i) The largest part in value of the property of the decedent in the State was located at the time of death;

(ii) Any cause of action in favor of the decedent arose;

(iii) The personal representative resides or has the personal representative's principal place of business;

(iv) One or more interested persons, legatees, heirs, or beneficiaries reside; or

(v) A financial institution that is subject to the jurisdiction of the State with which the decedent had a contractual agreement may be sued; or

(5) If items (1) through (4) of this subsection do not apply, the county that the register, orphans' court, or other governing entity has determined is necessary, reasonable, or in the interest of justice.

(b) (1) For the purpose of determining venue for the administration of the estate of a decedent described under subsection (a)(2), (4), or (5) of this section, the situs of real property and tangible personal property is its location.

(2) (i) The situs of intangible personal property is the location of the instrument evidencing a debt, obligation, stock, or chose in action.

(ii) If there is no instrument, the residence of the debtor governs.

(iii) The situs of intangible personal property is not altered by the opening of an estate of a decedent described under subsection (a)(2), (3), (4), or (5) of this section.

(3) The situs of an interest in property held in trust is any county where the trustee may be sued.

(c) (1) Probate proceedings concerning a decedent may not be maintained in more than one county.

(2) If a proceeding is commenced in more than one county, the court of the county where proceedings are filed first has exclusive jurisdiction to determine venue.

(3) If proper venue is finally determined to be in another county, the proceeding, including a will, petition, or any other paper filed, shall be transferred to the proper court.

§5–104.

In granting letters in administrative or judicial probate, or in appointing a successor personal representative, or a special administrator as provided in Title 6, Subtitle 4 of this article, the court and register shall observe the following order of priority, with any person in any one of the following paragraphs considered as a class:

(1) The personal representatives named in a will admitted to probate;

(2) The personal representatives nominated in accordance with a power conferred in a will admitted to probate;

(3) The surviving spouse, registered domestic partner, and children of an intestate decedent, or the surviving spouse of a testate decedent;

(4) The residuary legatees;

(5) The children of a testate decedent who are entitled to share in the estate;

(6) The grandchildren of the decedent who are entitled to share in the estate;

(7) Subject to §§ 3–111 and 3–112 of this article, the parents of the decedent who are entitled to share in the estate;

(8) The brothers and sisters of the decedent who are entitled to share in the estate;

(9) Other relations of the decedent who apply for administration;

(10) The largest creditor of the decedent who applies for administration;

(11) Any other person having a pecuniary interest in the proper administration of the estate of the decedent who applies for administration; or

(12) Any other person.

§5–105.

(a) (1) In this section, "serious crime" means a crime that reflects adversely on an individual's honesty, trustworthiness, or fitness to perform the duties of a personal representative.

(2) "Serious crime" includes fraud, extortion, embezzlement, forgery, perjury, and theft.

(b) Subject to § 5–104 of this subtitle, the register or court may grant letters to:

(1) A trust company;

(2) Any other corporation authorized by law to be a personal representative; or

(3) Subject to subsection (c) of this section, any individual.

(c) Letters may not be granted to a person who, at the time a determination of priority is made, has filed with the register a declaration in writing that the person renounces the right to administer or is:

(1) Under the age of 18 years;

(2) Mentally incompetent;

(3) Convicted of a serious crime, unless the person shows good cause for the granting of letters;

(4) Not a citizen or a permanent resident of the United States unless the person is:

(i) Domiciled in the United States; and

(ii) 1. The spouse of the decedent;

2. An ancestor of the decedent;

3. A descendant of the decedent; or

4. A sibling of the decedent;

(5) A full–time judge of a court established under the laws of Maryland or the United States including a judge of an orphans' or probate court, or a clerk of court, or a register, unless the person is the surviving spouse or is related to the decedent within the third degree; or

(6) A nonresident of the State, unless there shall be on file with the register an irrevocable designation by the nonresident of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the effect as if it were served personally in the State on the nonresident.

§5–106.

(a) (1) Subject to paragraph (2) of this subsection and subsection (b) of this section, when there are several eligible persons in a class entitled to letters, the

court or register may grant letters to one of them, or to more than one of them, as necessary or convenient for the proper administration of the estate.

(2) Subject to § 5–105 of this subtitle, all personal representatives named in the will or nominated in accordance with a power conferred in the will are entitled to probate.

(b) Within classes (3) through (10) of § 5–104 of this subtitle, letters may be granted to two or more persons in different classes provided that the person or class first entitled to letters consents.

§5–201.

(a) The petition for probate shall contain all knowledge or information of the petitioner with respect to the items listed in subsection (b) of this section.

(b) The petition for probate shall state:

(1) The name, domicile, place, and date of death of the decedent;

(2) The interest of the person filing the petition;

(3) The county in which the decedent was domiciled at the time of death, and if the decedent was not domiciled in Maryland, the county in this State that the petitioner believes was the situs of the largest part in value of the property of the decedent at the time of death;

(4) All other proceedings filed in Maryland and elsewhere regarding the same estate;

(5) Whether the decedent died testate or intestate, and:

(i) 1. If the decedent died testate, there shall be exhibited with the petition the will or a copy of the will; or

2. If this exhibit cannot be produced, there shall be exhibited:

A. A statement of the reasons for the inability to exhibit the will or a copy of the will;

B. The name and the address of the person in whose custody the documents may be;

C. A statement of the provisions of the will as far as known to the petitioner; and

D. A statement of the manner in which the exhibit came into the hands of the petitioner as well as a statement that the petitioner knows of no later will; or

(ii) If the decedent died intestate, a statement of the extent of a search for a will; and

(6) The names and addresses of all persons who are witnesses to the will referred to in item (5)(i) of this subsection.

§5–202.

The petition shall state the reasons why any information required by § 5–201 of this subtitle cannot be furnished by the petitioner.

§5–203.

The petition shall indicate whether the petitioner elects administrative or judicial probate.

§5–204.

The petition shall contain, as appropriate, a request for one or more of the following acts:

(1) The probate or recording of a will exhibited with the petition or deposited with the register pursuant to Title 4, Subtitle 2 of this article;

(2) An order directing witnesses to an alleged will to appear and give testimony regarding its execution;

(3) An order requiring a person alleged to have custody of a will to deliver it to the court;

(4) An order directing all interested persons to show cause why the provisions of a lost or destroyed will should not be admitted to probate as expressed in the petition;

(5) A finding that the decedent died intestate; and

(6) Other relief that the petitioner may consider appropriate.

§5–205.

(a) The petition shall also contain a request for either of the acts provided in this section.

(b) (1) The petition shall request the grant of letters to the petitioner, if:

(i) The petition is filed by all of the persons named as executors in the will of a testate decedent; or

(ii) The persons in classes higher in the order of priority set forth in § 5–104 of this title of those entitled to administer the estate of an intestate decedent join in the petition or consent in writing to the grant.

(2) The joinder or consent of a person who has renounced the right to administer is not necessary.

(c) The petition shall request an order requiring persons named as executors or entitled to administration to appear and qualify for appropriate letters.

§5–206.

In a proceeding for administrative or judicial probate the petition for probate shall be in substantially the following form:

In the Orphans' Court for
(or) _____, Maryland
Before the Register of Wills for
in the Estate of:
_____ Estate No. _____

For:

Regular Estate – Petition for probate estate value in excess of $20,000. Complete and attach Schedule – A.	Small Estate – Petition for Administration, estate value of $20,000 or less. Complete and attach Schedule – B.	Will of No Estate – Complete Items 2 and 5

The Petition of:

_____ _____
Name Address

_____

_____ _____

Name Address

_____

_____ _____

Name Address

_____

Each of us states:

(1) I am (a) at least 18 years of age and either a citizen of the United States or a permanent resident alien spouse of the decedent or (b) a trust company or any other corporation authorized by law to act as a personal representative.

(2) The decedent, _____ , was domiciled in _____ County, State of _____ and died on the _____ day of 20_____, at _____.

(3) If the decedent was not domiciled in this county at the time of death, this is the proper office in which to file this petition because:_____

_____

(4) I am entitled to priority of appointment as personal representative of the decedent's estate pursuant to § 5–104 of the Estates and Trusts Article, Annotated Code of Maryland because:

_____

_____

and I am not excluded by § 5–105(c) of the Estates and Trist Article, Annotated Code of Maryland from serving as personal representative

(5) I have made a diligent search for the decedent's will and to the best of my knowledge:

none exists; or

the will dated _____ (including codicils, if any, dated _____) accompanying this petition is the last will and it came into my hands in the following manner:

_____

_____

and the names and last known addresses of the witnesses are:

_____ _____

_____ _____

_____ _____

(6) Other proceedings, if any, regarding the decedent or the estate are as follows:

_____

_____

(7) If any information required by paragraphs 2 through 6 has not been furnished,

the reason is:

_____

_____

(8) If appointed, I accept the duties of the office of personal representative and consent to personal jurisdiction in any action brought in this State against me as personal representative or arising out of the duties of the office of personal representative.

WHEREFORE, I request appointment as personal representative of the decedent's estate and the following relief as indicated:

□ that the will and codicils, if any, be admitted to administrative probate;
□ that the will and codicils, if any, be admitted to judicial probate;
□ that the will and codicils, if any, be filed only;
□ that the following additional relief be granted: _____

_____

_____

I solemnly affirm under the penalties of perjury that the contents of the foregoing petition are true to the best of my knowledge, information, and belief.

_____	_____
Attorney's Signature	Petitioner Date
_____	_____
Address	Petitioner Date
_____	_____
	Petitioner Date
_____	_____
Telephone Number	Telephone Number

In the Orphans' Court for

(or) _____ , Maryland

Before the Register of Wills for
in the Estate of:

_____ Estate No. _____

Schedule – A

REGULAR ESTATE

Estimated Value of Estate and Unsecured Debts:

Personal property (approximate value) ..... $ _____
Real property (approximate value) ..... $ _____
Value of Property subject to:
(a) Direct Inheritance Tax of _____% ..... $ _____
(b) Collateral Inheritance Tax of _____% ..... $ _____
(c) Collateral Inheritance Tax of _____% ..... $ _____
Unsecured Debts (approximate amount) ..... $ _____

……

(FOR REGISTER'S USE)

Safekeeping Wills _____ Custody of Wills _____
Bond Set $ _____ Deputy _____
In the Orphans' Court for
(or) _____ , Maryland
Before the Register of Wills for
in the Estate of:
_____ Estate No. _____

Schedule – B

SMALL ESTATE

Assets and Debts of the Decedent:

(1) I have made a diligent search to discover all property and debts of the decedent and set forth below are:

(a) A listing of all real and personal property owned by the decedent, individually or as a tenant in common, and of any other property to which the decedent or estate would be entitled, including descriptions, values, and how the values were determined:

_____
_____
_____

(b) A listing of all creditors and claimants and the amounts claimed, including secured*, contingent and disputed claims:

_____
_____
_____

(2) Allowable funeral expenses are $ _____; statutory family allowances are $ _____; and expenses of administration are $ _____.

(3) Attached is a List of Interested Persons

*Note: § 5–601(d) of the Estates and Trusts Article. Annotated Code of Maryland "For the purpose of thus subtitle – Value is determined by fair market value of property less debts of record secured by the property as of the date of death, to the extent that insurance benefits are not payable to the lien holder or secured party for the secured debt."

I solemnly affirm under the penalties of perjury that the contents of the foregoing schedule are true to the best of my knowledge, information, and belief.

_____ _____
Attorney's Signature Petitioner Date

_____ _____
Address Petitioner Date

Telephone Number Telephone Number

§5–207.

(a) (1) Regardless of whether a petition for probate has been filed, a verified petition to caveat a will may be filed at any time before the expiration of 6 months following the first appointment of a personal representative under a will, even if there be a subsequent judicial probate or appointment of a personal representative.

(2) If a different will is offered subsequently for probate, a petition to caveat the later offered will may be filed at a time within the later to occur of:

(i) 3 months after the later probate; or

(ii) 6 months after the first appointment of a personal representative of a probated will.

(b) (1) If the petition to caveat is filed before the filing of a petition for probate, or after administrative probate, it has the effect of a request for judicial probate.

(2) If the petition to caveat is filed after judicial probate the matter shall be reopened and a new proceeding held as if only administrative probate had previously been determined.

(3) In either case described in paragraphs (1) and (2) of this subsection, the provisions of Subtitle 4 of this title apply.

§5–301.

(a) Administrative probate is a proceeding instituted by the filing of a petition for probate by an interested person before the register for the probate of a will or a determination of the intestacy of the decedent, and for the appointment of a personal representative.

(b) Subject to the provisions of § 5–402 of this title, the proceeding may be conducted without prior notice, and is final, to the extent provided in § 5–304 of this subtitle, subject to the right of an interested person to require judicial probate as provided in Subtitle 4 of this title.

§5–302.

(a) On a request for administrative probate contained in a petition for probate, the register:

(1) May admit a will to probate; and

(2) Shall appoint one or more personal representatives on the basis of the allegations contained in the petition.

(b) The register may require additional verified proof, which shall be filed in the proceeding.

§5–303.

The register shall assume due execution of the will:

(1) If the will appears to have been duly executed and contains a recital by attesting witnesses of facts constituting due execution; or

(2) If it does not so appear, or if the will does not contain that recital, then upon the verified statement of a person with personal knowledge of the circumstances of execution whether or not the person was in fact an attesting witness.

§5–304.

(a) (1) Unless a timely request for judicial probate has been filed pursuant to subsection (b) of this section, or unless a request has been filed pursuant to § 5–402 of this title within 6 months of administrative probate, any action taken after administrative probate shall be final and binding as to all interested persons.

(2) Except as provided in subsection (b) of this section, a defect in a petition or proceeding relating to administrative probate shall not affect the probate or the grant of letters.

(b) An administrative probate may be set aside and a proceeding for judicial probate instituted if, following a request by an interested person within 18 months of the death of decedent, the court finds that:

(1) The proponent of a later offered will, in spite of the exercise of reasonable diligence in efforts to locate any will, was actually unaware of the existence of a will at the time of the prior probate;

(2) The notice provided in § 2–210 of this article was not given to such interested person nor did the interested person have actual notice of the petition for probate; or

(3) There was fraud, material mistake, or substantial irregularity in the prior probate proceeding.

§5–401.

(a) Judicial probate is a proceeding instituted by:

(1) The filing of a petition for probate by an interested person, or creditor, with the court for the probate of a will; or

(2) A determination of the intestacy of the decedent, and for the appointment of a personal representative.

(b) The proceeding is conducted after notice as provided in § 5–403 of this subtitle, and is final except as provided in § 5–406 of this subtitle.

(c) If no petition is filed within a reasonable time the register may file it with the approval of the court.

§5–402.

A proceeding for judicial probate shall be instituted at any time before administrative probate or within the period after administrative probate provided by § 5–304 of this title:

(1) At the request of an interested person;

(2) By a creditor in the event that there has been no administrative probate;

(3) If it appears to the court or the register that the petition for administrative probate is materially incomplete or incorrect in any respect;

(4) If the will has been torn, mutilated, burned in part, or marked in a way as to make a significant change in the meaning of the will; or

(5) If it is alleged that a will is lost or destroyed.

§5–403.

(a) (1) Notice that judicial probate has been requested shall be given promptly by the register to all interested persons as shown in the documents in the register's file.

(2) The petitioner shall advise the register of the names and addresses of all interested persons of whom the petitioner learns before the granting of judicial probate, and the register shall give notice to the persons in the manner prescribed by § 1–103(a)(1) of this article.

(3) In addition, the register shall publish a notice in a newspaper of general circulation in the county where judicial probate is requested, once a week for 2 successive weeks.

(b) The notice required by this section shall be in the following form:

IN THE ORPHANS COURT FOR .....
In re:
ESTATE OF
.....
Deceased
TO ALL PERSONS INTERESTED IN THE ESTATE OF .....
..... :
YOU ARE HEREBY NOTIFIED THAT A Petition has been filed in the court by ..... for judicial probate, including the appointment of a personal representative for the estate; and that the Petition will be heard at ..... on the ..... day of ....., 20..., or at a subsequent time or other place to which the hearing may be adjourned or transferred.

.....
Register of Wills

§5–404.

(a) (1) A hearing for judicial probate is a plenary proceeding conducted in accordance with the provisions of § 2–105 of this article.

(2) A hearing for judicial probate shall adjudicate the issues raised in the hearing and shall determine the testamentary capacity of the decedent if the decedent died testate.

(3) After the hearing for judicial probate the court shall appoint one or more personal representatives and shall, if appropriate, revoke, modify, or confirm action taken at the administrative or any prior judicial probate.

(b) Unless the court shall otherwise order, the examination of the witnesses to the will shall be conducted by the court.

§5–406.

Except as provided in §§ 5–207 of this title and 5–407 of this subtitle, any determination made by the court in a proceeding for judicial probate is final and binding on all persons.

§5–407.

A judicial probate may be reopened and a new proceeding held if, following a request by an interested person within 18 months from the death of the decedent, the court finds the existence of any fact which would permit the holding of a proceeding pursuant to § 5–304(b) of this title.

§5–501.

A foreign personal representative is not required to take out letters in the State.

§5–502.

(a) Any foreign personal representative may exercise in Maryland all powers of the office, and may sue and be sued in Maryland, subject to any statute or rule relating to nonresidents.

(b) A foreign personal representative has the same power to sell, mortgage, lease, convey, or otherwise transfer or assign real property or an interest in the property which is located in Maryland as a Maryland personal representative has with respect to real property and an interest in the property.

(c) Title to real property or an interest in the property located in Maryland sold, mortgaged, leased, conveyed, or otherwise transferred or assigned by a foreign personal representative before or after July 1, 1981, may not be defective solely by reason of the failure of the foreign personal representative to comply with requirements of the jurisdiction in which the representative was appointed concerning the sale, mortgage, lease, conveyance, transfer, or assignment of the property or an interest in the property.

§5–503.

(a) As used in this subtitle, "leasehold property" refers only to a leasehold interest in real property.

(b) A foreign personal representative shall:

(1) Publish once a week for 3 successive weeks a notice in a newspaper of general circulation in each county in which real or leasehold property of the decedent was located, containing:

(i) The foreign personal representative's appointment;

(ii) The foreign personal representative's name and address;

(iii) The name and address of the foreign personal representative's Maryland agent for service of process on file with the register in each county where real or leasehold property was located;

(iv) The name of the court that appointed the foreign personal representative;

(v) A brief description of all real and leasehold property owned by the decedent in the county;

(vi) The date of the decedent's death; and

(vii) The following statement: All persons having claims against the decedent must present their claims to the undersigned, or file them with the register of wills on or before the earlier of the following dates:

1. 6 months from the date of the decedent's death; or

2. 2 months after the foreign personal representative mails or otherwise delivers to the creditor a copy of this published notice or other written notice, notifying the creditor that the creditor's claim will be barred unless the creditor presents the claim within 2 months from the mailing or other delivery of the notice;

(2) Record in each appropriate office of the register a certification that the foreign personal representative has published notice as required; and

(3) Promptly after a proceeding under this subtitle has been instituted, comply with the provisions of § 7–103.1 of this article.

(c) (1) Within the time periods provided under subsection (b) of this section, a creditor may file with the register a written statement of the creditor's claim, in the form set forth in § 8–104(c) of this article, and if a foreign personal representative has instituted a proceeding under this subtitle deliver or mail a copy of the statement to the personal representative.

(2) (i) The register shall maintain a book known as the "Claims Against Nonresident Decedents" book in which every claim and release shall be recorded.

(ii) Unless and until a release of a validly recorded claim has been recorded, or the claim has finally been determined in favor of the personal representative, the claim shall constitute a lien against the real and leasehold property owned by the decedent in the county at the time of death for a period of 12 years from date of death.

(iii) If the personal representative is empowered by the will to sell the property the claim shall constitute a lien against the net proceeds from the sale.

§5–504.

(a) (1) A foreign personal representative administering an estate which has property located in Maryland that is subject to Maryland inheritance taxes shall file with the register of the county in which the foreign personal representative believes the largest part in value of the property is located:

(i) A copy of the person's appointment as personal representative;

(ii) The will of the decedent, if there is a will, authenticated pursuant to 28 U.S.C. § 1738; and

(iii) A verified application that shall:

1. Describe all the property owned by the estate in Maryland and known to the foreign personal representative; and

2. Set forth the market value and the basis on which that value has been determined.

(2) The register shall proceed to fix the amount of the inheritance tax due and may require other evidence of value, or make an independent investigation, as the register considers appropriate.

(3) The determination of the register is final, subject to appeal to the Maryland Tax Court.

(b) Upon payment of the tax, the register shall issue to the foreign personal representative a receipt for it.

(c) It is not necessary for the foreign personal representative to institute other proceedings before the register with respect to the assets subject to the jurisdiction of Maryland.

(d) Nothing contained in this section shall relieve the foreign personal representative from the responsibility for paying the death taxes due the State.

§5–505.

Until the foreign personal representative pays, or secures to the satisfaction of the register, the payment of the inheritance tax fixed as provided in § 5–504 of this subtitle, with interest and penalties, and files the receipt for the payment or evidence of security with the register to be included among the permanent records of the court, the unpaid tax obligation shall constitute a lien against the property in accordance with the provisions of § 13–806 of the Tax – General Article.

§5–506.

If a foreign personal representative fails within a reasonable time to transfer the title to real or leasehold property located in the State to the person entitled to it, the court may by appropriate order direct the transfer of title to the person if:

(1) The will, if there is one, or a copy authenticated pursuant to 28 U.S.C. § 1738 is filed in the office of the register;

(2) Every death tax with interest and penalties has been paid as contemplated in § 5–504 of this subtitle;

(3) Notice in a form approved by the court has been published to the effect that the decedent died owning the real or leasehold property as defined in § 5–503(a) of this subtitle; and

(4) All claims of creditors have been satisfied.

§5–601.

(a) If the property of the decedent subject to administration in Maryland is established to have a value of $50,000 or less as of the date of the death of the decedent, the estate may be administered in accordance with the provisions of §§ 5–602 through 5–607 of this subtitle.

(b) If, before the filing of an initial account in administration proceedings instituted under Subtitle 3 or Subtitle 4 of this title, the property of the decedent

subject to administration in Maryland is established to have a value of $50,000 or less as of the date of the death of the decedent, the estate thereafter may be administered in accordance with the provisions of §§ 5–602 through 5–607 of this subtitle.

(c) If the surviving spouse is the sole legatee or heir of the decedent and if before the filing of an initial account in administration proceedings instituted under Subtitle 3 or Subtitle 4 of this title, the property of the decedent subject to administration in Maryland is established to have a value of $100,000 or less as of the date of the death of the decedent, the estate thereafter may be administered in accordance with the provisions of §§ 5–602 through 5–607 of this subtitle.

(d) For the purpose of this subtitle, value is determined by the fair market value of property less debts of record secured by the property, as of the date of death, to the extent that insurance benefits are not payable to the lien holder or secured party for the secured debt.

§5–602.

A petition for administration of a small estate may be filed by any person entitled to administration pursuant to § 5–104 of this title and shall contain, in addition to the information required by §§ 5–201 and 5–202 of this title:

(1) A statement that the petitioner has made a diligent search to discover all property and debts of the decedent;

(2) A list of the known property and its value;

(3) A list of the known creditors of the decedent, with the amount of each claim, including contingent and disputed claims; and

(4) A statement of any legal proceedings pending in which the decedent was a party.

§5–603.

(a) If the register finds that the petition and additional information filed in the proceeding is accurate, the register shall:

(1) Direct that the petitioner serve as personal representative of the small estate and issue additional letters of administration as needed;

(2) Direct the immediate payment of the allowable funeral expenses as provided in § 8–106 of this article and the family allowances provided in § 3–201 of this article;

(3) Direct sale of property as may be necessary to satisfy expenses and allowances; and

(4) If it appears that there will be property remaining after the payments, expenses and allowances, admit a will to probate and direct that notice be given in accordance with subsection (b) of this section.

(b) (1) If the register directs a proceeding in accordance with subsection (a)(4) of this section, unless notice of the appointment of a personal representative appointed under Subtitle 3 or Subtitle 4 of this title has been published one or more times, notice shall be given once in the form required by § 7–103 of this article, but the period within which objection must be made to the action is 30 days from the date of publication of notice and the period within which claims must be filed is the earlier of the following dates:

(i) 6 months after the date of the decedent's death; or

(ii) 30 days after the personal representative mails or otherwise delivers to the creditor a copy of a notice in the form required by § 7–103 of this article or other written notice, notifying the creditor that the creditor's claim will be barred unless the creditor presents the claim within 30 days from the mailing or other delivery of the notice.

(2) In delivering a copy of a notice to the creditor under paragraph (1)(ii) of this subsection, the personal representative shall comply with the provisions of § 7–103.1 of this article.

(3) If the register directs a proceeding in accordance with subsection (a)(4) of this section and if notice of the appointment of a personal representative appointed under Subtitle 3 or Subtitle 4 of this title has been published one or more times, the notice provisions of § 7–103 of this article and the time limits specified therein shall apply.

§5–604.

(a) (1) Unless bond is expressly excused by the will or by the written waiver of all interested persons, a person appointed as a personal representative in accordance with § 5–603(a)(1) of this subtitle shall be required to give bond if the estate is established to have a gross value of $10,000 or more after the payment of expenses and allowances under § 5–603(a)(2) of this subtitle.

(2) If the estate is established to have a gross value of less than $10,000 after the payment of expenses and allowances under § 5–603(a)(2) of this subtitle, a person appointed as a personal representative in accordance with § 5–603(a)(1) of this subtitle may not be required to give bond.

(3) A personal representative under this subtitle is not entitled to receive commissions for the performance of the duties of a personal representative.

(b) (1) After the expiration of 60 days following publication of the notice required by § 5–603(b) of this subtitle, the personal representative shall file proof of publication of the notice and a list of all claims, including contingent and disputed claims, and the amount of each filed since the original petition.

(2) The court shall hear objections filed pursuant to the notice and, if satisfied that all action taken pursuant to this subtitle is proper, shall direct the petitioner to pay all proper claims, expenses, and family allowance and to distribute the net estate in accordance with the will or, if the decedent died intestate, in accordance with Title 3, Subtitle 1 of this article.

(c) The personal representative does not incur any personal liability by payment of claims or distribution of assets in accordance with this subtitle if, at the time of payment or distribution, the representative has no actual knowledge of a valid unbarred claim that has not been filed with the register.

§5–605.

(a) Property of the decedent discovered after the filing of the petition shall be reported immediately by supplemental petition.

(b) If no administration was had in accordance with § 5–603(a)(4) of this subtitle because of the failure to include after–discovered property in the original petition, the register shall direct appropriate proceedings.

(c) If after–discovered property increases the gross value of all property of the decedent subject to administration in Maryland to more than $50,000, or more than $100,000 if all property of the decedent subject to administration in Maryland is transferred to the spouse of the decedent, then any further proceeding may not be had under this subtitle, but the administration shall proceed under the other provisions of the estates of decedents law.

§5–606.

(a) Except as provided in subsections (b) and (c) of this section, for all services listed in § 2–206(b)(1) of this article that a register performs in connection with a small estate, the register shall receive the fees under § 2–206(b)(2) of this article.

(b) For each additional certificate of letters over 4 furnished in connection with a small estate, the register shall receive the additional fee under § 2–206(c) of this article.

(c) The register may not receive fees in connection with a small estate in which:

(1) The surviving spouse is the sole legatee or heir and has qualified for administration under this subtitle in accordance with § 5–601(c) of this subtitle; and

(2) The property of the decedent subject to administration in Maryland is established to have a value of $100,000 or less as of the date of death of the decedent.

§5–607.

Except to the extent inconsistent with the letter and the spirit of this subtitle, all other provisions of the estates of decedents law shall be applicable to a small estate.

§5–608.

(a) If the only property owned by a decedent is not more than two motor vehicles and the decedent's surviving spouse is the decedent's only heir or legatee:

(1) Administration of an estate of the decedent is not required; and

(2) The Motor Vehicle Administration may transfer title to a motor vehicle owned by the decedent to the surviving spouse if:

(i) The surviving spouse certifies to the Motor Vehicle Administration that all debts and taxes owed by the decedent have been paid; and

(ii) The Motor Vehicle Administration receives a copy of the decedent's death certificate and suitable proof of the existence of the marriage.

(b) If the only property owned by a decedent is a boat or vessel with an appraised value that does not exceed $5,000 and the decedent's surviving spouse is the decedent's only heir or legatee:

(1) Administration of an estate of the decedent is not required; and

(2) The agency that issued the certificate of title may transfer the certificate of title for the boat or vessel to the surviving spouse of the decedent if:

(i) The surviving spouse certifies to the agency that all debts and taxes owed by the decedent have been paid;

(ii) The agency receives satisfactory evidence of the value of the boat or vessel, which may be provided by a statement signed by two individuals stating that:

1. They have personal knowledge of the value of boats or vessels of the type that is in the estate; and

2. The value of the boat or vessel does not exceed $5,000; and

(iii) The agency receives a copy of the decedent's death certificate and suitable proof of the existence of the marriage.

§5–701.

In this subtitle, "date of appointment" means the date of appointment of the personal representative.

§5–702.

An election for modified administration may be filed by a personal representative of an estate within 3 months from the date of appointment, if:

(1) All residuary legatees of a testate decedent and the heirs at law of an intestate decedent are limited to:

(i) The decedent's personal representative;

(ii) Individuals or entities exempt from inheritance tax in the decedent's estate under § 7–203(b), (e), and (f) of the Tax – General Article; and

(iii) Trusts under which each person who has a current interest in the trust is an individual or entity exempt from inheritance tax in the decedent's estate under § 7–203(b), (e), and (f) of the Tax – General Article;

(2) The estate is solvent and sufficient assets exist to satisfy all testamentary gifts;

(3) A verified final report under modified administration is filed within 10 months from the date of appointment;

(4) Final distribution of the estate can occur within 12 months from the date of appointment; and

(5) All residuary legatees of a testate decedent and the heirs at law of an intestate decedent consent to a modified administration as required under § 5–706 of this subtitle.

§5–703.

(a) The initial time periods for filing a final report and for making distribution to each legatee and heir are extended for 90 days on a consent for extension of the time periods signed by the personal representative and each interested person and filed within 10 months from the date of appointment.

(b) Except as provided in subsection (c) of this section, a register of wills or a court may not extend the time periods established under this subtitle.

(c) (1) If the time periods for filing a final report and making distribution to each legatee and heir have been extended under subsection (a) of this section, the register of wills may extend the time periods for an additional period not to exceed 90 days on the filing of a request for an additional extension of the time periods.

(2) A request filed under paragraph (1) of this subsection shall be:

(i) Signed by the personal representative and consented to by each interested person; and

(ii) Delivered to the register of wills before the date for filing a final report as extended under subsection (a) of this section.

§5–704.

(a) After filing an election for modified administration, the personal representative shall:

(1) File a verified final report under modified administration no later than 10 months from the date of appointment instead of filing a formal inventory and account; and

(2) On the request of any interested person, provide a formal inventory and account, as required under Title 7 of this article, to all interested persons.

(b) If the personal representative discovers property of the decedent after the time for filing a verified final report required by subsection (a) of this section, the personal representative shall:

(1) File a verified final report under modified administration with respect to the after–discovered property within 60 days of the discovery of the property; and

(2) Make final distribution of the after–discovered property within 90 days of the discovery of the property.

§5–705.

An election for modified administration shall include:

(1) A statement that the estate qualifies for modified administration;

(2) A brief description of the property subject to administration; and

(3) An acknowledgment that:

(i) A verified final report under modified administration shall be filed no later than 10 months from the date of appointment; and

(ii) Distribution of the estate shall occur no later than 12 months from the date of appointment.

§5–706.

The consent required under § 5–702(5) of this subtitle shall state that the subscribing person has notice that:

(1) Instead of filing a formal inventory and account, the personal representative shall file a verified final report under modified administration no later than 10 months from the date of appointment;

(2) On request by any legatee or heir not paid in full, a formal inventory and account shall be provided by the personal representative to the legatees or heirs;

(3) A written objection to modified administration by an interested person may be filed with the register of wills at any time during administration, which shall revoke the modified administration;

(4) By filing a written objection:

(i) The modified administration is revoked;

(ii) The estate shall be administered under administrative probate; and

(iii) The personal representative shall file a formal inventory and account as needed until the estate is closed;

(5) Unless an interested person waives notice of the verified final report under modified administration, the personal representative shall provide a copy to each interested person within 10 months from the date of the appointment; and

(6) Under modified administration, distribution to all legatees and heirs shall be made within 12 months from the date of appointment.

§5–707.

A final report under modified administration shall include:

(1) A statement representing the continued qualification for modified administration;

(2) An itemized schedule of the decedent's property and the basis of its valuation;

(3) An itemized schedule of liens, debts, taxes, and funeral expenses of the decedent and administration expenses of the estate; and

(4) Schedules setting forth distributive shares of the estate and the applicable inheritance tax.

§5–708.

(a) A modified administration shall be revoked by the:

(1) Filing of a timely request for judicial probate;

(2) Filing of a written objection to modified administration by an interested person;

(3) Filing of a withdrawal of the election for modified administration by a personal representative;

(4) Orphans' Court, on its own initiative, or for good cause shown by an interested person or by the register of wills;

(5) Failure to timely file the final report under modified administration and make timely distribution; or

(6) Failure by the personal representative to comply with any provision of this subtitle.

(b) The register of wills shall mail notice of any revocation by first–class mail, postage prepaid, to each interested person.

(c) If a modified administration is revoked, the personal representative shall:

(1) Proceed under administrative probate; and

(2) (i) File a formal inventory and account with the register of wills within the time periods provided in Title 7 of this article; or

(ii) If the deadline has passed for filing either an inventory or an account, file the late document within 30 days from the register's notice of revocation.

§5–709.

An estate under modified administration shall close not later than 13 months from the date of appointment, if a verified final report under modified administration is filed and all probate fees and inheritance taxes are paid.

§5–710.

Except to the extent inconsistent with this subtitle, all other provisions of the law of decedents' estates shall apply to a modified administration.

§5–801.

(a) An interested person may file a petition for the admission of a copy of an executed will in accordance with this subtitle.

(b) Notice to interested persons of the filing of the petition is not required.

§5–802.

A petition for admission of a copy of a will may be filed with the court at any time before administrative or judicial probate if:

(1) The original executed will is alleged to be lost or destroyed;

(2) A duplicate reproduction of the original executed will, evidencing a copy of the original signatures of the decedent and the witnesses, is offered for admission; and

(3) All the heirs at law and legatees named in the offered will execute a consent in the manner set forth in § 5–803 of this subtitle.

§5–803.

The consent required under § 5–802 of this subtitle shall be in substantially the following form:

CONSENT TO PROBATE OF COPY OF EXECUTED

LAST WILL AND TESTAMENT

The undersigned _____ and _____, being all the heirs at law of the decedent and all the legatees named in the will executed by the decedent on _____, hereby consent to the probate of a copy of that executed will, it having been determined, after an extensive search of the decedent's personal records, that an original of the will cannot be located. By signing this Consent each of the undersigned affirms that it is his or her belief that the will executed by the decedent on _____, is the last valid will executed by the decedent and was not revoked and that the copy of the will, as submitted with the petition for its admission, represents a true and correct copy of the will.

We affirm under the penalties of perjury that the facts set forth in this Consent are true and correct to the best of our knowledge, information, and belief.

DATE	SIGNATURE	PRINT NAME AND RELATIONSHIP
_____	_____	_____
_____	_____	_____

_____
Attorney

_____

_____
Address

_____
Telephone Number

§5–804.

The court may:

(1) Without a hearing, issue an order authorizing:

(i) The petitioner to proceed with administrative probate in accordance with Subtitle 3 of this title; and

(ii) The register to accept the copy of the will for administrative probate; or

(2) Require the filing of judicial probate in accordance with Subtitle 4 of this title.

§6–101.

As a condition to a personal representative's appointment, the personal representative shall file:

(1) A statement of acceptance of the duties of the office;

(2) Any required bond; and

(3) A written consent to personal jurisdiction in any action brought in the State against the personal representative as personal representative or arising out of the personal representative's duties, where service of process is effected pursuant to the Maryland Rules at the address of the personal representative shown in the proceedings.

§6–102.

(a) Subject to the provisions of subsections (b) and (c) of this section unless a bond is expressly excused by the will of the decedent or by the written waiver of all interested persons, every personal representative shall execute a bond to the State of Maryland for the benefit of all interested persons and creditors with a surety or sureties approved by the register.

(b) (1) Even if a personal representative is excused from giving bond, a bond shall be given in an amount that the register or the court considers sufficient to secure the payment of the debts and Maryland inheritance taxes payable by the personal representative.

(2) The bond shall be conditioned accordingly.

(3) Even if a bond is not required as a condition of the appointment of a personal representative, the court may require a bond during the administration on the petition of an interested person or creditor and for good cause shown.

(c) (1) A national banking association as defined in the Financial Institutions Article or a trust company serving as a personal representative is not required to give a bond.

(2) A bond shall not be required for any period following the final approval of the final administration account.

(d) (1) The surety on the bond may be a corporation authorized to act as a surety in the State or one or more individuals approved by the register.

(2) Unless otherwise ordered by the court, all sureties and the personal representatives are jointly and severally liable on the bond.

(e) (1) The penalty sum of a bond shall be fixed by the court or register in an amount not exceeding the probable maximum value of the personal property of the estate during administration less:

(i) The market value, as determined by the court, of collateral posted with the court by the personal representative; and

(ii) The amount of cash belonging to the estate if deposited with a banking institution approved by the court in an account expressly made subject to withdrawal only in a manner that is approved by the court.

(2) The penalty sum may be increased or decreased by the court in its discretion for good cause at any time during administration.

(f) (1) Every bond executed by a personal representative shall be filed in the office of the register.

(2) A person may obtain a copy of the bond certified by the register.

(g) The premium for a bond shall be chargeable against the property of the estate.

(h) (1) The bond shall be substantially in the following form:

The condition of the above obligation is such, that if ..... shall well and truly perform the office of the personal representative of ....., late of ....., deceased, according to law, and shall in all respects discharge the duties required of the personal representative by law as personal representative without any injury or damage to any person interested in the faithful performance of the office, then the above obligation shall be void; it is otherwise to be in full force and effect.

(2) If the giving of a bond is excused or waived, the required nominal bond shall be substantially in the following form:

The condition of the above obligation is such, that if ..... shall, as personal representative of ..... late of ....., deceased, pay the debts due by the deceased and the Maryland inheritance tax payable by the personal representative, then the above obligation shall be void; it is otherwise to be in full force and effect.

(i) (1) The court may require additional security, new security, and countersecurity in accordance with the Maryland Rules.

(2) If the personal representative does not within a reasonable time fixed by the court give new security or countersecurity as may be required by order of the court, if the personal representative is removed as provided by § 6–306 of this title, or if the personal representative fails to account for and deliver the property belonging to the estate to the newly appointed successor personal representative or special administrator, the court may direct the bond of the personal representative to be put in suit.

§6–103.

(a) After appointment, letters shall be issued to the personal representative by the register.

(b) Letters shall contain:

(1) The name and location of the court or register by whom appointment was made;

(2) The name of the decedent and the personal representative;

(3) The date of the representative's appointment;

(4) The date of probate of the will admitted to probate in the proceeding;

(5) The signature of the register and the seal of the court; and

(6) The date the certificate was issued.

§6–104.

Letters of administration shall be in substantially the following form:

LETTERS OF ADMINISTRATION

To all persons who may be interested in the Estate of ..... deceased:

Administration of the Estate of the deceased has been granted on ..... to ..... . The appointment is in full force and effect as of this date.

SEAL

WITNESS:
.....

Dated:

Register of Wills for
.....

§6–105.

(a) The duties and powers of a personal representative commence on the issuance of the personal representative's letters, but when done in good faith, the personal representative's acts occurring before appointment have the same effect as those occurring after.

(b) A personal representative may ratify and accept acts done on behalf of the estate by others if the acts would have been proper for a personal representative.

§6–201.

(a) A person to whom letters are first issued has exclusive authority under the letters until the person's appointment is terminated or modified.

(b) If, in the absence of termination or modification, letters are afterwards issued to another, the first appointed personal representative may recover any property of the estate in the hands of, and demand and secure an accounting from, the personal representative subsequently appointed, but the acts of the latter done in good faith before notice of the first letters, are not void for want of validity of appointment.

§6–202.

A successor personal representative has the same powers and duties to complete the administration and distribution of the estate as the original personal representative, including the powers granted in the will, but excluding any power expressly made personal to the executor named in the will.

§6–203.

(a) When two or more persons are appointed copersonal representatives, the concurrence of all is required on all acts connected with the administration and distribution of the estate.

(b) The provisions of subsection (a) of this section do not apply if:

(1) The act involved is receiving or receipting for property due the estate;

(2) All personal representatives cannot readily be consulted in the time reasonably available for emergency action;

(3) A personal representative has validly delegated to a copersonal representative the personal representative's power to act; or

(4) The will or a statute provides otherwise.

(c) Persons dealing with a copersonal representative without knowledge that the copersonal representative is not the sole personal representative are as fully

protected as if the person with whom they dealt had been the sole personal representative.

§6–204.

Unless the will otherwise provides:

(1) Every power exercisable by copersonal representatives may be exercised by the survivors or survivor of them when the appointment of one is terminated; and

(2) Where one of two or more nominated as copersonal representatives is not appointed, those appointed may exercise all the powers incident to the office.

§6–301.

On written application of an interested person, the court may suspend any of the powers and duties of the personal representative in accordance with the injunction provisions of the Maryland Rules.

§6–302.

The appointment of a personal representative shall be terminated in accordance with Title 10 of this article and may be terminated sooner by the personal representative's death, disability, resignation, or removal as provided in §§ 6–303 through 6–307 of this subtitle.

§6–303.

(a) Termination ends the right and power pertaining to the office of personal representative as conferred by will or by the estates of decedents law.

(b) A personal representative whose appointment has been terminated shall:

(1) Unless otherwise ordered by the court, perform acts necessary to protect property belonging to the estate; and

(2) Deliver the property to the successor representative.

(c) Termination does not discharge a personal representative from liability for transactions or omissions occurring before termination, or relieve the personal representative of the duty to protect property subject to the personal representative's

control, and to account for and deliver the property to the personal representative's successor.

(d) Termination does not affect the personal jurisdiction to which the personal representative has given consent pursuant to § 6–101 of this title in proceedings which may be commenced against the personal representative arising out of the performance of the personal representative's duties as personal representative.

(e) All lawful acts of a personal representative before the termination of the personal representative's appointment remain valid and effective.

§6–304.

(a) The appointment of a personal representative shall be terminated by the personal representative's death or a judicial determination of the personal representative's disability.

(b) In either case, unless there is a surviving personal representative the personal representative of a deceased personal representative or the person appointed to protect the estate of a personal representative under legal disability shall:

(1) Have the duty to protect property belonging to the estate being administered by the deceased or disabled personal representative;

(2) Have the power to perform acts necessary for the protection of property;

(3) Immediately account for and deliver the property to a successor personal representative or special administrator; and

(4) Immediately apply to the court for the appointment of a special administrator or successor personal representative to carry on the administration of the estate that was being administered by the deceased or disabled personal representative.

§6–305.

(a) A personal representative may resign the personal representative's position by filing a written statement of resignation with the register after the personal representative has given at least 20 days' written notice to all interested persons of the personal representative's intention to resign.

(b) If no one applies for the appointment of a successor personal representative or special administrator, and an appointment is not made within the 20-day period, the resigning personal representative may apply to the court for the appointment of the personal representative's successor.

(c) The resignation is effective upon the appointment of a successor, and the resigning personal representative shall immediately account for and deliver the property belonging to the estate to the successor or special administrator.

(d) The resignation of a copersonal representative is effective upon the giving of notice and the filing of the statement of resignation as provided in this section.

§6–306.

(a) A personal representative shall be removed from office on a finding by the court that the personal representative:

(1) Misrepresented material facts in the proceedings leading to the personal representative's appointment;

(2) Willfully disregarded an order of the court;

(3) Is unable or incapable, with or without the personal representative's own fault, to discharge the personal representative's duties and powers effectively;

(4) Has mismanaged property;

(5) Has failed to maintain on file with the register a currently effective designation of an appropriate local agent for service of process as described in § 5–105(c)(6) of this article; or

(6) Has failed, without reasonable excuse, to perform a material duty pertaining to the office.

(b) Even if there exists cause for removal for failure to perform a material duty pertaining to the office, the court may continue the personal representative in office if it finds that continuance would be in the best interests of the estate and would not adversely affect the rights of interested persons or creditors.

(c) (1) A hearing shall be conducted by the court before the removal of a personal representative.

(2) The hearing may be held:

(i) On the motion of the court;

(ii) On the motion of the register; or

(iii) On the written petition of an interested person.

(3) Notice of hearing shall be given by the register to all interested persons.

(4) After notice has been given to the personal representative, the personal representative may exercise only the powers of a special administrator as permitted by § 6–403 of this title.

(d) Concurrently with the removal of a personal representative, the court shall appoint a successor personal representative or a special administrator.

(e) A personal representative who is removed from office shall account for and immediately deliver the property belonging to the estate to the personal representative's successor or special administrator.

§6–307.

(a) (1) The appointment of a personal representative who has been appointed by administrative probate is terminated by a timely request for judicial probate.

(2) The validity of an act performed by the person as personal representative is not affected by this termination.

(b) Subject to an order in the proceeding for judicial probate, a personal representative appointed previously has the powers and duties of a special administrator until the appointment of a personal representative in the judicial probate proceeding.

(c) A person, whose appointment as a personal representative is terminated by a request for judicial probate, may be reappointed.

(d) The appointment of a personal representative is reinstated on a dismissal or withdrawal of a request for judicial probate.

§6–308.

(a) A personal representative whose appointment is terminated may receive for the personal representative's services the compensation awarded by the court at the time of the termination of the personal representative's appointment.

(b) The compensation awarded by the court may not exceed an appropriate proportion of the statutory limit allowable under § 7–601 of this article.

§6–401.

(a) On the filing of a petition by an interested party, a creditor, or the register, or on the motion of the court, a special administrator may be appointed by the court:

(1) If it is necessary to protect property before the appointment and qualification of a personal representative; or

(2) On the termination of appointment of a personal representative and before the appointment of a successor personal representative.

(b) A suitable person may be appointed as a special administrator, but special consideration shall be given to persons who will or may be ultimately entitled to letters as personal representatives and are immediately available for appointment.

§6–402.

The requirements for the filing of a bond, and all of the other provisions of § 6–102 of this title relating to the bond of a personal representative shall apply equally to a special administrator.

§6–403.

(a) A special administrator shall collect, manage, and preserve property and account to the personal representative on the personal representative's appointment.

(b) A special administrator:

(1) Shall assume all duties unperformed by a personal representative imposed under Title 7, Subtitles 2, 3, and 5 of this article; and

(2) Has all powers necessary to collect, manage, and preserve property.

(c) In addition, a special administrator has the other powers designated from time to time by court order.

§6–404.

(a) The appointment of a special administrator terminates:

(1) On the appointment of a personal representative; or

(2) In the manner prescribed in Subtitle 3 of this title.

(b) The powers of a special administrator may be suspended or terminated in the same manner as prescribed in Subtitle 3 of this title for the suspension and termination of the powers, or the removal, of a personal representative.

§7–101.

(a) (1) A personal representative is:

(i) A fiduciary; and

(ii) Under a general duty to settle and distribute the estate of the decedent in accordance with the terms of the will and the estates of decedents law as expeditiously and with as little sacrifice of value as is reasonable under the circumstances.

(2) A personal representative shall use the authority conferred on the personal representative by:

(i) The estates of decedents law;

(ii) The terms of the will;

(iii) Orders in proceedings to which the personal representative is a party; and

(iv) The equitable principles generally applicable to fiduciaries, fairly considering the interests of all interested persons and creditors.

(b) Unless the time of distribution is extended by order of court for good cause shown, the personal representative shall distribute all the assets of the estate of which the personal representative has taken possession or control within the time provided in § 7–305 of this title for rendering the first account.

(c) The personal representative does not incur any personal liability for the payment of claims or distribution of assets even if the personal representative does

not consider claims for injuries to the person prosecuted under the provisions of § 8–103(e) or § 8–104 of this article, if at the time of payment or distribution:

(1) The personal representative had no actual knowledge of the claim; and

(2) The plaintiff had not filed on time a claim with the register.

§7–102.

(a) A personal representative has a right to and shall take possession or control of the estate of the decedent, except that property in the possession of the person presumptively entitled to it as heir or legatee shall be possessed by the personal representative only when reasonably necessary for purposes of administration.

(b) The request by a personal representative for delivery of property possessed by the heir or legatee is conclusive evidence, in an action against the heir or legatee for possession, that the possession of the property by the personal representative is reasonably necessary for purposes of administration.

(c) The personal representative may maintain an action to recover possession of property or to determine its title.

§7–103.

(a) (1) After the appointment of a personal representative, the register shall have a notice of the appointment published in a newspaper of general circulation in the county of appointment once a week in 3 successive weeks, announcing the appointment and address of the personal representative, and notifying creditors of the estate to present their claims.

(2) The personal representative shall file or have filed with the register a certification that a notice has been published.

(b) The notice of appointment shall be substantially in the following form:

"To all persons interested in the estate of.....:

This is to give notice that the undersigned, …… whose address is …… was, on ……, appointed personal representative of the estate of …… who died on …… (with) (without) a will.

All interested persons or unpaid claimants having any objection to the appointment of the personal representative shall file the same with the register of wills on or before 6 months from the date of the appointment.

All persons having any objection to the probate of the will of the decedent shall file the same with the register of wills on or before 6 months from the date of the appointment.

All persons having claims against the decedent must present their claims to the undersigned, or file them with the register of wills on or before the earlier of the following dates:

(1) 6 months from the date of the decedent's death; or

(2) 2 months after the personal representative mails or otherwise delivers to the creditor a copy of this published notice or other written notice, notifying the creditor that the creditor's claim will be barred unless the creditor presents the claim within 2 months from the mailing or other delivery of the notice.

Any claim not filed on or before that date, or any extension provided by law, is unenforceable thereafter.

……
Personal representative

Date of first publication:
……".

§7–103.1.

(a) Promptly after appointment, the personal representative of a decedent's estate shall:

(1) Make a reasonably diligent effort to ascertain the names and addresses of the decedent's creditors; and

(2) Mail or otherwise deliver a notice to those creditors whose names and addresses the personal representative has ascertained of the time within which their claims may be presented under § 8–103(a) of this article.

(b) Notice under this section shall be sufficient if the personal representative mails or otherwise delivers to a creditor a copy of the notice required by § 7-103(b) of this subtitle.

(c) (1) The failure of a creditor to receive notice under this section shall not extend the time within which the creditor may present a claim beyond 6 months from the date of the decedent's death.

(2) The personal representative, individually and on behalf of the estate, is not liable for failing under this section to ascertain or notify a creditor or for giving notice to a person who is not a creditor of the decedent.

§7–104.

(a) Not later than 20 days after the appointment of a personal representative, the personal representative shall deliver to the register the text of the first published newspaper notice of the appointment and shall advise the register of the names and addresses of the heirs of the decedent and of the legatees to the extent known by the personal representative, so that the register may issue the notices provided in § 2–210 of this article.

(b) The provisions of this section do not apply to a successor personal representative if notice under this section has been given previously, or to a person appointed pursuant to judicial probate.

§7–105.

Whenever a personal representative discovers that a document previously filed by the personal representative or a predecessor personal representative is incomplete or erroneous, the personal representative shall promptly file a revised and corrected document with the register, reciting the correct information if known by the personal representative.

§7–201.

(a) Subject to the provisions of § 7–205 of this subtitle, and within 3 months after the appointment of a personal representative, the personal representative shall prepare and file an inventory of property owned by the decedent at the time of the death of the decedent, listing each item in reasonably descriptive detail, and indicating its fair market value as of the date of the death of the decedent, and the type and amount of any encumbrance that may exist with reference to the item.

(b) The inventory shall include:

(1) Real property;

(2) Tangible personal property, excluding:

(i) Wearing apparel, other than furs and jewelry; and

(ii) Provisions for consumption by the family;

(3) Corporate stocks;

(4) Debts owed to the decedent, including bonds and notes;

(5) Bank accounts, building, savings and loan association shares, and money;

(6) Debts owed to the decedent by the personal representative; and

(7) Any other interest in tangible or intangible property owned by the decedent which passes by testate or intestate succession.

§7–202.

(a) (1) Subject to the provisions of this section, the value of each item listed in the inventory shall be fairly appraised as of the date of death and stated in the inventory.

(2) The personal representative may appraise the corporate stocks listed on a national or regional exchange or over the counter securities and items in § 7–201(b)(4) and (5) of this subtitle.

(3) The personal representative shall secure an independent appraisal of the items in all of the other categories.

(4) The personal representative may select one of the methods specified in this section.

(b) The personal representative may apply for appraisal by appraisers designated by the register under § 2–301(a) or § 2–302 of this article.

(c) (1) Except as provided in paragraph (2) of this subsection, instead of an appraisal of the fair market value, real and leasehold property may be valued at:

(i) The full cash value for property tax assessment purposes as of the most recent date of finality; or

(ii) The contract sales price for the property if:

1. The contract sales price is set forth on a settlement statement for an arm's length contract of sale of the property; and

2. The settlement on the contract occurs within 1 year after the decedent's death.

(2) Paragraph (1) of this subsection does not apply to property assessed for property tax purposes on the basis of its use value.

(d) Instead of an appraisal of the fair market value, a motor vehicle may be valued by a personal representative on the basis of the average value of the motor vehicle set forth in:

(1) The National Automobile Dealers' Association official used car guide; or

(2) Any substantially similar price guide designated by the register.

(e) (1) The personal representative may employ a qualified and disinterested appraiser to assist the personal representative in ascertaining the fair market value, as of the date of the death of the decedent, of an asset the value of which may be fairly debatable.

(2) Different persons may be employed to appraise different kinds of assets included in the estate.

(3) The name and address of each appraiser shall be indicated on the inventory with the item or items the appraiser appraised.

(f) Reasonable appraisal fees shall be allowed as an administration expense.

§7–203.

A personal representative shall make a supplemental inventory or appraisal of an item showing the market value as of the date of the death of the decedent, or the revised market value, and the appraisals or other data relied on and shall file the supplemental inventory or appraisal with the court if:

(1) Property not included in the original inventory comes to the knowledge of the personal representative; or

(2) The personal representative learns that the value indicated in the original inventory for the item is erroneous or misleading.

§7–204.

(a) At any time before an estate is closed, the State or an interested person may petition the court for revision of a value assigned to an item of inventory and the court may require revision as it considers appropriate.

(b) Unless the personal representative has filed a petition under subsection (a) of this section, the court shall hold a hearing on the petition.

§7–205.

Within 3 months of the date of the appointment of a successor personal representative, the successor personal representative shall return:

(1) A new inventory to stand in place of the inventory filed by the predecessor personal representative; or

(2) A written consent to be answerable for the items as listed and valued in the inventory filed by the predecessor personal representative.

§7–301.

A personal representative shall file written accounts of the personal representative's management and distribution of property at the times and in the manner prescribed in this subtitle, with a certification that the personal representative has mailed or delivered a notice of the filing to all interested persons.

§7–302.

The initial account of the administration of the property of the decedent shall contain the certificate of the personal representative of:

(a) The total value of property as shown in all inventories made prior to the date of the account;

(b) All receipts of the estate during the period of administration;

(c) The date of each purchase, sale, lease, transfer, compromise, settlement, disbursement, or distribution of assets of the estate, a description of each such transaction, and a statement of the amount by which it affects the amounts referred to in subsections (a) and (b) of this section; and

(d) The value of any assets remaining in the hands of the personal representative.

§7–303.

After an initial account has been rendered, subsequent accounts, whether filed by the same personal representative or by a successor, shall contain the certificate of the personal representative of:

(a) The value of any assets remaining in the hands of the personal representative as shown in the last account;

(b) The value of assets as shown in any inventory made since the last account;

(c) All receipts of the estate since the date of the last account;

(d) The date of each purchase, sale, lease, transfer, compromise, settlement, disbursement, or distribution of assets since the last account, a description of each such transaction, and a statement of the amount by which it affects the amounts referred to in subsections (a), (b), and (c) of this section; and

(e) The value of any assets remaining in the hands of the personal representative.

§7–305.

(a) Accounts shall be rendered by the personal representative:

(1) Within 9 months from the date of the appointment of the personal representative;

(2) Within 6 months after the account referred to in paragraph (1) of this subsection and within 6 months after each account thereafter until the filing of the final account;

(3) Upon termination of the appointment of the personal representative, as provided in Title 6, Subtitle 3 of this article; and

(4) At the other times ordered by the court.

(b) Upon written application of the personal representative, the court for good cause shown may extend to a specified date the time for rendering an account.

§7–306.

If a personal representative fails to render an account or to file a certificate as required under this subtitle, the personal representative:

(1) May be removed as provided in § 6–306 of this article; and

(2) Is liable to interested persons as provided in § 7–403 of this title.

§7–307.

(a) (1) Inheritance taxes with respect to a distribution shall be paid by the personal representative to the register.

(2) An inheritance tax due in connection with a legacy or intestate share shall be paid at the time of accounting for its distribution.

(3) Failure to pay the inheritance tax when due or to make full disclosure of the information necessary to the determination by the register of the tax due may subject a personal representative to reduction or forfeiture of commissions by the court unless good cause to the contrary is shown.

(4) Failure to pay the inheritance tax when due subjects the bond of the personal representative to liability.

(b) (1) On payment of the inheritance taxes as determined by the register to be due, the personal representative is entitled to receive a certificate reciting that the taxes have been paid.

(2) If requested by the personal representative, the certificate shall set forth in detail items of real or leasehold property for which the inheritance taxes have been paid.

(3) The certificate may be filed among the permanent records of the estate maintained by the register.

§7–401.

(a) (1) In the performance of a personal representative's duties pursuant to § 7–101 of this title, a personal representative may exercise all of the power or authority conferred on the personal representative by statute or in the will, without application to, the approval of, or ratification by the court.

(2) Except as validly limited by the will or by an order of court, a personal representative may, in addition to the power or authority contained in the will and to other common–law or statutory powers, exercise the powers enumerated in this section.

(b) A personal representative may retain assets owned by the decedent pending distribution or liquidation, including those in which the representative is personally interested or which are otherwise improper for trust investment.

(c) (1) A personal representative may hold a security in the name of a nominee or in other form without disclosure of the interest of the estate.

(2) A personal representative who holds a security in the name of a nominee or in other form without disclosure of the interest of the estate is liable for a wrongful act of the nominee in connection with the security held.

(d) A personal representative may receive assets from fiduciaries or other sources.

(e) A personal representative may deposit funds for the account of the estate, including money received from the sale of assets, in checking accounts, in insured interest–bearing accounts, or in short–term loan arrangements which may be reasonable for use by a trustee.

(f) A personal representative may agree to deposit assets of the estate with a financial institution so that the assets cannot be withdrawn or transferred without:

(1) The written consent of the surety on the bond; or

(2) An order of court.

(g) A personal representative may satisfy written charitable pledges of the decedent.

(h) A personal representative may pay a valid claim as provided in this article or effect a fair and reasonable compromise with a creditor or obligee, or extend or renew an obligation due by the estate.

(i) A personal representative may pay the funeral expenses of the decedent in accordance with the procedures provided in § 8–106 of this article, including the cost of burial space and a tombstone or marker, and the cost of perpetual care.

(j) A personal representative may pay taxes, assessments, and other expenses incident to the administration of the estate.

(k) A personal representative may insure the property of the estate against damage, loss, and liability, and the personal representative against liability in respect to third persons.

(l) A personal representative may vote stocks or other securities in person or by general or limited proxy.

(m) A personal representative may sell or exercise stock subscription, conversion or option rights, consent to or oppose, directly or through a committee or agent, the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(n) A personal representative may invest in, sell, mortgage, pledge, exchange, or lease property.

(o) A personal representative may borrow money.

(p) A personal representative may:

(1) Release or terminate a mortgage or security interest, if the obligation secured by the mortgage or security interest was fully satisfied during the lifetime of the decedent or during the administration of the estate; or

(2) Extend or renew any obligation owed to the estate.

(q) If assets of the estate are encumbered by a mortgage, pledge, lien, or other security interest and if it appears to be in the best interests of the estate, a personal representative may pay the encumbrance, or convey or transfer the assets to the creditor in satisfaction of the security interest of the creditor, in whole or in part, whether or not the holder of the encumbrance has filed a claim.

(r) Regardless of a contrary provision in the will, a personal representative may execute, on the written demand of the owner of a redeemable leasehold or subleasehold estate, a full and valid conveyance of the reversion or subreversion held by the estate.

(s) A personal representative may continue an unincorporated business or venture in which the decedent was engaged at the time of the decedent's death:

(1) In the same business form for a period of not more than 4 months from the date of appointment of a personal representative, where continuation is a reasonable means of preserving the value of the business including goodwill;

(2) In the same business form for an additional period of time that may be approved by order of court, in a proceeding to which all persons interested in the estate are parties; or

(3) Throughout the period of administration, if the business is incorporated after the death of the decedent.

(t) A personal representative may incorporate a business or venture in which the decedent was engaged at the time of the decedent's death if none of the probable distributees of the business who are competent adults objects to its incorporation and retention in the estate.

(u) A personal representative may convert a sole proprietorship the decedent was engaged in at the time of the decedent's death to a limited liability company and may become a limited partner in any partnership or a member in any limited liability company, including a single member limited liability company.

(v) A personal representative may perform the contracts of the decedent that continue as obligations of the estate, and execute and deliver deeds or other documents under circumstances as the contract may provide.

(w) A personal representative may exercise options, rights, and privileges contained in a life insurance policy, annuity, or endowment contract constituting property of the estate, including the right to obtain the cash surrender value, convert the policy to another type of policy, revoke a mode of settlement, and pay a part or all of the premiums on the policy or contract.

(x) A personal representative may employ, for reasonable compensation, auditors, investment advisors, or persons with special skills, to advise or assist in the performance of the administration duties of the personal representative.

(y) (1) A personal representative may prosecute, defend, or submit to arbitration actions, claims, or proceedings in any appropriate jurisdiction for the protection or benefit of the estate, including the commencement of a personal action which the decedent might have commenced or prosecuted, except that:

(i) A personal representative may not institute an action against a defendant for slander against the decedent during the lifetime of the decedent.

(ii) In an action instituted by the personal representative against a tort–feasor for a wrong which resulted in the death of the decedent, the personal representative may recover the funeral expenses of the decedent up to the

amount allowed under § 8–106(c) of this article in addition to other damages recoverable in the action.

(2) A personal representative may request criminal injuries compensation, restitution, or any other financial property interest for a decedent who was a victim of a crime.

(z) If the decedent died testate, a personal representative may designate the personal representative on documents as an executor, or if the decedent died intestate, as an administrator.

(aa) A personal representative may make partial and final distributions, in cash, in kind, or both, from time to time during the administration.

(bb) If the estate is of a physician, podiatrist, optometrist, or dentist who was a sole practitioner, the administrator shall follow the notice requirements under § 4–305 of the Health – General Article before the destruction or transfer of any medical records of a patient of the decedent.

(cc) (1) To comply with an environmental law, a personal representative may:

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

(ii) Before or after the initiation of a claim or a governmental enforcement action, take any action necessary to prevent, abate, or otherwise remedy an actual or potential environmental liability relating to property held by the personal representative;

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

(iv) Pay from the estate the costs of an inspection, review, study, abatement, response, cleanup, or other remedial action that involves an environmental liability as provided under § 15–524 of this article.

(2) If a personal representative acts prudently and in good faith, the personal representative is not liable to a person with an interest in assets held by the personal representative for a decrease in the value of the assets for taking action

under this subsection or otherwise taking action to comply with an environmental law or reporting requirement.

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

(dd) A personal representative may donate a conservation easement on any real property in order to obtain the benefit of the estate tax exclusion allowed under § 2031(c) of the United States Internal Revenue Code of 1986, as amended, if:

(1) The will authorizes or directs the personal representative to donate a conservation easement on the real property; or

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

§7–402.

(a) The personal representative may petition the court for permission to act in any matter relating to the administration of the estate.

(b) The court may pass any order it considers proper.

§7–403.

(a) If the exercise of power concerning the estate is improper, the personal representative is liable for breach of the fiduciary duty of the personal representative to interested persons for resulting damage or loss to the same extent as a trustee of an express trust.

(b) The exercise of power of a personal representative in violation of a court order, or contrary to the provisions of the will may be a breach of duty.

(c) The rights of purchasers and others dealing with a personal representative are determined as provided in § 7–404 of this subtitle and are not necessarily affected by the fact that the personal representative breached the fiduciary duty of the personal representative in the transaction.

§7–404.

(a) In the absence of actual knowledge or of reasonable cause to inquire as to whether the personal representative is improperly exercising the power of the personal representative, a person dealing with the personal representative is not bound to inquire whether the personal representative is properly exercising the power, and is protected as if the personal representative properly exercised the power.

(b) A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative.

§7–501.

(a) Unless waived by the court for good cause shown, the personal representative shall give written notice to all interested persons of the filing of an account with the court.

(b) (1) Exceptions to an account must be filed with the register within 20 days of the approval of the account by the court.

(2) Exceptions may not be filed concerning an item which has become final and binding under § 7–502 of this subtitle.

(3) Copies of exceptions shall be mailed by the exceptant to the personal representative.

§7–502.

(a) (1) The personal representative shall give written notice in accordance with paragraph (2) of this subsection to each creditor who has filed a claim under § 8–104 of this article which is still open and to all interested persons of a claim, petition, or other request which could result, directly or indirectly, in the payment of a debt, commission, fee, or other compensation to or for the benefit of the personal representative or the attorney for the estate.

(2) The notice shall:

(i) State the amount requested;

(ii) Set forth in reasonable detail the basis for the request; and

(iii) State that a request for hearing may be made within 20 days after the notice is sent.

(b) Unless there was fraud, material mistake, or substantial irregularity in the proceeding, or a request for a hearing is filed within 20 days of the sending of the

notice, any action taken by the court on the petition is final and binding on all persons to whom the notice was given.

(c) A certification by independent counsel as to the reasonableness of the amount of the payment is not required.

§7–601.

(a) (1) A personal representative or special administrator is entitled to reasonable compensation for services.

(2) If a will provides a stated compensation for the personal representative, additional compensation shall be allowed if the provision is insufficient in the judgment of the court.

(3) The personal representative or special administrator may renounce at any time all or a part of the right to compensation.

(b) (1) Unless the will provides a larger measure of compensation, on petition filed in reasonable detail by the personal representative or special administrator the court may allow the commissions it considers appropriate.

(2) The commissions authorized under paragraph (1) of this subsection may not exceed those computed in accordance with the following table:

If the property subject to may administration is:	The commission not exceed:
Not over $20,000	9%
Over $20,000	$1,800 plus 3.6% of the excess over $20,000

(c) Within 30 days a personal representative, special administrator, or unsuccessful exceptant may appeal the allowance to the circuit court, which shall determine the adequacy of the commissions and increase, but not in excess of the commissions computed in accordance with the table in subsection (b)(2) of this section, or decrease them.

(d) If the personal representative retains the services of a licensed real estate broker to aid in the sale of real property, the commissions paid to the real estate broker are an expense of administration and may not be deducted from the commissions allowed by the court to the personal representative in accordance with subsection (a) of this section.

§7–602.

(a) An attorney is entitled to reasonable compensation for legal services rendered by the attorney to the estate or the personal representative or both.

(b) (1) On the filing of a petition in reasonable detail by the personal representative or the attorney, the court may allow a counsel fee to an attorney employed by the personal representative for legal services.

(2) The compensation shall be fair and reasonable in the light of all the circumstances to be considered in fixing the fee of an attorney.

(c) If the court shall allow a counsel fee to one or more attorneys, it shall take into consideration in making its determination what would be a fair and reasonable total charge for the cost of administering the estate under this article, and it shall not allow aggregate compensation in excess of that figure.

§7–603.

(a) A personal representative or person nominated as personal representative who defends or prosecutes a proceeding in good faith and with just cause shall be entitled to receive necessary expenses and disbursements from the estate regardless of the outcome of the proceeding.

(b) (1) Subject to paragraph (2) of this subsection, in addition to the compensation provided for in this subtitle, a personal representative is entitled to reasonable commissions or attorney's fees, as determined by the court, in connection with an election by a surviving spouse to take an elective share under § 3–403 of this article.

(2) The amount of compensation or attorney's fees consented to by all interested persons is presumed to be reasonable.

§7–604.

(a) The personal representative may pay commissions to personal representatives under § 7–601 of this subtitle, and attorney's fees under § 7–602 of this subtitle without court approval if:

(1) (i) Each creditor, who has filed a claim that is still open, and all interested persons consent in writing to the payment;

(ii) The combined sum of the payments of commissions and attorney's fees does not exceed the amounts provided in § 7–601 of this subtitle;

(iii) The signed written consent form states the amounts of the payments and is filed with the register of wills; and

(iv) Unless the consent form is filed simultaneously with the final administration account or final report under a modified administration, each payment consented to is for services rendered by the attorney or personal representative prior to the date of the consent; or

(2) (i) The fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the decedent or the current personal representative of the decedent's estate;

(ii) The fee does not exceed the terms of the contingency fee agreement;

(iii) A copy of the contingency fee agreement is on file with the register of wills; and

(iv) The attorney files a statement with each account stating that the scope of the representation by the attorney does not extend to the administration of the estate.

(b) When rendering accounts, the personal representative shall designate any payment made under this section as an expense.

§8–101.

(a) Except as provided in § 8–104 of this subtitle, a proceeding to enforce a claim against an estate of a decedent may not be revived or commenced before the appointment of a personal representative.

(b) After appointment and until the estate is closed, the procedures prescribed by § 8–104 of this subtitle shall be followed.

(c) After the estate is closed, a creditor whose claim has not been barred may recover directly from the persons to whom property has been distributed as provided in § 10–102 of this article, or from a former personal representative individually as provided in § 10–103 of this article.

§8–102.

(a) Unless a contrary intent is expressly indicated in the will, a claim which was barred by a statute of limitations at the time of the death of the decedent may not be allowed or paid.

(b) Subject to § 8-103(a) of this subtitle, a period of limitations which would terminate, except for the death of the decedent, during the period from the death of the decedent until 6 months after the date of the decedent's death, is automatically extended until 6 months after the date of the decedent's death.

§8–103.

(a) Except as otherwise expressly provided by statute with respect to claims of the United States or the State, a claim against an estate of a decedent, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, is forever barred against the estate, the personal representative, and the heirs and legatees, unless presented within the earlier of the following dates:

(1) 6 months after the date of the decedent's death; or

(2) 2 months after the personal representative mails or otherwise delivers to the creditor a copy of a notice in the form required by § 7–103 of this article or other written notice, notifying the creditor that the claim will be barred unless the creditor presents the claim within 2 months after the mailing or other delivery of the notice.

(b) A claim for slander against an estate of a decedent that arose before the death of the decedent is barred even if an action was commenced against and service of process was effected on the decedent before the decedent's death.

(c) A claim against the estate based on the conduct of or a contract with a personal representative is barred unless an action is commenced against the estate within 6 months after the date the claim arose.

(d) Nothing in this section shall affect or prevent an action or proceeding to enforce a mortgage, pledge, judgment or other lien, or security interest on property of the estate.

(e) If the decedent had been duly served with process before the decedent's death, nothing in this section shall affect an action for injuries to the person or damage to property that was commenced against the decedent.

(f) A claim filed by the Maryland Department of Health against the estate of a deceased Maryland Medical Assistance Program recipient, as authorized under § 15–121(a) of the Health – General Article, is forever barred against the estate, the personal representative, and the heirs and legatees, unless the claim is presented within the earlier of the following dates:

(1) 6 months after publication of notice of the first appointment of a personal representative; or

(2) 2 months after the personal representative mails or otherwise delivers to the Department's Division of Medical Assistance Recoveries a copy of a notice in the form required under § 7–103 of this article or other written notice, notifying the Department that the claim shall be barred unless the Department presents its claim within 2 months from the receipt of the notice.

§8–104.

(a) Claims against an estate of a decedent may be presented as provided in this section.

(b) (1) The claimant may deliver or mail to the personal representative a verified written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed.

(2) If the claim is not yet due, the date when it will become due shall be stated.

(3) If the claim is contingent, the nature of the contingency shall be stated.

(4) If the claim is secured, the security shall be described.

(5) The failure of the claimant to comply with the provisions of this section or with the reasonable requests of the personal representative for additional information may be a basis for disallowance of a claim in the discretion of the court.

(c) (1) The claimant may file a verified written statement of the claim, substantially in the following form:

"Claim Against Estate of Decedent

The below–named creditor certifies that there is due and owing by _____, deceased, in accordance with the statement of account attached as a part of this statement, the sum of ____, together with interest at the rate of ____ from ____ until paid, and that the account is correct as stated and is unpaid.

On behalf of the below named creditor, I do solemnly declare and affirm under the penalties of perjury that the information and representations made in the claim and the account are true and correct according to my knowledge, information, and belief.

(Name of creditor)	(Signature of creditor or person authorized to make verification on behalf of creditor)"

(2) If the claim is filed before the appointment of the personal representative, the claimant may file the claim:

(i) With the register in the county in which the decedent was domiciled; or

(ii) In any county in which the decedent resided on the date of the decedent's death or in which real property or a leasehold interest in real property of the decedent is located.

(3) If the claim is filed after the appointment of the personal representative, the claimant shall file the claim with the register of the county in which probate proceedings are being conducted and shall deliver or mail a copy of the statement to the personal representative.

(d) (1) When a cause survives death, the claimant is not required to file a claim under subsection (b) or (c) of this section.

(2) The claimant may commence an action against the estate or against a person to whom property has been distributed, but the commencement of the action shall occur within the time limited for the filing of claims.

(e) (1) If the decedent was covered by a liability insurance policy which at the time the action is instituted provides insurance coverage for the occurrence, then, notwithstanding the other provisions of this section, an action against the estate may be instituted after the expiration of the time designated in this section, but within the period of limitations generally applicable to such actions.

(2) The existence of insurance coverage is not admissible at the trial of the case and if a verdict is rendered against the estate:

(i) The judgment is not limited to the amount of insurance coverage for the occurrence; and

(ii) The amount of the judgment that is recoverable from the estate is limited to the amount of the decedent's liability insurance policy.

(3) These provisions permit claims against the Maryland Automobile Insurance Fund, if otherwise proper.

(4) The provisions of this subsection may not be construed to limit the rights of a plaintiff to:

(i) Proceed against the plaintiff's insurance carrier; or

(ii) Otherwise make a claim under any applicable first party insurance policy.

§8–105.

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(1) Fees due to the register;

(2) Costs and expenses of administration;

(3) Funeral expenses as provided in § 8–106 of this subtitle;

(4) Compensation of personal representatives as provided in § 7–601 of this article, for legal services as provided in § 7–602 of this article, and commissions of licensed real estate brokers;

(5) Family allowance as provided in § 3–201 of this article;

(6) Unpaid child support due by the decedent;

(7) Taxes due by the decedent;

(8) Reasonable medical, hospital, and nursing expenses of the last illness of the decedent;

(9) Rent payable by the decedent for not more than three months in arrears;

(10) Wages, salaries, or commission for services performed for the decedent within three months prior to death of the decedent;

(11) Assistance paid under the Public Assistance to Adults Program, as provided in § 5–407(d) of the Human Services Article; and

(12) All other claims.

(b) (1) A preference may not be given in the payment of a claim over another claim of the same class.

(2) A claim due and payable is not entitled to a preference over claims not yet due.

§8–106.

(a) In this section, "funeral expenses" includes the costs of a funeral, a burial, a cremation, a disposition of the decedent's remains, a memorial, a memorial service, food and beverages related to bringing together the decedent's family and friends for a wake or prefuneral or postfuneral gathering or meal, and any other reasonable expenses authorized by the decedent's will.

(b) Subject to the priorities contained in § 8–105 of this subtitle, the personal representative shall pay the funeral expenses of the decedent within six months of the first appointment of a personal representative.

(c) (1) Funeral expenses shall be allowed in the discretion of the court according to the condition and circumstances of the decedent.

(2) In no event may the allowance exceed $15,000 unless the estate of the decedent is solvent and a special order of court has been obtained.

(3) An allowance by the court is not required if the estate is solvent and:

(i) The will expressly empowers the personal representative to pay the expenses without an order of court; or

(ii) The estate is under modified administration and the personal representative includes the expenses on the final report required under § 5–707 of this article.

(d) (1) If the funeral expenses are not paid within 6 months, the creditor may petition the court to require the personal representative to show cause why the personal representative should not be compelled to make the payment.

(2) If the court finds that the claim is valid, it shall fix the amount due and shall order the personal representative to make payment within 10 days after the order is served on the personal representative.

(3) If the personal representative does not have sufficient funds, the claimant may at a later date resubmit the personal representative's petition when the personal representative has sufficient funds.

§8–107.

(a) If a personal representative intends to disallow, in whole or in part, a claim that has been presented within the appropriate time and in the form prescribed in § 8–104(b) or (c) of this subtitle, the personal representative shall mail notice to each claimant stating:

(1) That the claim has been disallowed in whole or in a stated amount; or

(2) That the personal representative will petition the court to determine whether the claim should be allowed.

(b) (1) If the claim is disallowed in whole or in a stated amount, the claimant is forever barred to the extent of the disallowance unless the claimant files a petition for allowance in the court or commences an action against the personal representative or against one or more of the persons to whom property has been distributed.

(2) The action shall be commenced within 60 days after the mailing of notice by the personal representative.

(3) The notice shall warn the claimant concerning the time limitation.

(c) (1) If no action is taken by the personal representative disallowing a claim in whole or in part under subsection (a) of this section, on the petition of the personal representative or a claimant, the court shall allow or disallow in whole or in part a claim or claims presented to the personal representative or filed with the register in due time and not barred by subsection (a) of this section.

(2) Notice in this proceeding shall be given to the claimant, the personal representative, and interested persons as the court directs by order entered at the time the proceeding is commenced.

(d) A judgment in an action against a personal representative to enforce a claim against the estate of a decedent is an allowance of the claim.

§8–108.

(a) (1) On the expiration of 6 months from the date of the decedent's death, the personal representative shall pay the claims allowed against the estate in the order of priority prescribed in § 8–105 of this subtitle.

(2) The court may extend the time for payment for good cause shown.

(3) A person with a valid unbarred claim or with a valid unbarred judgment who has not been paid may petition the court for an order directing the personal representative to pay the claim to the extent that funds of the estate are available for payment.

(b) The personal representative may pay, at any time, a just claim that has not been barred, with or without formal presentation, but the personal representative is personally liable to another claimant whose claim is allowed and who is injured by the payment if:

(1) The payment was made before the expiration of the time limit stated in subsection (a) of this section and the personal representative failed to require the payee to give adequate security to refund any part of the payment necessary to pay other claimants; or

(2) The payment was made in a manner to deprive the injured claimant of the claimant's priority as a result of negligence or willful fault of the personal representative.

§8–109.

(a) The individual liability of a personal representative to third parties arising from the administration of the estate is that of an agent for a disclosed principal, as distinguished from the personal representative's fiduciary accountability to the estate.

(b) A personal representative is not individually liable on contracts properly entered into in the personal representative's fiduciary capacity in the course of administration of the estate unless the personal representative expressly agrees to be.

(c) A personal representative is not individually liable for obligations arising from possession or control of property of the estate or for torts committed in the course of administration of the estate unless the personal representative is personally at fault.

(d) Claims based on contracts, obligations, and torts of the types described in subsections (b) and (c) of this section may be allowed against the estate whether or not the personal representative is individually liable.

(e) The individual liability of the personal representative to third parties arising from the administration of the estate may be determined in the same proceeding in which a claim by the third party against the estate is considered.

(f) If there is doubt whether a claim should be allowed against the estate or against the personal representative as an individual, or both, a court in which a proceeding to enforce the claim is pending shall direct that notice be given to all interested persons and all creditors whose interests will be affected by the result and shall give them an opportunity to be heard.

(g) When the court allows a claim against the personal representative individually, the allowance has the same effect as a judgment against the personal representative.

(h) (1) A personal representative may appoint a meeting of creditors whose claims have been filed under the provisions of § 8–104(b) or (c) of this subtitle on a day designated by order of the court.

(2) Written notice of the time, date, place, and purpose of the meeting shall be given at least 10 days before the date of the meeting.

(3) The approval of part or all of the claims of creditors represented at the meeting shall be made under the direction and control of the court, and the payment of a claim as approved by court order shall protect and indemnify the personal representative acting in obedience to it.

(4) A court order issued under paragraph (3) of this subsection is subject to appeal.

(i) An action may not be brought to charge a personal representative on any special promise to answer damages out of the personal representative's own estate, unless the contract or agreement on which the action is brought, or some memorandum or note of it, is in writing and signed by the party to be charged, or some other person lawfully authorized by the personal representative.

§8–110.

(a) On proof of an unsecured claim that will become due at some future time, and that has not been compromised pursuant to § 7–401 of this article or

authority conferred by the will, the court shall direct the investment of an amount that will provide for the payment of the claim when it becomes due.

(b) When a creditor holds a security for an allowable claim due at some future time the creditor may rely on the creditor's rights under § 8–111 of this subtitle or may file a claim as an unsecured claim not yet due, with the right of withdrawing the claim before the taking of action on it, and rely on the creditor's rights as provided in § 8–111 of this subtitle after the withdrawal.

§8–111.

(a) (1) Payment of a secured claim shall be on the basis of the full amount if the creditor shall surrender the creditor's security.

(2) If payment is not made on the basis described in paragraph (1) of this subsection, it shall be made as provided in subsection (b) or (c) of this section.

(b) If during administration, the creditor exhausts the security before receiving payment, the creditor is entitled to the full amount of the creditor's allowed claim less the amount realized on exhausting the security.

(c) If the creditor has not then exhausted, or does not have the right to exhaust the creditor's security, the creditor is entitled to the full amount of the creditor's allowed claim less the value of the security determined by agreement, or as the court determines.

§8–112.

(a) (1) If a contingent claim becomes absolute before the distribution of the estate, the contingent claim shall be paid in the same manner as absolute claims of the same class.

(2) In other cases, if a petition is filed with the court by the personal representative or the claimant, the court may provide for payment in the manner provided in subsections (b), (c), (d), or (e) of this section.

(b) The creditor and personal representative may determine, by agreement, arbitration, or compromise, the value of the claim according to its probable present worth, and, on approval by the court, the value of the claim may be allowed and paid in the same manner as an absolute claim.

(c) The court may order the personal representative to make distribution of the estate except for sufficient funds retained to pay the claim if and when it becomes absolute.

(d) (1) The court may order distribution of the estate as though the contingent claim did not exist, but the distributees are liable to the creditor to the extent of the estate received by them, if the contingent claim becomes absolute.

(2) The court may require the distributees to give bond for the satisfaction of their liability to the contingent creditor.

(e) The court may order another method.

§8–113.

In allowing a claim the personal representative may deduct a counterclaim which the estate has against the claimant.

§8–114.

(a) An execution or a levy may not issue nor be made against property of the estate under a judgment against a decedent or a personal representative.

(b) The provisions of this section do not apply to the enforcement of mortgages, pledges, liens, or other security interests on property in an appropriate proceeding.

§8–115.

The proceeds of a life insurance policy, annuity contract, or any money payable by a fraternal benefit society are exempt from claims in accordance with the provisions of §§ 8-431 and 16-111 of the Insurance Article.

§9–102.

(a) A trustee appointed by will to execute a trust contained in it may decline to accept the appointment by filing a statement of renunciation with the register of the county in which the will is admitted to probate before the trustee receives property or performs an act pursuant to the trust.

(b) (1) Unless the will provides otherwise, the trust shall thereafter be administered as if the trustee had not been appointed.

(2) The renunciation may not be construed to release or impair the right of the person to a legacy under the will by which the person was appointed trustee, unless the legacy is expressly declared in the will to be compensation for the person's services as trustee.

(c) Unless the will provides otherwise, in all cases not provided for in this section, a trustee may renounce or resign the trustee's trust only in accordance with the Maryland Rules.

§9–103.

(a) In this section, "legacy" or "legacies" does not include assets passing by the exercise of the decedent of a testamentary power of appointment.

(b) (1) Unless a contrary intent is expressed in the will and except as provided in §§ 3–208 and 3–303 of this article and subsection (c) of this section, shares of legatees abate without preference or priority as between real and personal property, in the following order:

(i) Property not disposed of by the will;

(ii) Residuary legacies;

(iii) General legacy, other than items (iv), (v), and (vi) of this paragraph;

(iv) General legacy to dependents of testator;

(v) General legacy to creditor of testator in satisfaction of a just debt;

(vi) General legacy to surviving spouse of testator; and

(vii) Specific and demonstrative legacies.

(2) Abatement within each classification is in proportion to the amounts of property each of the legatees or heirs would have received, had full distribution of the property been made in accordance with the terms of the will.

(c) When the subject matter of a preferred legacy is sold or used as an incident to administration, appropriate adjustments in, or contributions from, other interests in the remaining assets shall be effected.

§9–104.

(a) Subject to the terms of the will and the needs of administration, the assets of the estate of a decedent shall be distributed in kind to the extent possible through application of the provisions of this section.

(b) A specific legatee shall receive distribution of the legacy given to the specific legatee.

(c) A family allowance or that part of an intestate share, statutory share, or legacy that is otherwise payable in cash may be satisfied by value in kind provided:

(1) The person entitled to the payment has not demanded payment in cash;

(2) The property distributed in kind is valued at fair market value as of the date of its distribution; and

(3) A residuary legatee has not requested that the asset in question remain a part of the residue of the estate.

(d) (1) When there is no objection to the proposed distribution, or when it is practicable to distribute undivided interests, the residuary estate shall be distributed in kind.

(2) In other cases, residuary property may be converted into cash for distribution.

(e) (1) After the probable charges against the estate are known, the personal representative may mail or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution.

(2) If not waived in writing, the right of a distributee to object to the proposed distribution terminates if the distributee fails to object in writing received by the personal representative within 30 days after mailing or delivery of the proposal.

§9–105.

(a) When distribution in kind is made, the personal representative shall execute and deliver an instrument or deed of distribution assigning, transferring, or releasing the assets to the distributee as evidence of the title of the distributee to the property.

(b) Costs payable as a condition of the recordation of a deed shall be paid by the estate.

(c) (1) In this subsection, "consideration" does not include the amount of any obligation under a mortgage or deed of trust encumbering the transferred property.

(2) A recordation tax, transfer tax, or any other State or local excise tax may not be imposed on the transfer by a personal representative of property or an interest in property without consideration or on the recordation of an instrument executed by a personal representative that transfers property or an interest in property without consideration.

(d) In addition to other indexing, any such deed recorded among the land records shall be indexed in the grantor index under the name of the decedent.

§9–106.

(a) With the exception that the personal representative shall recover the assets or their value if the distribution was improper, title of the distributees who receive from the personal representative an instrument or deed of distribution of assets in kind is conclusive against all persons interested in the estate.

(b) (1) Unless the distribution can no longer be questioned because of adjudication or limitations, a distributee of property improperly distributed is liable to return the property received if the distributee has it or its value.

(2) If a distributee has disposed of property improperly distributed to the distributee, the distributee's liability is the lower of the value of the property on the date of distribution or the value on the date of disposition.

(c) (1) If property distributed in kind is sold to a purchaser for value by a distributee who has received an instrument or deed of distribution from the personal representative, the purchaser takes good title free of claims of the estate and incurs no personal liability to the estate.

(2) To be protected under paragraph (1) of this subsection, a purchaser need not inquire whether a personal representative acted properly in respect to a distribution in kind.

§9–107.

(a) (1) When two or more heirs or legatees are entitled to distribution of undivided interests in property of the estate, the personal representative or one or more of the heirs or legatees may petition the court before the formal or informal closing of the estate, to make partition.

(2) After notice to the interested heirs or legatees and subject to the requirements of Title 14, Subtitle 7 of the Real Property Article, the court shall partition the property in the same manner as provided by law for civil actions of partition.

(b) The court may direct the personal representative to sell property which cannot be partitioned without prejudice to the owners and cannot conveniently be allotted to one party.

§9–108.

(a) The personal representative shall pay over or transfer the money or property or its proceeds, as directed by order of court, to the board of education in the county where the letters were granted, and it shall be applied for the use of the public schools in such county, whenever it appears to the satisfaction of the court that:

(1) The personal representative has been unable to contact an heir or legatee because of the personal representative's lack of knowledge of the location of the heir or legatee and the court is satisfied that reasonable efforts have been made to locate the heir or legatee;

(2) An heir or legatee is a nonresident of the United States and would not have the benefit of use or control at its full value of money or other property comprising the heir's or legatee's distributive share or legacy; or

(3) Other special circumstances make it appear desirable that payment or delivery should be withheld because of national or international action affecting such money, property, value, or the full use and enjoyment of it.

(b) (1) If, after payment has been made to the board of education, a claim for refund is filed by the heir or legatee, or by the personal representative of the heir or legatee, the claimant is entitled to a refund, without interest, of the sum paid, or the proceeds from the sale of property if not in the form of cash when transferred to the board of education, or the fair market value at the time of transfer if not converted to cash.

(2) A claim for refund under this subsection may not be filed after the later of:

(i) 3 years after the death of the decedent; or

(ii) 1 year after the time of distribution of the property.

§9–109.

(a) (1) Whenever money is distributable by a personal representative to a minor and there is no judicially appointed guardian of the property of the minor, the court may order that the cash be deposited in a banking institution or insured savings and loan association formed under the laws of the State or in the State under the laws of the United States, in which it may draw interest, in the name of the minor, subject to the further order of the court.

(2) The banking institution or association shall be named in the order.

(3) The personal representative shall deliver the account book to the person or to such person, including the register, as the personal representative with the approval of the court, considers responsible and appropriate.

(4) When the minor reaches the age of 18 or a guardian is appointed, the funds deposited and the account book shall be delivered to the minor, or to the guardian.

(b) (1) In addition to the procedures in subsection (a) of this section, whenever a personal representative is required to distribute property to a minor as defined in § 13–301(k) of this article, the personal representative, with the approval of the court, may transfer the property to a custodian who shall hold or dispose of the property in accordance with the provisions of the Maryland Uniform Transfers to Minors Act.

(2) The personal representative shall, subject to the approval of the court, designate the custodian, who shall be an adult or a trust company.

(c) Whenever a personal representative is required to distribute tangible personal property to a person under the age of 18 years and there is no guardian of the minor, the personal representative may distribute it to the person whom the personal representative, with the approval of the court, considers responsible and appropriate, and under the conditions set forth in the order of the court.

(d) If a guardian has been appointed for a minor, payment may be made to the guardian on the filing of a copy of the guardian's authority authenticated pursuant to 28 U.S.C. § 1738.

(e) In addition to the procedures set forth in this section, the personal representative may make distribution to a minor in accordance with the provisions of § 13–501 of this article or the will.

§9–111.

On making a distribution, a personal representative may, but is not required to, obtain a verified release from the heir or legatee.

§9–112.

(a) (1) If the personal representative cannot obtain agreement from all interested persons entitled to share in the distribution of the property, the personal representative may apply to the court to make distribution.

(2) The court shall designate a day and direct the giving of notice to all interested persons concerned.

(3) The court may appoint two disinterested individuals, not related to the interested persons to make an appropriate division for distribution, or recommend to the court a sale of part or all of the property, and the court shall direct the distribution it considers appropriate.

(b) If a majority in relation to value fails to appear on the appointed day, or appear and object to the distribution suggested, or if the court considers a sale of part or all of the property more appropriate and advantageous, the personal representative shall make the sale or sales and divide the proceeds, together with unsold property, as the court directs.

(c) If the personal representative has reason to believe that there may be one or more interested persons whose names or addresses are not known to the personal representative, or if it is not known to the personal representative if an interested person is still surviving, the personal representative may appoint a meeting of all interested persons to be held on a day the court designates.

(d) (1) The personal representative shall give notice to all interested persons known to the personal representative, and shall publish a notice of the meeting once a week in 3 successive weeks, in a newspaper of general circulation in the county of the personal representative's appointment, stating the time, date, place, and purpose of the meeting which shall be held no sooner than 20 days after the first publication.

(2) The personal representative shall also take other steps and make other efforts to learn the names and addresses of additional interested persons as the court considers appropriate under the circumstances.

(e) (1) On the date of the meeting, distribution of the net estate shall be made under the direction and control of the court.

(2) Distribution by the personal representative in accordance with the direction of the court at the meeting protects and indemnifies the personal representative acting in obedience to it.

§9–201.

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

(b) "Beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:

(1) An annuity or insurance policy;

(2) An account with a designation for payment on death;

(3) A security registered in beneficiary form;

(4) A pension, profit–sharing, retirement, or other employment–related benefit plan; or

(5) Any other nonprobate transfer at death.

(c) "Disclaimant" means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made.

(d) "Disclaimed interest" means the interest that would have passed to the disclaimant had the disclaimer not been made.

(e) "Disclaimer" means the refusal to accept an interest in or power over property.

(f) "Fiduciary" means a personal representative, trustee, agent acting under a power of attorney, or other person authorized to act as a fiduciary with respect to the property of another person.

(g) "Future interest" means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation.

(h) "Jointly held property" means property held in the name of two or more persons under an arrangement in which all holders have concurrent interests and under which the last surviving holder is entitled to the whole of the property.

(i) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture,

governmental subdivision, governmental agency, governmental instrumentality, public corporation, legal entity, or commercial entity.

(j) "Time of distribution" means the time when a disclaimed interest would have taken effect in possession or enjoyment.

(k) "Trust" means:

(1) An express trust, charitable or noncharitable, whenever and however created; or

(2) A trust created pursuant to a statute, judgment, or decree that requires that the trust be administered in the manner of an express trust.

§9–202.

(a) (1) A person may disclaim in whole or in part any interest in or power over property, including a power of appointment.

(2) A person may disclaim the interest or power even if the creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(b) (1) Except to the extent that a fiduciary's right to disclaim is expressly restricted or limited by another statute of the State or by the instrument creating the fiduciary relationship, a fiduciary may disclaim in whole or in part any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity.

(2) A fiduciary may disclaim the interest or power even if the creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim, or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

(c) To be effective, a disclaimer must:

(1) Be in writing or other record;

(2) Declare the disclaimer;

(3) Describe the interest or power disclaimed;

(4) Be signed by the person making the disclaimer; and

(5) Be delivered or filed in the manner provided in § 9-209 of this subtitle.

(d) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

(e) A disclaimer becomes irrevocable when it is delivered or filed pursuant to § 9-209 of this subtitle or when it becomes effective as provided in §§ 9-203 through 9-208 of this subtitle, whichever occurs later.

(f) (1) A disclaimer made under this subtitle is not a transfer, assignment, or release.

(2) Creditors of the disclaimant have no interest in the property disclaimed.

§9–203.

(a) Except for a disclaimer under § 9-204 or § 9-205 of this subtitle, the following rules apply to a disclaimer of an interest in property.

(b) The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable or if the interest arose under the law of intestate succession, as of the time of the intestate's death.

(c) The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or of disclaimed interests in general.

(d) If the instrument does not contain a provision described in subsection (c) of this section, the following rules apply:

(1) (i) If the disclaimant is an individual, the disclaimed interest passes as if the disclaimant died immediately before the time of distribution; or

(ii) If by law or under the instrument the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive the time of distribution; or

(2) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

(e) On the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

§9–204.

(a) On the death of a holder of jointly held property, a surviving holder may disclaim in whole or in part, the greater of:

(1) A fractional share of the property determined by dividing the number one by the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates; or

(2) All of the property except that part of the value of the entire interest attributable to the contribution furnished by the disclaimant.

(b) A disclaimer under subsection (a) of this section takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

(c) An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

§9–205.

If a trustee disclaims an interest in property that otherwise would become trust property, the interest does not become trust property.

§9–206.

If a holder disclaims a power of appointment or other power not held in a fiduciary capacity, the following rules apply:

(1) If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable;

(2) If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power; and

(3) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

§9–207.

(a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(b) A disclaimer of an interest in property by an object or taker in default of an exercise of power of appointment takes effect as of the time the instrument creating the power becomes irrevocable.

§9–208.

(a) If a fiduciary disclaims a power held in a fiduciary capacity that has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If a fiduciary disclaims a power held in a fiduciary capacity that has been exercised, the disclaimer takes effect immediately after the last exercise of power.

(c) A disclaimer under this section is effective as to another fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

§9–209.

(a) Subject to subsections (b) through (k) of this section, delivery of a disclaimer may be effected by personal delivery, first-class mail, or any other method likely to result in its receipt.

(b) In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

(1) A disclaimer shall be delivered to the personal representative for the decedent's estate; or

(2) If there is no personal representative, it shall be filed with a court having jurisdiction to appoint the personal representative.

(c) In the case of an interest in a testamentary trust:

(1) A disclaimer shall be delivered to the trustee, or if no trustee is then serving, to the personal representative of the decedent's estate; or

(2) If there is no personal representative, it shall be filed with a court having jurisdiction to enforce the trust.

(d) (1) In the case of an interest in an inter vivos trust, a disclaimer shall be delivered to the trustee.

(2) If there is no trustee, it shall be filed with a court having jurisdiction to enforce the trust.

(3) If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, it shall be delivered to the settlor of a revocable trust or the transferor of the interest.

(e) In the case of an interest created by a beneficiary designation that is disclaimed before the designation becomes irrevocable, the disclaimer shall be delivered to the person making the beneficiary designation.

(f) In the case of an interest created by a beneficiary designation that is disclaimed after the designation becomes irrevocable:

(1) The disclaimer of an interest in personal property shall be delivered to the person obligated to distribute the interest; and

(2) The disclaimer of an interest in real property must be recorded in the land records of the county where the real property that is the subject of the disclaimer is located.

(g) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer shall be delivered to the person to whom the disclaimed interest passes.

(h) In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created:

(1) The disclaimer shall be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or

(2) If there is no fiduciary, it shall be filed with a court having authority to appoint the fiduciary.

(i) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment:

(1) The disclaimer shall be delivered to the holder, the personal representative of the holder's estate, or to the fiduciary under the instrument that created the power; or

(2) If there is no fiduciary, it shall be filed with a court having authority to appoint the fiduciary.

(j) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer shall be delivered as provided in subsection (b), (c), or (d) of this section as if the power disclaimed were an interest in property.

(k) In the case of a disclaimer of a power by an agent, the disclaimer shall be delivered to the principal or the principal's representative.

§9–210.

(a) A disclaimer is barred by a written waiver of the right to disclaim.

(b) A disclaimer of an interest in property is barred if any of the following occurs before the disclaimer becomes effective:

(1) The disclaimant accepts the interest sought to be disclaimed;

(2) The disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or

(3) A judicial sale of the interest sought to be disclaimed occurs.

(c) A disclaimer in whole or in part of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.

(d) A disclaimer in whole or in part of the future exercise of power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.

(e) A disclaimer is barred or limited if so provided by law other than this subtitle.

(f) (1) A disclaimer of a power over property that is barred by this section is ineffective.

(2) A disclaimer of an interest in property that is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under this subtitle had the disclaimer not been barred.

§9–211.

If as a result of a disclaimer or transfer the disclaimed or transferred interest is treated pursuant to the provisions of Title 26 of the United States Code, any other successor statute, or regulations as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under this subtitle.

§9–212.

(a) If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded, or registered, the disclaimer may be filed, recorded, or registered.

(b) Except as provided under § 9–209(f)(2) of this subtitle, failure to file, record, or register the disclaimer does not affect its validity.

§9–213.

Except as otherwise provided in § 9-210 of this subtitle, an interest in or power over property existing on October 1, 2004, as to which the time for delivering or filing a disclaimer under law superseded by this subtitle has not expired, may be disclaimed after October 1, 2004.

§9–214.

If any provision of this subtitle or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subtitle that can be given effect without the invalid provision or application, and to this end the provisions of this subtitle are severable.

§9–215.

This subtitle does not abridge the right of a person to waive, release, disclaim, or renounce property or an interest in property under any other statute.

§9–216.

This subtitle may be cited as the "Maryland Uniform Disclaimer of Property Interests Act".

§10–101.

(a) (1) The final approval of the final account automatically closes the estate.

(2) If the final account so requests, it also automatically terminates the appointment of the personal representative.

(b) (1) If the appointment is not terminated by the final account, a personal representative may, after the time has passed for presenting claims which arose before the death of the decedent, petition the court for an order to terminate the personal representative's appointment as personal representative.

(2) After notice to all interested persons including creditors who have presented their claims and legatees who have not been paid in full, the court may enter an appropriate order if a written request for a hearing has not been filed within 20 days.

§10–102.

(a) After an estate has been closed, a claim not barred may be prosecuted against one or more of the persons to whom property has been distributed.

(b) An heir or legatee shall not be liable to claimants for amounts in excess of the value of the heir's or legatee's distribution, valued at the time of distribution or the time of filing suit, whichever is lower.

(c) (1) An heir or legatee has a right of contribution against other heirs and legatees.

(2) Between the heirs and legatees under paragraph (1) of this subsection, each shall bear the cost of satisfaction of unbarred claims as if the claim had been satisfied before distribution.

§10–103.

(a) (1) If no action or proceeding involving the personal representative is pending one year after the close of the estate pursuant to § 5-709 of this article or § 10-101 of this subtitle, the personal representative shall be discharged from any claim or demand of any interested person.

(2) The rights so barred do not include rights to recover from a personal representative for fraud, material mistake, or substantial irregularity.

(b) (1) Except as provided in § 10–102 of this subtitle and § 7–308 of the Tax – General Article, the right of a person seeking to recover property improperly distributed, or the value of it, from a person to whom property has been distributed is forever barred at the later of:

(i) Three years from the death of the decedent; or

(ii) One year from the time of distribution of the property.

(2) This subsection does not bar recovery of property or the value of it received as the result of the heir's or legatee's participation in a fraudulent distribution.

§10–104.

(a) Except as provided in subsection (c) of this section, if property is discovered after an estate has been closed and the appointment of the personal representative has been terminated under § 10–101 of this subtitle, the court, on petition of an interested person and on any notice as the court may direct, may appoint the same or a successor personal representative and make other appropriate orders.

(b) Further proceedings shall be conducted in accordance with the provisions of the estates of decedents law as may be applicable, but no claim previously barred may be asserted in the reopened administration.

(c) (1) Subject to paragraph (2) of this subsection, if a check payable to a decedent or the estate of a decedent for a sum not exceeding $1,000 is discovered after an estate is closed and the appointment of the personal representative has terminated under § 10–101 of this subtitle, on a verified petition made by an interested person, the court may enter an order authorizing the interested person to indorse and deposit the check into the interested person's bank account for the limited purpose of distributing the funds in accordance with the will or, if the decedent died intestate, in accordance with Title 3, Subtitle 1 of this article.

(2) (i) Unless requested by an interested person, the court may enter an order under paragraph (1) of this subsection without a hearing.

(ii) The court may not enter an order under paragraph (1) of this subsection if:

1. The estate of the decedent was insolvent when it was closed;

2. The check discovered after the estate was closed increases the value of the estate above the value that qualifies under § 5–601 of this article for administration as a small estate; or

3. Any additional fees and inheritance taxes due as a result of the discovered check are not paid with the petition.

(iii) The distribution of funds by an interested person under paragraph (1) of this subsection must be made within 60 days after the court's order authorizing the distribution.

§10–105.

Nothing in this subtitle affects the authority of a personal representative to perform ministerial or confirmatory acts after an estate is closed or the appointment of the personal representative is terminated.

§11–101.

(a) Any contingent remainder arising under any will or inter vivos transfer shall be capable of taking effect, regardless of the determination of any preceding estate of freehold, in the same manner and in all respects as if the determination had not happened.

(b) It is not necessary to appoint trustees to support the contingent remainder in order to prevent the destruction of it.

§11–102.

(a) In this section, "usufructuary" means a person having a usufruct or right to enjoy a thing in which the person has no property interest.

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

(1) A legacy or inter vivos conveyance having a value of $5,000 or less, or of any burial lot of any value, in trust or otherwise, for the purpose of providing for the perpetual care or keeping in good order and condition, or making repairs to, any lot, vault, mausoleum, or other place of sepulture belonging to any individual or several individuals in any cemetery or graveyard, the lots in which are intended for the burial of members of the family, family connections, relatives, or friends of the owners, or their successors in ownership;

(2) A legacy or inter vivos conveyance intended to transfer assets from any corporation incorporated for charitable objects, to any other charitable corporation on a contingency or future event;

(3) A trust created by an employer as part of a pension, stock bonus, disability, death benefit, profit–sharing, retirement, welfare, or other plan for the exclusive benefit of some or all of the employees of the employer or their beneficiaries, to which contributions are made by the employer or employees, or both the employer and employees, for the purpose of making distributions to or for the benefit of employees or their beneficiaries out of the income or principal or both the income and principal of the trust, or for any other purposes set out in the plan;

(4) A trust for charitable purposes, which shall include all purposes as are within the spirit or letter of the statute of 43 Elizabeth Ch. 4 (1601), commonly known as the statute of charitable uses;

(5) A trust in which the governing instrument states that the rule against perpetuities does not apply to the trust and under which the trustee, or other person to whom the power is properly granted or delegated, has the power under the governing instrument, applicable statute, or common law to sell, lease, or mortgage property for any period of time beyond the period that is required for an interest created under the governing instrument to vest, so as to be good under the rule against perpetuities;

(6) An option of a tenant to renew a lease;

(7) An option of a tenant to purchase all or part of the premises leased by the tenant that is exercisable only during the term of the lease;

(8) An option of a usufructuary to extend the scope of an easement or profit;

(9) The right of a county, a municipality, a person from whom land is acquired, or the successor–in–interest of a person from whom land is acquired, to acquire land from the State in accordance with § 8–309 of the Transportation Article;

(10) A right or privilege, including an option, warrant, pre–emptive right, right of first refusal, right of first option, right of first negotiation, call right, exchange right, or conversion right, to acquire an interest in a domestic or foreign joint venture, partnership, limited liability partnership, limited partnership, limited liability limited partnership, corporation, cooperative, limited liability company, business trust, statutory trust, or similar enterprise, whether the interest is characterized as a joint venture interest, partnership interest, limited partnership interest, membership interest, security, stock, or otherwise;

(11) A nondonative property interest as described in § 11–102.1 of this subtitle;

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

(13) An affordable housing land trust agreement executed under Title 14, Subtitle 5 of the Real Property Article.

§11–102.1.

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

(2) "Lives in being" means the lives of particular individuals in existence at the time of the creation of a nondonative property interest.

(3) "Nondonative" means given for consideration other than nominal consideration.

(4) (i) "Property interest" means a contract, lease, option, right of first offer, right of first refusal, right of first negotiation, or similar preemptive right relating to a right to the use, possession, transfer, or ownership of real or personal property or an interest in or appurtenant to real or personal property.

(ii) "Property interest" includes a right of the type described in subparagraph (i) of this paragraph even if the right is not applicable until after another party has failed to exercise or consummate a prior right of the same type.

(iii) "Property interest" does not include a property interest, power of appointment, or contract to exercise a release of a power of appointment arising out of:

1. A premarital or postmarital agreement;

2. A separation or divorce settlement;

3. An election by a spouse;

4. An arrangement arising out of a prospective, existing, or prior marital relationship between the parties to the relationship;

5. A contract to make or not to revoke a will or trust;

6. A contract to exercise or not to exercise a power of appointment;

7. A transfer in satisfaction of a duty of support; or

8. A reciprocal transfer.

(b) The common–law rule against perpetuities as now recognized in the State does not apply to a nondonative property interest that becomes effective on or after October 1, 2007.

(c) (1) For the purposes of this section, a nondonative property interest becomes effective as of the date of delivery of the property interest.

(2) The date of delivery is presumed to be the later of:

(i) The date of the last acknowledgment of the nondonative property interest, if any; or

(ii) The date stated in the document creating the nondonative property interest.

(d) (1) A nondonative property interest that becomes effective on or after October 1, 2007, shall be void unless the nondonative property interest:

(i) Is not subject to the rule against perpetuities under § 11–102 of this subtitle; or

(ii) Is exercised or vested within the applicable period of time set forth in paragraph (2), (3), or (4) of this subsection.

(2) A document creating a nondonative property interest that does not state a date or make reference to lives in being by which the property interest must be exercised or vested shall be void unless exercised or vested within 7 years of the effective date of the property interest.

(3) A document creating a nondonative property interest that either expressly states a date by which the property interest shall be exercised or vested or one from which the date may be determined shall be void on the earlier of the expressed or determined date or 60 years after the effective date of the property interest.

(4) A document creating a nondonative property interest that refers to one or more lives in being for determining the date by which the property interest shall be exercised or vested shall be void:

(i) If the reference is to the duration of not more than 10 identified lives in being and not more than 21 years, at the expiration of the period of time referenced; or

(ii) If the reference is to the duration of more than 10 identified lives in being or to identified lives in being and more than 21 years, at the expiration of 60 years.

§11–103.

(a) (1) In applying the rule against perpetuities to an interest limited to take effect at or after the termination of one or more life estates in, or lives of, persons in being when the period of the rule commences to run, the validity of the interest shall be determined on the basis of facts existing at the termination of one or more life estates or lives.

(2) In this section an interest which must terminate not later than the death of one or more persons is a "life estate" even though it may terminate at an earlier date.

(b) If an interest would violate the rule against perpetuities as modified by subsection (a) of this section because the interest is contingent upon any person attaining or failing to attain an age in excess of 21, the age contingency shall be reduced to 21 as to all persons subject to the same age contingency.

(c) This section shall apply to both legal and equitable interests.

§11–104.

Whenever by any form of words in any will or inter vivos conveyance, a remainder is limited, mediately or immediately, to the heirs or heirs of the body of a person to whom a life estate in the same subject matter is given, the persons who on the termination of the life estate are then the heirs or heirs of the body of the tenant for life, take as purchasers by virtue of the contingent remainder limited to them.

§11–105.

(a) As used in this section, the words "death benefits" mean death benefits of any kind, including, but not limited to, proceeds of life insurance policies and payments under an employees' trust or contract purchased by a trust forming part of

a pension, stock bonus, or profit–sharing plan, or under a retirement annuity contract.

(b) (1) Death benefits may be made payable to the trustee under a trust agreement, or declaration of trust in existence at the time of the death of the insured, employee, or annuitant.

(2) The death benefits shall be held and disposed of by the trustee in accordance with the terms of the trust as they appear in writing on the date of the death of the insured, employee, or annuitant.

(3) It is not necessary to the validity of a trust agreement or declaration of trust, whether revocable or irrevocable, that it have a trust corpus other than the right of the trustee to receive death benefits.

(c) (1) Death benefits may be made payable to the trustee named, or to be named, in a will of the insured or the owner of the policy, or the employee covered by the plan or contract whether or not the will is in existence at the time of the designation.

(2) On the admission of the will to probate, and the payment of the benefits to the trustee, the benefits shall be held, administered, and disposed of in accordance with the terms of the testamentary trust created by the will.

(d) In the event no trustee makes claim for the death benefits within a period of one year after the date of death of the insured, employee, or annuitant, or if satisfactory evidence is furnished to the insurance company or other obligor within such one–year period that there is or will be no trustee to receive the proceeds, payment shall be made by the insurance company or other obligor to the personal representative of the person making the designation, unless otherwise provided by agreement.

(e) Death benefits payable as provided in this section, unless paid to a personal representative under the provisions of subsection (d) of this section, are not considered part of the estate of the decedent, and are not subject to any obligation to pay taxes, debts, or other charges enforceable against the estate of the decedent, except as provided in § 7–308 of the Tax – General Article.

(f) Death benefits held in trust may be commingled with other assets which may properly come into the trust.

§11–106.

(a) Unless otherwise expressly provided by a will or other controlling instrument, under which a gift is made to or for the benefit of the surviving spouse of a decedent which qualifies for an estate tax marital deduction under the tax law of the United States and the amount or size of the gift is defined by the terms of the will or other controlling instrument in terms of the maximum marital deduction allowable under the tax law, the definitions do not constitute a direction by the decedent to the fiduciary to exercise an election respecting the deduction of estate administration expenses or the determination of the estate tax valuation date, which the fiduciary may have under the tax law, only in a manner as will result in a larger allowable estate tax marital deduction than if the contrary election had been made.

(b) (1) In this subsection the following words have the meanings indicated.

(i) "Marital deduction formula clause" means any provision of a will or other controlling instrument that makes a bequest or transfer, the size or amount of which is determined in whole or in part with reference to the amount allowable to a decedent's estate as a marital deduction under the tax law of the United States.

(ii) "Qualified terminable interest property" means property described in § 2056(b)(7) of the Internal Revenue Code.

(2) If a will or other controlling instrument executed on or before September 12, 1981 contains a marital deduction formula clause, an election by the personal representative or other authorized person to treat property not transferred pursuant to the clause as qualified terminable interest property for purposes of the estate tax marital deduction under the tax law of the United States shall neither increase nor decrease the amount or fraction of the estate, trust, or other fund transferred pursuant to the clause, unless a codicil to the will or amendment to another controlling instrument executed after September 12, 1981 shall expressly otherwise provide.

§11–107.

Whenever a will or other governing instrument:

(1) Specifically authorizes a fiduciary to satisfy a legacy or transfer by selection and distribution of assets in kind; and

(2) Provides that the value of the assets to be distributed shall be determined by reference to their value for purposes of payment of federal estate taxes, the fiduciary shall distribute assets, including cash, having an aggregate fair market value at the date or dates of distribution amounting to no less than the amount of the

legacy or transfer as finally determined for federal estate tax purposes unless the will or other governing instrument expressly directs to the contrary.

§11–108.

(a) (1) Unless the instrument creating a power of appointment expressly provides to the contrary, the power may be wholly or partially released as to all or a portion of the assets subject to it by an instrument signed by the person holding the power and attested by two witnesses.

(2) If the person is under 18 years of age or is otherwise under disability, a release pursuant to this section may be executed by order of the court having jurisdiction of the person or property of the person under disability.

(b) (1) A release pursuant to subsection (a) of this section shall:

(i) Identify the instrument creating the power of appointment;

(ii) State the place the instrument was recorded or admitted to probate;

(iii) Contain a statement of the extent to which the power is released; and

(iv) Specify any limitation which the release, if partial, places upon the persons, objects, or classes in whose favor the power would otherwise be exercisable.

(2) The release, whether or not for consideration or under seal, after delivery as provided in subsection (c) of this section, is irrevocable from and after the time it is delivered.

(c) A release pursuant to subsection (a) shall be delivered:

(1) To the register of the county in which the will creating the power of appointment was admitted to probate or recorded;

(2) To the clerk of the appropriate court for recordation among the land records of the county in which the instrument creating the power of appointment has been recorded; or

(3) In the case of instruments creating powers of appointment which are not recorded, to the person making the instrument which created the power of

appointment or to any person holding, individually, or jointly with others, a substantial portion of the assets subject to the power of appointment.

(d) A release referred to in this section also may be recorded among the land records of the county in which the maker or fiduciary resides.

(e) (1) The register or clerk shall:

(i) Index and record the release in the same manner as the instrument creating the power of appointment was recorded; and

(ii) Make a reference in the margin of the place of recording of the original instrument of the date and place of recording of the release.

(2) The releases shall be subject to the usual fees for indexing and recordation, but shall not be subject to a recordation tax now or hereafter imposed.

(f) A power of appointment also may be released by any means or method valid or effective in the absence of this section.

§11–109.

(a) A conviction or attainder does not work corruption of blood or forfeiture of estate.

(b) The estate of a person who commits suicide shall descend or vest like that of a person who dies a natural death.

(c) A killing of a person by casualty does not cause a forfeiture of estate.

§11–110.

(a) (1) A will or trust of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula referring to the "unified credit", "estate tax exemption", "applicable exemption amount", "applicable credit amount", "applicable exclusion amount", "generation–skipping transfer tax exemption", "GST exemption", "marital deduction", "maximum marital deduction", or "unlimited marital deduction", or similar words or phrases relating to the federal estate tax or generation–skipping transfer tax or that measures a share of an estate or a trust based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation–skipping transfer taxes, or that is otherwise based on a similar provision of federal estate tax or generation–skipping transfer tax law, shall be deemed to refer to the federal estate tax or generation–skipping transfer tax laws

as they applied with respect to estates of decedents dying or generation–skipping transfers made on December 31, 2009.

(2) This subsection does not apply to a will or trust that:

(i) Is executed or amended after December 31, 2009; or

(ii) Manifests an intent that a contrary rule shall apply if the decedent dies on a date on which there is no then applicable federal estate tax or generation–skipping transfer tax.

(3) The reference to January 1, 2011, in this subsection shall, if a federal estate tax or generation–skipping transfer tax becomes applicable before that date, be construed to refer instead to the first date on which the tax becomes applicable.

(b) (1) The personal representative or any interested person under a will or other instrument may bring a proceeding to determine whether the decedent intended that the references described in subsection (a) of this section be construed with respect to the law as it existed after December 31, 2009.

(2) A proceeding under this subsection shall be commenced within 1 year after the death of the testator or grantor.

§11–111.

(a) A person convicted of unlawfully obtaining property from a victim in violation of § 8–801(b) of the Criminal Law Article shall be disqualified from inheriting, taking, enjoying, receiving, or otherwise benefitting from the estate, insurance proceeds, or property of the victim, to the extent provided in § 8–801(e) of the Criminal Law Article.

(b) A person disqualified from inheriting, taking, enjoying, receiving, or otherwise benefitting from the estate, insurance proceeds, or property of the victim in accordance with subsection (a) of this section shall be treated as if the person predeceased the victim.

(c) In the event a distribution is erroneously made to a person disqualified from inheriting, taking, enjoying, receiving, or otherwise benefitting from the estate, insurance proceeds, or property of the victim in violation of subsection (a) of this section, the disqualified person shall make full restitution to the heir, legatee, or beneficiary who should have received the distribution in accordance with subsection (b) of this section.

(d) A fiduciary or other person who distributes property in good faith and without actual knowledge of a conviction under § 8–801 of the Criminal Law Article is not personally liable for the distribution.

§11–112.

(a) In this section, "disqualified person" means a person who feloniously and intentionally kills, conspires to kill, or procures the killing of the decedent.

(b) (1) Except as provided in paragraph (2) of this subsection, a disqualified person shall be treated as if the disqualified person disclaimed the property or interest in the property at the time of the decedent's death.

(2) The provisions of § 4–403 of this article do not apply to this section.

(3) A disqualified person shall be disqualified from:

(i) Inheriting;

(ii) Taking;

(iii) Enjoying;

(iv) Receiving; or

(v) Otherwise benefiting from the:

1. Death;

2. Probate estate; or

3. Nonprobate property of the decedent;

(vi) Receiving a general or special power of appointment conferred by the will or trust of the decedent; and

(vii) Serving as a personal representative, guardian, or trustee of a trust created by the decedent.

(c) (1) The survivorship interest of a disqualified person in property held with the decedent, including a form of co–ownership with incidents of survivorship, is severed at the time of the death of the decedent and the property passes as if the decedent and the disqualified person have no rights by survivorship.

(2) This section does not apply to the survivorship interest of a third party.

(d) A disqualified person who is a named beneficiary of a life insurance policy on the decedent or other contractual arrangement with the decedent is not entitled to a benefit under the policy or contractual arrangement.

(e) (1) (i) In a civil proceeding a person may allege that another person is a disqualified person.

(ii) A person may not file a civil action alleging that another person is a disqualified person after the later of:

1. 3 years from the date of the decedent's death; or

2. If the alleged disqualified person is criminally charged within 3 years from the date of the decedent's death with feloniously and intentionally killing, conspiring to kill, or procuring the killing of the decedent, 1 year from the date that the criminal charge is filed.

(2) On request of a party in a civil proceeding in which a person is alleged to be a disqualified person, the civil proceeding shall be stayed pending a final judgment in a case in which the alleged disqualified person is criminally charged with feloniously and intentionally killing, conspiring to kill, or procuring the killing of the decedent.

(3) (i) For purposes of this section, only a person who would be entitled to obtain property if another person is found to be a disqualified person, or the person's representative, may provide notice to a third party that another person is a disqualified person.

(ii) For purposes of this section, a person described in subparagraph (i) of this paragraph or the person's representative may not provide notice to a third party that a person is a disqualified person later than the time for filing a civil action described in this subsection.

(f) (1) A third party, including an insurance company, bank, or other obligor, making a payment according to the terms of a policy or obligation, is not liable by reason of this section unless, before the payment is made, the third party has received at the home office or principal address of the third party written notice of an alleged disqualified person under this section.

(2) A third party, including an insurance company, a bank, or any other obligor, who files an interpleader regarding an amount owed may not be liable to an alleged disqualified person for wrongful dishonor or any other claim relating to the amount owed.

(g) (1) A third party who purchases property for value and without notice or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation is not obligated under this section to return the payment, item of property, or benefit, and is not liable under this section for the amount of the payment or the value of the item of property or benefit.

(2) A person who, not for value, receives a payment, an item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment or item of property, and is personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to receive the payment, item of property, or other benefit.

(h) In the event a distribution is erroneously made to a disqualified person, the disqualified person shall make full restitution to the heir, legatee, beneficiary, or joint tenant who should have received the distribution in accordance with this section.

(i) Notwithstanding any other provision of this section, an interested person or a named beneficiary of a life insurance policy on the decedent or other contractual arrangement with the decedent may seek a determination in the proper court, by declaratory judgment or otherwise, that the person or named beneficiary is not a disqualified person and other relief.

(j) (1) A final conviction of felonious and intentional killing, conspiring to kill, or procuring the killing of a decedent is admissible in a civil proceeding in which a person is alleged to be a disqualified person and is conclusive for purposes of this section.

(2) In the absence of a final conviction described in paragraph (1) of this subsection, the trier of fact in a civil proceeding may determine by a preponderance of evidence whether a person feloniously and intentionally killed, conspired to kill, or procured the killing of the decedent for purposes of this section.

(3) Nothing in this section affects a right to a jury trial which otherwise exists.

§11–113.

(a) If a decedent consented in a written record to use of the decedent's genetic material for posthumous conception in accordance with the requirements of §

20–111 of the Health – General Article, the following shall be filed with the register of wills for the county in which the decedent's estate is probated in the State or, if there is no probate estate filed, with the register of wills for the county in which the decedent was domiciled in the State at the date of death:

(1) A copy of a posthumously conceived child's birth record; and

(2) The written consents required by § 1–205(a)(2) or § 3–107(b) of this article.

(b) (1) Subject to paragraph (2) of this subsection, the written consents required by § 1–205(a)(2) or § 3–107(b) of this article shall be filed under subsection (a) of this section within 6 months after the date of the decedent's death.

(2) With respect to a decedent who dies between October 1, 2012, and May 30, 2013, inclusive, the written consents required by § 1–205(a)(2) or § 3–107(b) of this article shall be filed under subsection (a) of this section by December 1, 2013.

(3) A copy of a posthumously conceived child's birth record shall be filed within 2 years and 60 days after the date of the decedent's death.

(c) Absent the filing as required in this section of a posthumously conceived child's birth record and the written consents required by § 1–205(a)(2) or § 3–107(b) of this article:

(1) A person holding property that passes by reason of the death of the decedent may distribute or deliver the property without liability for a claim by any posthumously conceived child unknown to the person; and

(2) The transferee of any such property shall be entitled to receive the property without liability for a claim by any posthumously conceived child unknown to the transferee.

§11–114.

(a) Unless good cause is shown for the appointment, a court may not appoint, as a guardian of the person of a minor or disabled person, a person who has been convicted of:

(1) A felony;

(2) A crime of violence, as defined in § 14–101 of the Criminal Law Article;

(3) Assault in the second degree; or

(4) A sexual offense in the third or fourth degree or attempted rape or sexual offense in the third or fourth degree.

(b) Unless good cause is shown for the appointment, a court may not appoint, as a guardian of the property of a minor or disabled person, a person who has been convicted of a crime that reflects adversely on an individual's honesty, trustworthiness, or fitness to perform the duties of a guardian of the property of a minor or disabled person, including fraud, extortion, embezzlement, forgery, perjury, and theft.

§12–101.

The estates of decedents law takes effect at 12:01 a.m. on July 1, 1974.

§12–102.

(a) Unless otherwise specifically provided in another section of the estates of decedents law, the provisions of the estates of decedents law apply as provided in this section.

(b) (1) Except as provided in paragraph (2) of this subsection, Titles 1, 3, 5, 6, 7, 8, 9, and 10 of this article apply to the estate of any decedent dying on or after January 1, 1970.

(2) The last sentence of § 7–502(a) of this article shall apply only if the personal representative gives notice as required after July 1, 1974.

(c) Title 2 of this article applies, in every instance, on and after January 1, 1970.

(d) (1) (i) Except as provided in subparagraph (ii) of this paragraph, Title 4 of this article applies to any will executed on or after 12:01 a.m. on January 1, 1970.

(ii) Section 4–105 of this article applies to any act or acts of revocation occurring on or after January 1, 1970.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, as to the rules relating to any will executed before January 1, 1970, the law before January 1, 1970 shall be applicable.

(ii) Section 4–403 of this article applies to the legacy of any testator who dies on or after July 1, 1983.

(3) (i) The provisions of § 4–411 of this article apply to a legacy made by a testator living on June 1, 1959, or born after that date without regard to the date of the execution of the will, the trust instrument, or an amendment to the will or trust instrument.

(ii) Section 4–411 of this article may not be construed as casting doubt on the validity of:

1. A legacy made by a testator who died before June 1, 1959; or

2. A legacy that does not come within the provisions of the section.

(e) (1) Section 11–101 of this article applies to a will or inter vivos transfer executed on or after July 1, 1929.

(2) Section 11–102(b)(2) of this article applies to a will or inter vivos instrument executed on or after January 1, 1970.

(3) Section 11–103 of this article applies to:

(i) An inter vivos instrument that took effect on or after June 1, 1960;

(ii) A will where the testator died after June 1, 1960; or

(iii) Any appointment made after June 1, 1960, including an appointment by inter vivos instrument or will under powers created before June 1, 1960.

(4) Section 11–104 of this article applies to a will or inter vivos conveyance executed after May 31, 1912.

(5) Section 11–106 of this article applies to the estate of any decedent dying on or after June 1, 1967.

(6) (i) Section 11–107 of this article applies to the estate of any decedent dying on or after January 1, 1970.

(ii) As to the estate of a decedent dying between October 1, 1964, and December 31, 1969, the provisions of Chapter 918 of the Acts of 1965 apply.

(7) Section 11–108 of this article applies to any releases executed on or after January 1, 1970.

(8) Every provision of Title 11 of this article not specifically mentioned in this subsection became applicable on January 1, 1970.

(f) Section 7–308 of the Tax – General Article applies to the estate of any decedent dying on or after June 1, 1965.

§12–103.

Except as otherwise provided in this title:

(1) The administration on or after July 1, 1974 of estates of persons who died before July 1, 1974, shall be governed by those statutes in effect before July 1, 1974; and

(2) The administration on or after January 1, 1970 of estates of persons who died before January 1, 1970, shall be governed by those statutes in effect before January 1, 1970.

§13–101.

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

(b) "ABLE account" means an account described under 26 U.S.C. § 529A(e).

(c) "Classification of abode" means one of the following types of abode licensed or certified by a State agency:

(1) Related institutions under § 19–114 of the Health – General Article;

(2) Private or public group homes under § 7–601 of the Health – General Article;

(3) CARE homes under Title 6, Subtitle 5, Part II of the Human Services Article;

(4) Adult foster care homes regulated by the Department of Human Services; or

(5) Senior assisted housing facilities under Title 10 of the Human Services Article.

(d) "Court" means the court having jurisdiction under § 13–105 of this subtitle.

(e) "Director" means the director of the local department of social services in the political subdivision where the adult requiring protective services lives.

(f) "Disabled person" means, unless the context requires otherwise, a person other than a minor who:

(1) (i) Has been judged by a court to be unable to manage the person's property for reasons listed in § 13–201(c)(1) of this title; and

(ii) As a result of this inability requires a guardian of the person's property; or

(2) (i) Has been judged by a court to be unable to provide for the person's daily needs sufficiently to protect the person's health or safety for reasons listed in § 13–705(b) of this title; and

(ii) As a result of this inability requires a guardian of the person.

(g) "Emergency" means that a person is living in conditions which present a substantial risk of death or immediate and serious physical harm to the person or others.

(h) "Estate" is the property of a disabled person or minor which is subject to a protective proceeding.

(i) "Guardian" means a guardian of an estate appointed by a court under Subtitle 2 of this title to manage the property of a disabled person or minor or a guardian of a person appointed by a court under Subtitle 7 of this title, according to the context in which it is used.

(j) "Heirs" denotes those persons entitled under the laws of Maryland to the property of a protected person, as if the protected person had died intestate at the applicable time.

(k) (1) "Interested person" means the guardian, the heirs of the minor or disabled person, any governmental agency paying benefits to the minor or disabled

person, or any person or agency eligible to serve as guardian of the disabled person under § 13–707 of this title.

(2) If an interested person is also a minor or a disabled person, "interested person" also includes a judicially appointed guardian, committee, conservator, or trustee for that person, or, if none, the parent or other person having assumed responsibility for that person.

(l) "Maryland Rules" has the meaning stated in § 1–101(o) of this article.

(m) "Mental facility" means any place providing a clinic, hospital, day residential or other programs, public or private, other than a veterans' hospital, which purports to or does provide treatment for persons suffering from mental disorders as defined in § 10–101(i) of the Health – General Article or § 3–101(g) of the Criminal Procedure Article, intellectual disability as defined in § 7–101(m) of the Health – General Article, or drug addiction or for chronic alcoholics.

(n) A "minor" is a person who has not reached the age of 18.

(o) "Pooled asset special needs trust" means a trust described under 42 U.S.C. § 1396p(d)(4)(C).

(p) "Property" includes both real and personal property.

(q) "Protective proceeding" is a proceeding to protect an estate in accordance with Subtitle 2 of this title or a proceeding to appoint a guardian of the person brought pursuant to Subtitle 7 of this title.

(r) "Special needs trust" means a trust described under 42 U.S.C. § 1396p(d)(4)(A).

(s) "Trust company" has the meaning stated in § 1–101 of this article.

§13–102.

(a) The purposes of this title are:

(1) To simplify the administration of the estates of minors and disabled persons;

(2) To reduce the expenses of administration;

(3) To clarify the law governing the estates of minors and disabled persons; and

(4) To eliminate certain provisions of existing law which are archaic, often meaningless under modern procedures, and no longer useful.

(b) This article shall be liberally construed and applied to promote its underlying purposes.

§13–103.

For the purposes of this title, verification is sufficient if made in accordance with the provisions of § 1-102(a) and (b) of this article.

§13–104.

For the purposes of this title, notice is sufficient if given in accordance with the provisions of § 1-103(a), (b), and (c) of this article.

§13–105.

(a) (1) The orphans' courts and the circuit courts have concurrent jurisdiction over guardians of the person of a minor and over protective proceedings for minors.

(2) Upon petition of an interested person, a matter initiated in the orphans' court may be transferred to the circuit court.

(b) Subject to Title 13.5 of this article, the circuit courts have exclusive jurisdiction over protective proceedings for disabled persons.

(c) (1) An orphans' court may exercise jurisdiction over guardianship of the person of a minor if the presiding judge of the orphans' court is a member of the bar, regardless of whether the minor who is the subject of the petition for guardianship of the person has property, may inherit property, or is destitute.

(2) An orphans' court that exercises jurisdiction or is requested to exercise jurisdiction under this subsection may:

(i) Transfer the matter to the circuit court on a finding that the best interests of the child require utilization of the equitable powers of the circuit court; and

(ii) Waive the costs, if any, of a transfer under this paragraph.

§13–106.

(a) An orphans' court has full power to secure the rights of a minor whose estate is being administered by a guardian under its jurisdiction.

(b) (1) The orphans' court, under the pretext of incidental power or constructive authority, may not exercise jurisdiction not expressly conferred by law.

(2) The orphans' court is governed by the provisions of §§ 2–102 through 2–105 of this article.

§13–107.

If appropriate to proceedings under this title, the powers and duties of the register of wills in proceedings in the orphans' court are the same as the powers and duties of the registers under Title 2, Subtitle 2 of this article.

§13–201.

(a) On petition, and after any notice or hearing prescribed by law or the Maryland Rules, the court may appoint a guardian of the property of a minor or a disabled person.

(b) A guardian shall be appointed if the court determines that:

(1) A minor owns or is entitled to property that requires management or protection; or

(2) Funds are needed for the minor's support, care, welfare, and education and protection is necessary or desirable to obtain or provide funds.

(c) A guardian shall be appointed if the court determines that:

(1) The person is unable to manage effectively the person's property and affairs because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, detention by a foreign power, or disappearance; and

(2) The person has or may be entitled to property or benefits which require proper management.

§13–202.

Venue in proceedings under this subtitle shall be as provided by the Maryland Rules.

§13–203.

(a) (1) While a petition for appointment of a guardian or other protective order is pending, the court may preserve and apply the property of the alleged disabled person or minor as may be required.

(2) The court need not give notice to other persons.

(b) (1) The court may not exercise the power conferred by subsection (a) of this section unless it appears from specific facts shown by affidavit that immediate, substantial, and irreparable injury will result to the applicant or to the minor or disabled person before an adversary hearing can be held.

(2) The court may communicate informally with the minor or disabled person before taking action.

(3) Any order shall be served immediately on the minor or disabled person.

(c) (1) Except for the limitations contained in § 13–106 of this title, after appointment of the guardian, the court has all the powers over the property of the minor or disabled person that the person could exercise if not disabled or a minor.

(2) The powers that a circuit court has under paragraph (1) of this subsection include the power to authorize or direct the guardian to:

(i) Make gifts from the principal and income of the estate; and

(ii) Disclaim on behalf of the minor or disabled person, in whole or in part, the right of succession or transfer to that person of any property or interest in any property.

(3) The powers that a circuit court has under paragraph (2) of this subsection are in addition to and may not limit the power:

(i) Conferred upon the guardian to make distributions under § 13–214 of this subtitle; and

(ii) Conferred upon the guardian or the circuit court, without appointing a guardian, to disclaim or authorize or direct a disclaimer on behalf of a minor or disabled person under § 9–201(c) of this article.

(d) A guardian or any other interested person may invoke the jurisdiction of the court at any time to resolve questions concerning the estate or its administration.

§13–204.

(a) (1) If a basis exists as described in § 13–201 of this subtitle for assuming jurisdiction over the property of a minor or disabled person, the circuit court, without appointing a guardian, may authorize or direct a transaction with respect to the property, service, or care arrangement of the minor or disabled person.

(2) The transactions described under paragraph (1) of this subsection include:

(i) Payment, delivery, deposit, or retention of funds or property;

(ii) Sale, mortgage, lease, or other transfer of property;

(iii) Purchase of contracts for an annuity, life care, training, or education;

(iv) Making the election to take an elective share of an estate subject to election under § 3–403 of this article;

(v) Granting access to financial records;

(vi) Establishing eligibility for government assistance programs; or

(vii) Any other transaction described in:

1. § 13–203(c)(2) of this subtitle;

2. Title 9, Subtitle 2 of this article; or

3. § 15–102 of this article.

(b) Before approving a transaction or arrangement under this section, the court shall consider the interests of creditors and dependents of the minor or disabled person and whether the property of the minor or disabled person needs the continuing protection provided by a guardian.

§13–205.

An adjudication under this subtitle shall have no bearing on the issue of whether the alleged disabled person has the capacity for self–care.

§13–206.

(a) Subject to the provisions of § 13-207 of this subtitle, the court may appoint as guardian of the estate of a minor or disabled person:

(1) Any individual;

(2) Any trust company; or

(3) Any other corporation authorized by law to serve as a trustee.

(b) The appointed guardian shall qualify by filing any required bond.

(c) (1) (i) The appointment and qualification of a guardian vests in the guardian title to all property of the minor or protected person that is held at the time of appointment or acquired later.

(ii) The appointment is not a transfer or alienation within the meaning of any federal or State statute or regulation, insurance policy, pension plan, contract, will, or trust instrument that imposes restrictions on or penalties for transfer or alienation by the minor or disabled person of the minor or disabled person's rights or interest.

(iii) A guardian shall utilize powers conferred by this subtitle to perform services, exercise discretion, and discharge the guardian's duties for the best interest of the minor or disabled person or the minor or disabled person's dependents.

(2) If a trust company is appointed guardian, a court may order any money paid to the court for the benefit of the minor or disabled person to be deposited with the trust company.

(d) The guardian is the statutory agent of the minor or disabled person for the purpose of filing all government reports and returns.

§13–207.

(a) Persons are entitled to appointment as guardian for a minor or disabled person according to the following priorities:

(1) A conservator, committee, guardian of property, or other like fiduciary appointed by any appropriate court of any foreign jurisdiction in which the minor or disabled person resides;

(2) A person or corporation nominated by the minor or disabled person if:

(i) The designation was signed by the minor or disabled person when the minor or disabled person was at least 16 years old; and

(ii) In the opinion of the court, the minor or disabled person had sufficient mental capacity to make an intelligent choice at the time the designation was executed;

(3) The minor or disabled person's spouse;

(4) The minor or disabled person's parents;

(5) A person or corporation nominated by the will of a deceased parent;

(6) The minor or disabled person's children;

(7) The persons who would be the minor or disabled person's heirs if the minor or disabled person were dead;

(8) A person or corporation nominated by a person, institution, organization, or public agency that is caring for the minor or disabled person;

(9) A person or corporation nominated by a governmental agency that is paying benefits to the minor or disabled person; and

(10) Any other person considered appropriate by the court.

(b) (1) A person specified in a priority in subsection (a)(1), (3), (4), (6) or (7) of this section may waive and nominate in writing a person or corporation to serve in the specified person's stead.

(2) A nominee of a person holding a priority has the same priority as the person making the nomination.

(c) (1) Among persons with equal priority, the court shall select the one best qualified of those willing to serve.

(2) For good cause the court may pass over a person with priority and appoint a person with less priority or no priority.

(d) (1) Subject to paragraph (2) of this subsection, nonresidence does not disqualify any person from serving as guardian.

(2) Any nonresident who is appointed cannot qualify until the nonresident files with the register or clerk an irrevocable designation by the nonresident of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the effect as if it were served personally in the State on the nonresident.

(e) The court may not name an official or employee of a local department of social services, the State Department of Human Services, a local area agency on aging as defined in § 10–101 of the Human Services Article, or the Department of Aging as guardian of the estate.

§13–208.

(a) Where the instrument nominating a guardian excuses a noncorporate guardian from furnishing bond, the court shall not require a bond unless exceptional circumstances are shown to exist which make it necessary to require a bond for the safety of those interested in the administration of the estate.

(b) A corporate guardian shall not be required to furnish bond.

(c) In the case of a noncorporate guardian, including a substituted or successor or reinstated guardian nominated by the court or nominated under an instrument which is silent as to bond, the court may, subject to subsection (d) of this section, require a bond if, in its discretion, it finds it necessary for the safety of those interested in the administration of the estate.

(d) In a guardian estate consisting entirely of cash, deposited as provided in the rules, securities or real property, or any combination of them which cannot be transferred by the guardian without the approval of the court, not exceeding $10,000, the court shall not require a guardian to furnish or continue in effect a bond, unless exceptional circumstances are shown to exist.

(e) (1) The penalty of the bond may not be greater than the aggregate value of the property of the estate under the control of the guardian, less the value of securities or money deposited in a financial institution as defined in § 13–301(h) of this title under arrangements requiring an order of the court for their removal, and the value of any land which the guardian, by express limitation of power, lacks power to sell or convey without court authorization.

(2) The court may, in lieu of sureties on a bond, accept other security for the performance of the bond, including a pledge of securities or a mortgage of land.

(3) The court may at any time, subject to the maximum penalty provided by this section, require the amount of the bond, or the type or value of security, to be changed.

(4) The approval of a new bond may not discharge a bond filed previously from any liability which may have accrued before approval.

(f) The terms of any bond shall be as provided by the Maryland Rules.

§13–209.

Inventory and accounting in proceedings under this subtitle shall be as provided by the Maryland Rules.

§13–209.1.

(a) (1) Subject to paragraph (2) of this subsection, a guardian of the property of a minor or disabled person may petition the court to deposit cash belonging to the minor or disabled person in an amount not exceeding $200,000 into a single restricted account.

(2) (i) If the amount of cash belonging to a minor or disabled person exceeds $200,000, any excess amount shall be deposited into additional restricted accounts.

(ii) The amount deposited in an additional restricted account under subparagraph (i) of this paragraph may not exceed $200,000.

(iii) The aggregate amount deposited in any financial institution may not exceed $200,000.

(b) A deposit under subsection (a) of this section may be made into any type of account, including a certificate of deposit, in a financial institution that:

(1) Accepts deposits; and

(2) (i) Is federally insured; or

(ii) Is regulated by the Commissioner of Financial Regulation.

§13–210.

(a) An interested person may file a petition for an order:

(1) Requiring bond, security, additional bond, or security in an estate where bond can be required;

(2) Requiring an accounting of the administration of the estate;

(3) Directing distribution;

(4) Removing the guardian and appointing a successor guardian; or

(5) Granting other appropriate relief.

(b) A guardian may petition the appointing court for permission to act in any matter relating to the administration of the estate.

(c) Upon hearing after notice and upon good cause shown, the court may issue an appropriate order.

§13–211.

(a) (1) There shall be no jury trial in protective proceedings.

(2) Procedures for notice to interested persons, the forms of petitions, and the conduct of and requirements at hearings are as provided in the Maryland Rules.

(b) (1) Unless the alleged disabled person has chosen counsel, the court shall appoint an attorney to represent the alleged disabled person in the proceeding.

(2) If the alleged disabled person is indigent, the State shall pay a reasonable attorney's fee.

(3) In any action in which payment for the services of a court–appointed attorney for the alleged disabled person is the responsibility of the local department of social services, unless the court finds that it would not be in the best interests of the alleged disabled person, the court shall:

(i) Appoint an attorney who has contracted with the Department of Human Services to provide those services, in accordance with the terms of the contract; and

(ii) In an action in which an attorney has previously been appointed, strike the appearance of the attorney previously appointed and appoint the attorney who is currently under contract with the Department of Human Services, in accordance with the terms of the contract, unless the previously appointed attorney is willing to accept the same fee and the court does not find a conflict of interest.

§13–212.

A guardian shall exercise the care and skill of a person of ordinary prudence dealing with the person's own property in the administration of the estate and the exercise of the guardian's powers.

§13–213.

All the provisions of § 15–102 of this article with respect to the powers of a fiduciary and the manner of exercise of those powers and Title 15, Subtitle 6 of this article are applicable to a guardian.

§13–214.

(a) In this section, "family member" means a child, a parent, a spouse, a grandparent, a brother, a sister, an uncle, or an aunt by blood, adoption, or marriage.

(b) (1) Except as provided in paragraph (2) of this subsection, a guardian may distribute or disburse property without court authorization or confirmation in accordance with this section.

(2) A guardian of a minor or disabled person who is not a family member of the minor or disabled person may not distribute or disburse property without court authorization or confirmation if the distribution or disbursement would financially benefit:

(i) Except for reasonable compensation and reimbursement for expenses as authorized under § 13–218 of this subtitle, the guardian; or

(ii) A family member of the guardian.

(3) If a guardian distributes or disburses property in violation of paragraph (2) of this subsection, the guardian is liable for breach of the guardian's fiduciary duty to the minor or disabled person or to interested persons for resulting damage or loss to the same extent as a trustee of an express trust.

(c) (1) A guardian of a minor may pay or apply income and principal from the estate as needed for the clothing, support, care, protection, welfare, and education of the minor.

(2) (i) A guardian of a disabled person may pay or apply income and principal from the estate as needed for the clothing, support, care, protection, welfare, and rehabilitation of the disabled person.

(ii) The guardian shall give consideration to the support and care of the disabled person during the probable period of the estate and the needs of persons dependent upon the disabled person.

(3) Income and principal also may be paid or applied:

(i) For the benefit of persons legally dependent on the minor or disabled person; and

(ii) With the approval of the court, for the benefit of other persons maintained and supported in whole or in part by the disabled person before the appointment of a guardian.

(d) If a minor or disabled person is "disabled" as defined under 42 U.S.C. § 1382c(a)(3), a guardian of the minor or disabled person may pay or apply income or principal from the estate to establish or fund, for the benefit of the minor or disabled person:

(1) A special needs trust, provided that the trustee is subject to the jurisdiction of a court, bonded, and required to file annual accountings of the trust;

(2) A pooled asset special needs trust account, provided that the trust has been approved by the attorney general of the state where the minor or disabled person resides; or

(3) An ABLE account.

(e) (1) (i) When a minor attains the age of majority, the guardian of the minor, after meeting all prior claims and expenses of administration, shall distribute the estate to the former minor as soon as possible, unless the minor is then disabled.

(ii) The distribution normally shall be in kind.

(2) (i) If the guardian is satisfied that the disability of the disabled person has ceased or if the court has found in a proceeding under § 13–221

of this subtitle that the disability has ceased, the guardian, after meeting all prior claims and expenses of administration, shall distribute the estate to the former disabled person as soon as possible.

(ii) The distribution normally shall be in kind.

(3) When a minor or disabled person dies, the guardian shall deliver to the appropriate probate court for safekeeping any will of the deceased person in the guardian's possession, pay from the estate all commissions, fees, and expenses shown on the court–approved final guardianship account, inform the personal representative or a beneficiary named in it that the guardian has done so, and retain the balance of the estate for delivery to an appointed personal representative of the decedent or other person entitled to it.

(4) If a guardianship is terminated for reasons other than the attainment of majority, cessation of disability, or death of the protected person, the guardian shall distribute the estate in accordance with the order of the court terminating the guardianship.

§13–215.

(a) Any limitation on the powers of a guardian contained in a will or other instrument which nominated a guardian should ordinarily be imposed by the court on the guardian.

(b) If the court limits any power conferred on the guardian by § 13–214 of this subtitle or § 15–102 of this article, the limitation shall be endorsed on the letters of appointment.

§13–216.

(a) If the exercise of a power is improper, the guardian is liable for breach of the guardian's fiduciary duty to the minor or disabled person or to interested persons for resulting damage or loss to the same extent as a trustee of an express trust.

(b) The rights of purchasers and others dealing with a guardian shall be determined as provided in § 13–219 of this subtitle and are not necessarily affected by the guardian's breach of fiduciary duty in the transaction.

§13–217.

(a) (1) Letters of guardianship may be recorded in the land records of the county of residence of the minor or disabled person and of any other county where there is real estate in which the estate has an interest.

(2) The recordation has the same effect as notice as recording a conveyance from the minor or disabled person to the guardian.

(b) Orders of the court modifying or terminating letters of guardianship or authorizing making a conveyance or doing any other act with respect to interests in real estate constituting part of the estate may be recorded in a similar manner and with similar effect.

§13–218.

(a) (1) Except in unusual circumstances and as provided in subsection (c) of this section, the guardian is entitled to compensation and reimbursement for actual and necessary expenses as provided in subsection (b) of this section.

(2) No petition or hearing is required to entitle the guardian to compensation and expenses.

(3) On the petition of any interested person and on a finding by the court that unusual circumstances exist, the court may increase or decrease compensation.

(b) (1) (i) Accounting from July 1, 1981, regardless of whether the guardianship estate was in existence at the time, income commissions are:

1. 6% on all income from real estate, ground rents, and mortgages collected in each year; and

2. A. 6.5% on the first $10,000 of all other income collected in each year;

B. 5% on the next $10,000;

C. 4% on the next $10,000; and

D. 3% on any remainder.

(ii) Income commissions shall be paid from and chargeable against income.

(iii) Income collected includes a portion of income payable to a trustee but withheld by the payor in compliance with revenue law.

(2) (i) Accounting from July 1, 1981, regardless of whether the guardianship estate was in existence at the time, commissions are payable at the end of each year on the fair value of the corpus or principal held in the guardianship estate at the end of each year as follows:

1. 0.4% on the first $250,000;

2. 0.25% on the next $250,000;

3. 0.15% on the next $500,000; and

4. 0.1% on any excess.

(ii) Corpus commissions under this paragraph shall be paid out of and chargeable against the corpus.

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

(3) (i) For selling real or leasehold property, a commission on the proceeds of the sale is payable at the rate allowed by rule of court or statute to guardians appointed to make sales under decrees or orders of the court for the county where the real or leasehold property is situated, or if the property is located outside of this State, for selling similar property in the county where the guardianship estate is being administered.

(ii) The commission described in subparagraph (i) of this paragraph is payable from the proceeds of the sale when collected.

(4) (i) On the final distribution of a guardianship estate or portion of a guardianship estate, an allowance is payable commensurate with the labor and responsibility involved in making the distribution, including the making of a division, the ascertainment of the parties entitled to the distribution, the ascertainment and payment of taxes, and any necessary transfer of assets.

(ii) The allowance described in subparagraph (i) of this paragraph is subject to revision or determination by a court having jurisdiction.

(iii) In the absence of special circumstances, the allowance described in subparagraph (i) of this paragraph shall be equal to 0.5% of the fair value of the corpus that is distributed.

(5) A guardian may petition the court for the county where the guardianship estate is located and obtain approval for an increase in fees after giving notice of the action to the interested parties of the guardianship estate.

(6) The legal and court costs incurred by the guardian in accordance with a court review under paragraph (5) of this subsection shall be charged against fees of the guardian and may not be assumed by the guardianship estate or the interested parties.

(c) If the guardian is appointed as the guardian of a disabled person who is a recipient of long–term care services and supports under the Maryland Medical Assistance Program and whose income is subject to § 15–122.3 of the Health – General Article, the guardian is not entitled to receive more than $50 per month in compensation unless the court makes a finding that unusual circumstances exist.

§13–219.

(a) In the absence of actual knowledge or of reasonable cause to inquire whether the guardian is improperly exercising the guardian's power, a person dealing with the guardian need not inquire whether the guardian is exercising it properly, and is protected as if the guardian properly exercised the power, except that every person is charged with actual knowledge of any limitations endorsed on the letters of guardianship.

(b) A person need not see to the proper application of estate assets paid or delivered to a guardian.

§13–220.

(a) The appointment of a guardian terminates when the guardianship terminates under § 13–221 of this subtitle and may be terminated sooner by the guardian's death, disability, resignation, or removal.

(b) Termination of appointment of a guardian has the effects provided in this section.

(c) (1) (i) Termination ends the right and power pertaining to the office of guardian.

(ii) Unless otherwise ordered by the court, a guardian whose appointment has been terminated shall perform acts necessary to protect the estate and deliver the property to the successor guardian.

(2) Subject to the provisions of the Maryland Rules, termination does not discharge a guardian from liability for transactions or omissions occurring before termination, or relieve the guardian of the duty to preserve, account for, and deliver to a successor property subject to the guardian's control.

(3) All lawful acts of a guardian before the termination of appointment shall remain valid and effective.

(d) (1) The death of a guardian or the decree of a court of competent jurisdiction that a guardian is under legal disability shall terminate the guardian's appointment.

(2) The personal representative of a deceased guardian or the person appointed to protect the estate of a guardian under legal disability shall:

(i) Have the duty to protect property belonging to the estate being administered by the deceased or disabled guardian;

(ii) Have the power to perform acts necessary for the protection of property;

(iii) Immediately account for and deliver the property to a successor guardian; and

(iv) Apply immediately to the court for the appointment of a successor guardian to carry on the administration of the estate which was being administered by the deceased or disabled guardian in accordance with the Maryland Rules.

(e) A guardian who desires to resign the guardian's office may do so in accordance with the provisions of the same Maryland Rules by which a fiduciary may resign the fiduciary's office.

§13–221.

(a) The minor or disabled person, the minor's or disabled person's personal representative, the guardian, or any other interested person may petition the court to terminate the guardianship proceedings.

(b) A guardianship proceeding shall terminate on:

(1) The cessation of the minority or disability;

(2) The death or presumptive death of the minor or disabled person;

(3) Transfer of all the assets of the estate to a foreign fiduciary; or

(4) Other good cause for termination as may be shown to the satisfaction of the court.

(c) Termination and final distribution of the estate of a former minor or disabled person shall be made in compliance with the provisions of the Maryland Rules, applying to a fiduciary.

§13–222.

(a) (1) A guardian, conservator, committee, or other similar fiduciary, appointed by the appropriate court of another jurisdiction to manage the property of a protected person who is a resident of that jurisdiction, may exercise in the State all powers of the office, including the power to:

(i) Sell, purchase, or mortgage real estate in the State; and

(ii) Collect, receipt for, take possession of, and remove to the other jurisdiction:

1. Money due;

2. Tangible personal property; or

3. An instrument evidencing a debt, an obligation, a stock, or a chose in action located in the State.

(2) Subject to any statute or rule relating to nonresidents, the guardian, conservator, committee, or other similar fiduciary, appointed by the appropriate court of another jurisdiction, may sue and be sued in the State.

(b) Before receiving actual notice of the pendency of a guardianship proceeding in the State, a person who has changed the person's position by relying on

the powers granted by this section may not be prejudiced by the pendency of the proceeding.

§13–223.

(a) On the filing of a petition for guardianship of the property of an alleged disabled person, a party to the guardianship may file a request for the stay of any of the following civil actions or proceedings against the alleged disabled person with the court presiding over the civil action or proceeding:

(1) An action for failure to pay rent under § 8–401 of the Real Property Article;

(2) A warrant of restitution under § 8–401 of the Real Property Article;

(3) An action for wrongful detainer under § 14–132 of the Real Property Article;

(4) A foreclosure action under § 7–105.1 of the Real Property Article;

(5) A sheriff's sale under Title 11, Subtitle 5 of the Courts Article; and

(6) An action against the property of the alleged disabled person.

(b) A party to the guardianship of the property of an alleged disabled person requesting the stay of an action under subsection (a) of this section shall:

(1) Provide notice of the petition and request to all parties to the action for which the stay is sought; and

(2) Within 90 days after filing the petition or the period of the stay determined under subsection (c)(1) of this section, notify a court granting a stay under this section and any party to that action of:

(i) The appointment of a temporary or permanent guardian of the property of the disabled person; or

(ii) The denial, dismissal, or withdrawal of the petition.

(c) (1) Unless extended for good cause, a stay under subsection (a) of this section may remain in effect for not more than 90 days after the filing of the petition.

(2) The stay under subsection (a) of this section shall automatically be lifted on:

(i) The appointment of a temporary or permanent guardian of the property of the disabled person, whichever occurs first; or

(ii) The denial of the petition.

(d) To effectuate service of process on an alleged disabled person for an action stayed under subsection (a) of this section, the temporary or permanent guardian of the property of the disabled person, as appropriate, must be served.

§13–301.

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

(b) "Adult" means an individual who has attained the age of 21 years.

(c) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others.

(d) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

(e) "Court" means a circuit court, an orphans' court, or a court exercising the jurisdiction of an orphans' court.

(f) "Custodial property" means:

(1) Any interest in property transferred to a custodian under this subtitle; and

(2) The income from and proceeds of that interest in property.

(g) "Custodian" means a person so designated under § 13-309 of this subtitle or a successor or substitute custodian designated under § 13-318 of this subtitle.

(h) "Financial institution" means a bank, trust company, savings institution, or credit union chartered and supervised under State or federal law.

(i) "Legal representative" means an individual's personal representative or conservator.

(j) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(k) "Minor" means an individual who has not attained the age of 21 years.

(l) "Person" means an individual, corporation, organization, or other legal entity.

(m) "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.

(n) "Qualified minor's trust" means a trust, including a trust created by a custodian for the use and benefit of a minor:

(1) Of which a minor is the sole beneficiary during the minor's lifetime; and

(2) That meets the requirements of § 2503(c) of the Internal Revenue Code and the regulations implementing that section.

(o) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(p) "Transfer" means a transaction that creates custodial property under § 13-309 of this subtitle.

(q) "Transferor" means a person who makes a transfer under this subtitle.

§13–302.

(a) This subtitle applies to a transfer that refers to the Maryland Uniform Transfers to Minors Act in the designation under § 13–309(a) of this subtitle by which the transfer is made if at the time of the transfer the transferor, the minor, or the custodian is a resident of this State or the custodial property is located in this State.

(b) The custodianship created remains subject to this subtitle despite a subsequent change in residence of a transferor, the minor, or the custodian, or the removal of custodial property from this State.

(c) A person designated as custodian under this subtitle is subject to personal jurisdiction in this State with respect to any matter relating to the custodianship.

(d) A transfer that purports to be made and which is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act, or a substantially similar act of another state is governed by the law of the designated state and may be executed and is enforceable in this State if at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

§13–303.

(a) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: "as custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act".

(b) The nomination may name 1 or more persons as substitute custodians to whom the property must be transferred, in the order named, if the 1st nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve.

(c) The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

(d) A custodian nominated under this section must be a person to whom a transfer of property of that kind may be made under § 13-309(a) of this subtitle.

(e) (1) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under § 13-309 of this subtitle.

(2) Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to § 13-309 of this subtitle.

§13–304.

A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to § 13-309 of this subtitle.

§13–305.

(a) A personal representative or trustee may make an irrevocable transfer pursuant to § 13-309 of this subtitle to a custodian for the benefit of a minor as authorized in the governing will or trust.

(b) If the testator or settlor has nominated a custodian under § 13-303 of this subtitle to receive the custodial property, the transfer must be made to that person.

(c) If the testator or settlor has not nominated a custodian under § 13-303 of this subtitle, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under § 13-309(a) of this subtitle.

§13–306.

(a) Subject to subsection (c) of this section, a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to § 13–309 of this subtitle, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(b) Subject to subsection (c) of this section, a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to § 13–309 of this subtitle.

(c) A transfer under subsection (a) or (b) of this section may be made only if:

(1) The personal representative, trustee, or conservator considers the transfer to be in the best interest of the minor;

(2) The transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument; and

(3) The transfer is authorized by the court if it exceeds $25,000 in value.

§13–307.

(a) Subject to subsections (b) and (c) of this section, a person not subject to § 13-305 or § 13-306 of this subtitle who holds property of or owes a liquidated debt to a minor not having a conservator may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to § 13-309 of this subtitle.

(b) If a person having the right to do so under § 13-303 of this subtitle has nominated a custodian under that section to receive the custodial property, the transfer must be made to that person.

(c) If no custodian has been nominated under § 13-303 of this subtitle, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds $10,000 in value.

§13–308.

A written acknowledgment of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to this subtitle.

§13–309.

(a) Custodial property is created and a transfer is made whenever:

(1) An uncertificated security or a certificated security in registered form is either:

(i) Registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "As custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act"; or

(ii) Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection (b) of this section;

(2) Money is paid or delivered to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "As custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act";

(3) The ownership of a life or endowment insurance policy or annuity contract is either:

(i) Registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "As custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act"; or

(ii) Assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "As custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act";

(4) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "As custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act";

(5) An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "As custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act";

(6) A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

(i) Issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "As custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act"; or

(ii) Delivered to an adult other than the transferor or to a trust company, endorsed to that person, followed in substance by the words: "As custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act"; or

(7) An interest in any property not described in paragraphs (1) through (6) of this subsection is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection (b) of this section.

(b) An instrument in the following form satisfies the requirements of subsection (a)(1)(ii) and (7) of this section:

"Transfer Under the Maryland Uniform

Transfers to Minors Act

I, _____ (name of transferor or name and representative capacity if a fiduciary) hereby transfer to _____ (name of custodian), as custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: _____

_____
(signature)

_____ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Maryland Uniform Transfers to Minors Act.

Dated: _____

_____"
(signature of custodian)

(c) A transferor shall place the custodian in control of the custodial property as soon as practicable.

§13–310.

(a) Subject to subsection (c) of this section, a transfer may be made only for 1 minor, and only 1 person may be the custodian.

(b) All custodial property held under this subtitle by the same custodian for the benefit of the same minor constitutes a single custodianship.

(c) (1) Notwithstanding any provision of this subtitle to the contrary, 2 persons may be designated as custodians of custodial property for the benefit of the same minor and that arrangement shall constitute a single custodianship.

(2) If 2 persons are designated as custodians, they shall act as joint custodians under this subtitle and, unless specified otherwise in any document

creating the custodianship, each joint custodian shall have the full power and authority to act alone as a custodian under this subtitle.

(3) If either joint custodian resigns, dies, becomes incapacitated, or is removed, the remaining custodian may serve as sole custodian without the necessity of appointing a successor joint custodian.

§13–311.

(a) The validity of a transfer made in a manner prescribed in this subtitle is not affected by:

(1) Failure of the transferor to comply with § 13-309(c) of this subtitle concerning possession and control;

(2) Designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under § 13-309(a) of this subtitle; or

(3) Death or incapacity of a person nominated under § 13-303 of this subtitle or designated under § 13-309 of this subtitle as custodian or the disclaimer of the office by that person.

(b) A transfer made under § 13-309 of this subtitle is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided in this subtitle, and neither the minor nor the minor's legal representative has any right, power, duty, or authority with respect to the custodial property except as provided in this subtitle.

(c) By making a transfer, the transferor incorporates in the disposition all the provisions of this subtitle and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this subtitle.

§13–312.

(a) A custodian shall:

(1) Take control of custodial property;

(2) Register or record title to custodial property if appropriate; and

(3) Collect, hold, manage, invest, and reinvest custodial property.

(b) (1) Except as provided in paragraph (2) of this subsection, in dealing with custodial property:

(i) A custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries;

(ii) If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise; and

(iii) A custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor.

(2) A fiduciary subject to § 15-114 of this article shall comply with that section in dealing with custodial property.

(c) A custodian may invest in or pay premiums on life insurance or endowment policies on:

(1) The life of the minor only if the minor or the minor's estate is the sole beneficiary; or

(2) The life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian, is the irrevocable beneficiary.

(d) (1) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor.

(2) Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed.

(3) Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "As a custodian for _____ (name of minor) under the Maryland Uniform Transfers to Minors Act".

(e) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by

a parent or legal representative of the minor or by the minor if the minor has attained the age of 14 years.

§13–313.

(a) A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers, and authority in that capacity only.

(b) This section does not relieve a custodian from liability for breach of § 13-312 of this subtitle.

§13–314.

(a) In this section, "disabled" has the meaning stated in 42 U.S.C. § 1382c(a)(3).

(b) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

(1) The duty or ability of the custodian personally or of any other person to support the minor; or

(2) Any other income or property of the minor which may be applicable or available for that purpose.

(c) (1) Subject to paragraphs (3) and (4) of this subsection, a custodian may transfer all or part of the custodial property to a qualified minor's trust without a court order.

(2) A transfer of custodial property to a qualified minor's trust terminates the custodianship of that property to the extent of the transfer.

(3) Custodial property created under a testamentary instrument may not be transferred under this subsection unless the transfer is expressly authorized by the instrument.

(4) For an inter vivos transfer under this subsection to be valid, the instrument that created the custodial property shall contain in conspicuous type a statement that the transferor of the property elects to grant the custodian the authority to transfer all or part of the custodial property to a qualified minor's trust without a court order.

(d) If the minor is disabled, a custodian may, without court order, use all or part of the custodial property to establish or fund for the benefit of the minor:

(1) A special needs trust, provided that the trustee is subject to the jurisdiction of a court, bonded, and required to file annual accountings of the trust;

(2) A pooled asset special needs trust account, provided that the trust has been approved by the attorney general of the state where the minor resides; or

(3) An ABLE account.

(e) On petition of an interested person or the minor if the minor has attained the age of 14 years, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor.

(f) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect any obligation of a person to support the minor.

§13–315.

(a) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(b) Except for one who is a transferor under § 13-304 of this subtitle, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(c) Except as provided in § 13-318(f) of this subtitle, a custodian need not give a bond.

§13–316.

A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

(1) The validity of the purported custodian's designation;

(2) The propriety of, or the authority under this subtitle for, any act of the purported custodian;

(3) The validity or propriety under this subtitle of any instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

(4) The propriety of the application of any property of the minor delivered to the purported custodian.

§13–317.

(a) A claim based on any of the following may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable:

(1) On a contract entered into by a custodian acting in a custodial capacity;

(2) For an obligation arising from the ownership or control of custodial property; or

(3) On a tort committed during the custodianship.

(b) A custodian is not personally liable:

(1) On a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity and to identify the custodianship in the contract; or

(2) For an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(c) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.

§13–318.

(a) (1) A person nominated under § 13-303 of this subtitle or designated under § 13-309 of this subtitle as custodian may decline to serve by delivering a valid disclaimer to the person who made the nomination or to the transferor or the transferor's legal representative.

(2) If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under § 13-

303 of this subtitle, the person who made the nomination may nominate a substitute custodian under § 13-303 of this subtitle.

(3) In other cases, the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under § 13-309 of this subtitle.

(4) The custodian designated has the rights of a successor custodian.

(b) (1) A custodian at any time may designate a trust company or an adult other than a transferor under § 13-304 of this subtitle as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor.

(2) If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

(c) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of 14 years and to the successor custodian and by delivering the custodial property to the successor custodian.

(d) (1) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor has attained the age of 14 years, the minor may designate as successor custodian, in the manner prescribed in subsection (b) of this section, an adult member of the minor's family, a conservator of the minor, or a trust company.

(2) If the minor has not attained the age of 14 years or fails to act within 60 days after the ineligibility, death, or incapacity, the conservator of the minor becomes successor custodian.

(3) If the minor has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(e) (1) A custodian who declines to serve under subsection (a) of this section or resigns under subsection (c) of this section, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian.

(2) The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(f) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the minor, or the minor if the minor has attained the age of 14 years may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under § 13-304 of this subtitle or to require the custodian to give appropriate bond.

§13–319.

(a) A minor who has attained the age of 14 years, the minor's guardian of the person or legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court for:

(1) An accounting by the custodian or the custodian's legal representative; or

(2) A determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under § 13-317 of this subtitle to which the minor or the minor's legal representative was a party.

(b) A successor custodian may petition the court for an accounting by the predecessor custodian.

(c) The court, in a proceeding under this subtitle or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(d) If a custodian is removed under § 13-318(f) of this subtitle, the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

§13–320.

The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

(1) The minor's attainment of 21 years of age with respect to custodial property transferred under § 13-304, § 13-305, or § 13-306 of this subtitle;

(2) The minor's attainment of age 18 with respect to custodial property transferred under § 13-307 of this subtitle; or

(3) The minor's death.

§13–321.

This subtitle applies to a transfer within the scope of § 13–302 of this subtitle made on or after July 1, 1989, if:

(1) The transfer purports to have been made under the Maryland Uniform Gifts to Minors Act; or

(2) The instrument by which the transfer purports to have been made uses in substance the designation "As custodian under the Uniform Gifts to Minors Act" or "As custodian under the Uniform Transfers to Minors Act" of any other state, and the application of this subtitle is necessary to validate the transfer.

§13–322.

(a) Any transfer of custodial property as now defined in this subtitle made before July 1, 1989, is validated notwithstanding that there was no specific authority in the Maryland Uniform Gifts to Minors Act for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(b) This subtitle applies to all transfers made before July 1, 1989, in a manner and form prescribed in the Maryland Uniform Gifts to Minors Act, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on the effective date of this subtitle.

(c) With respect to the age of a minor for whom custodial property is held, this subtitle does not apply to custodial property held in a custodianship that terminated because of the minor's attainment of the age of 18 before July 1, 1989.

§13–323.

(a) This subtitle shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this subtitle among states enacting it.

(b) This subtitle may not be construed as providing an exclusive method for making transfers to minors.

§13–323.1.

(a) In this section, "reasonable and necessary expense" includes:

(1) Suit money;

(2) Counsel fees; and

(3) Costs.

(b) At any point in a proceeding under this subtitle, the court may order either party to pay to the other party an amount for the reasonable and necessary expense of prosecuting or defending the proceeding.

(c) Before ordering the payment, the court shall consider:

(1) The financial resources and financial needs of both parties; and

(2) Whether there was substantial justification for prosecuting or defending the proceeding.

(d) On a finding by the court that there was an absence of substantial justification of a party for prosecuting or defending the proceeding, the court may award to the other party the reasonable and necessary expense of prosecuting or defending the proceeding.

(e) The court may award reimbursement for any reasonable and necessary expense that previously has been paid.

(f) As to any amount awarded for counsel fees, the court may:

(1) Order that the amount awarded be paid directly to the lawyer; and

(2) Enter judgment in favor of the lawyer.

§13–324.

This subtitle may be cited as the "Maryland Uniform Transfers to Minors Act".

§13–401.

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

(b) "Minor" means any person under 18 years of age:

(1) Who actually resided in the State at the time of the happening of the occurrence out of which the claim, action, or judgment arises; or

(2) Who actually resides in the State at the time money is paid to the minor or to any person acting for the minor because of a claim, action, or judgment in tort.

(c) "Net sum" means:

(1) The net amount due the minor or to any person acting for the minor after the deduction of the fee of the attorney and expenses; or

(2) If the minor is not represented by an attorney, the amount due to the minor or to any person acting for the minor, by or on behalf of any person liable.

(d) "The person responsible for the payment of the money" means:

(1) The attorney, if the minor or any person acting for the minor is represented by an attorney; or

(2) Any defendant, insurer, or the State under the provisions of the Unsatisfied Claim and Judgment Fund Law, if the minor or any person acting for the minor is not represented by an attorney.

§13–402.

It is public policy of the State that any substantial sum of money paid to a minor because of a claim, action, or judgment in tort should be preserved for the benefit of the minor.

§13–403.

(a) Unless a court appoints a guardian of the property of a minor under subsection (c) of this section, if a minor or any other person in whose name a claim in tort is made or judgment in tort obtained on behalf of a minor recovers a net sum of $5,000 or more, the person responsible for the payment of the money shall make payment by check made to the order of "..... (name of trustee), trustee under Title 13 of the Estates and Trusts Article, Annotated Code of Maryland, for ..... (name of minor), minor".

(b) No other act is necessary to constitute the person named a trustee.

(c) (1) In accordance with the procedures for the appointment of a guardian under Subtitle 2 of this title, the court may appoint a guardian of the property of a minor on whose behalf a recovery in tort is sought or has been obtained if the court determines that the appointment would be in the minor's best interest.

(2) The petition for guardianship may be made by an interested person or a trustee under this subtitle.

(d) If a court appoints a guardian of the property of a minor under subsection (c) of this section and the minor or any other person in whose name a claim in tort is made or judgment in tort obtained on behalf of the minor recovers a net sum of $5,000 or more, the person responsible for the payment of the money shall make payment by check made to the order of "....., (name of guardian), guardian under Title 13, Subtitle 2 of the Estates and Trusts Article, Annotated Code of Maryland, for ..... (name of minor), minor".

§13–404.

(a) The trustee need not give bond.

(b) (1) A trustee who receives a check under § 13-403 of this subtitle shall:

(i) Subject to paragraph (3) of this subsection, deposit the check in any financial institution as defined in § 13-301 of this title; or

(ii) Invest or reinvest the proceeds of the check, directly or by securities or other interests of a broker or dealer, in:

1. General obligations of or obligations guaranteed by the United States or this State;

2. Other obligations of the United States or this State or of its political subdivisions, agencies, authorities, or municipal corporations that are rated in one of the two highest rating categories by a nationally recognized credit rating agency; or

3. Any open end management investment company or investment trust that is registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., and that:

A. Meets the criteria of a money market fund that are specified in the federal Investment Company Act and the regulations adopted under that law; or

B. In a prospectus filed with the Securities and Exchange Commission of the federal government, states as a principal investment objective long-term growth or capital appreciation through investments in equity securities.

(2) If the trustee deposits the check in a financial institution under paragraph (1)(i) of this subsection, the trustee may direct the financial institution to invest or reinvest the proceeds of the check in a certificate of deposit or other interest bearing account.

(3) Deposits in a financial institution under paragraph (1)(i) of this subsection may not exceed the amount of insurance provided for such deposits.

(4) Investments in money market funds under paragraph (1)(ii)3A of this subsection, investments in stock mutual funds under paragraph (1)(ii)3B of this subsection, and investments in any combination of both money market funds and stock mutual funds may not exceed 30% of the trust assets at the time of investment.

§13–405.

(a) Except on the order of a circuit court, the financial institution specified in § 13–404(b) of this subtitle may not allow the withdrawal of any of the money except to pay it to the minor on the minor's attainment of the age of 18 years or to pay to the personal representative of the minor's estate on the death of the minor before the minor's attaining the age of 18 years.

(b) Payment by any institution or association in accordance with an order of the court, or to a minor on or after the minor's 18th birthday, or to the personal representative after the death of the minor, is a complete discharge of liability of the institution or association for the money paid.

§13–406.

(a) A trustee shall file a petition for withdrawal of any of the money of the minor in the original court action or in the equity court in the county where the money is on deposit.

(b) (1) The petition shall be verified and state in detail the purposes for which the withdrawal of the money is desired.

(2) On receiving a petition, the court shall make any inquiry necessary before granting or denying the petition in whole or in part.

(c) If money is desired for any purpose other than to pay for medical expenses of the minor, or to further the education of the minor, including reasonable expenditures for room and board, the court shall require a strong showing of necessity by the trustee in a hearing.

(d) If the trustee dies or is discharged, a petition filed under this section shall include a prayer for the appointment of another trustee.

(e) In its order on a petition, the court may direct the institution where the funds of the minor are on deposit to make its check to the order of:

(1) The trustee for the use of the minor; or

(2) The person, firm, or organization which has performed or is to perform a service for or furnish goods to the minor.

(f) The court also may direct payment of a reasonable fee for an attorney and the costs of the proceedings, but may not in any event direct or provide for the payment of any fees or commissions to the trustee.

§13–407.

The trustee provided for in this subtitle need not file any accounts of trusteeship with any court.

§13–501.

(a) (1) Any person, including but not limited to a personal representative or trustee, who is under a duty to pay or deliver money or tangible personal property to a minor may perform the duty by paying or delivering the money or chattel to the guardian of the minor.

(2) If there is no guardian, or if the guardian is unknown, payment or delivery in amounts or values not exceeding $5,000 per annum may be made to the parent or grandparent of the minor with whom the minor resides.

(3) If there is no guardian, parent, or grandparent with whom the minor resides, payment or delivery in amounts or values not exceeding $5,000 per annum may be made to a parent or other person standing in loco parentis with the minor, or deposited in a financial institution described in § 13–301(h) of this title.

(4) The payor is not under a duty to inquire whether the minor has a guardian.

(b) (1) A deposit in a financial institution shall be in the sole name of the minor.

(2) The minor may not withdraw any funds:

(i) Without an order of court; or

(ii) Until the minor attains majority.

(c) (1) Other than the minor or a financial institution, a person receiving money or property for a minor shall apply the money to the support and education of the minor.

(2) A person receiving money or property for a minor may not pay himself or herself except for reimbursement for out–of–pocket expenses for goods and services furnished by others which are necessary for the support of the minor.

(3) Any excess sums shall be preserved for future support of the minor, and any balance not so used and any tangible chattels received for the minor shall be turned over to the minor when the minor attains majority.

(d) (1) If a person owes money or property to a minor and pays or delivers it in accordance with this section, the person is not responsible for the proper application of the money or property.

(2) A release for any distribution signed by the distributee is a valid release.

§13–502.

(a) If money is distributable from a trust or estate or from any other source to a minor and there is no legally appointed guardian of the property of the minor, the circuit court of the county in which the minor resides or the court in which the estate is being administered may order that the money be deposited in any financial institution described in § 13-301(h) of this title to be named in the order so that it draws interest in the name of the minor.

(b) The funds so deposited remain subject to the order of the court. The trustee or any person having custody of the minor shall retain the book of deposit or receipt for the deposit until the minor reaches the age of majority, or a guardian is appointed, and the order and deposit made pursuant to it constitute a release to the trustee or personal representative.

§13–503.

(a) (1) A minor who holds title to property as a tenant by the entirety with a spouse who has reached the age of majority is authorized to join with the spouse in any deed as defined in § 1–101 of the Real Property Article, note, or financing statement in the same manner and effect as an adult.

(2) This subsection does not affect any right granted in subsection (b) of this section.

(b) A war veteran or member of the armed services, who is a minor, eligible for the benefits of the Servicemen's Readjustment Act of 1944, and amendments to it, for the purpose of obtaining the benefits of the Act, may:

(1) Mortgage real estate the eligible minor owns;

(2) Buy real estate and execute a mortgage to cover the purchase money;

(3) Execute a deed for the sale of real estate purchased, or execute notes;

(4) Make other agreements and do other things as necessary to obtain the benefits of the Act, and amendments to it; and

(5) Execute releases of claims in the same manner and effect as an adult.

(c) (1) A minor who is at least 15 years old:

(i) May contract for annuities and for life or health insurance on the minor's own life or body, or on the person of another in whom the minor has an insurable interest;

(ii) May exercise all rights and powers with respect to or under the contract for the annuity or for insurance on the minor's own life or body, or any contract the minor effected on the person of another issued to the minor as described as though of full legal age of 18 years;

(iii) May surrender any interest in the contract and give a valid discharge for any benefit accruing or money payable under it;

(iv) Is not entitled to rescind, avoid, or repudiate the contract, or any exercise of a right or privilege because of minority; and

(v) Is not bound by any unperformed agreement to pay, by promissory note or otherwise, any premium on any insurance contract.

(2) If an estate of a minor is being administered by a guardian, no contract is binding on the estate as to payment of premiums, unless consented to by the guardian.

(3) Any annuity contract or policy of life or health insurance shall be made payable either to the minor or to the minor's estate or to a person having an insurable interest in the life of the minor.

(4) The provisions of this subsection also apply with respect to property, casualty, and surety insurance contracted for by a minor who is at least 15 years old on the minor's own property, liabilities, or other interests.

(d) The absence of specific mention in this subtitle of any power or right granted by law to a minor who is at least 15 years old before the enactment of this subtitle is not intended to affect the existence of the power or right.

§13–504.

The receipt or acquittance of any minor who is the sole owner of or is a party to any account with the right to withdraw funds in a financial institution, as defined in § 13-301(h) of this title is a valid and sufficient release and discharge of the institution for any payment to the minor on any such account.

§13–601.

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

(b) "Activities of daily living" means basic activities of daily living and instrumental activities of daily living.

(c) "Basic activities of daily living" means the routine activities that people do every day without assistance that include:

(1) Eating;

(2) Bathing;

(3) Dressing;

(4) Toileting;

(5) Mobility; and

(6) Continence.

(d) "Deception" means a misrepresentation or concealment of a material fact relating to services rendered, disposition of property, or the use of property intended to benefit a susceptible adult or older adult.

(e) (1) "Financial exploitation" means an act taken by a person who:

(i) Stands in a position of trust and confidence with a susceptible adult or older adult and who knowingly obtains or uses, or endeavors to obtain or use, a susceptible adult's or older adult's funds, assets, or property with the intent to temporarily or permanently deprive the susceptible adult or older adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the susceptible adult or older adult, in such a manner that is not fair and reasonable;

(ii) By deception, false pretenses, false promises, larceny, embezzlement, misapplication, conversion, intimidation, coercion, isolation, excessive persuasion, or similar actions and tactics, obtains or uses, or endeavors to obtain or use, a susceptible adult's or older adult's funds, assets, or property with the intent to temporarily or permanently deprive the susceptible adult or older adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the susceptible adult or older adult; or

(iii) Knows or should know that a susceptible adult or older adult lacks capacity to consent and who obtains or uses, or endeavors to obtain or use, the susceptible adult's or older adult's funds, assets, or property with the intent to temporarily or permanently deprive the susceptible adult or older adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the susceptible adult or older adult.

(2) "Financial exploitation" includes:

(i) Breach of a fiduciary relationship resulting in the unauthorized appropriation, sale, or transfer of property;

(ii) Unauthorized taking of personal assets;

(iii) Misappropriation, misuse, or transfer of assets belonging to a susceptible adult or older adult from a personal or joint account; and

(iv) Intentional failure to effectively use a susceptible adult's or older adult's income and assets for the necessities required for the susceptible adult's or older adult's support and maintenance.

(3) "Financial exploitation" does not include an individual's good–faith use of a susceptible adult's or older adult's assets, including for the purposes of establishing and implementing an estate plan intended to reduce taxes or to maximize eligibility for public benefits in order to preserve assets for an identified or identifiable person.

(f) "Instrumental activities of daily living" means the skills and abilities needed to perform day–to–day tasks associated with an independent lifestyle, including:

(1) Using the telephone;

(2) Doing laundry and dressing;

(3) Shopping and running errands;

(4) Securing transportation;

(5) Preparing meals;

(6) Managing medications;

(7) Housekeeping; and

(8) Managing finances.

(g) "Intimidation" means a communication, by word or act, that a susceptible adult or older adult will suffer physical violence or emotional injury or will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money, social interaction, or emotional or financial support.

(h) "Obtains or uses" means any manner of taking or exercising control over property or making any use, disposition, or transfer of property.

(i) "Older adult" means an individual who is at least 68 years old.

(j) "Position of trust and confidence" means a relationship, whether formed by a formal or informal agreement between a susceptible adult or older adult and another person or recognized by a formal declaration or court order, in which:

(1) A person is entrusted with the use or management of the property or assets of the susceptible adult or older adult, or the susceptible adult's or older adult's care; or

(2) There is a special confidence or trust placed in a person who, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the susceptible adult or older adult.

(k) "Susceptible adult" means an adult who is unable to perform, without prompting or assistance, one or more activities of daily living, is unable to protect the adult's rights, or has diminished executive functioning, due to:

(1) Advanced age;

(2) Mental, emotional, sensory, or physical disability or disease;

(3) Impaired mobility;

(4) Habitual drunkenness;

(5) Addiction to drugs; or

(6) Hospitalization.

§13–602.

The purposes of this subtitle are to:

(1) Establish a separate and distinct civil cause of action by a victim, or a representative of the victim, of financial exploitation;

(2) Provide a path to redress financial exploitation through the recovery of property and assets taken from victims while discouraging protracted litigation;

(3) Provide access to justice for victims and their families who are otherwise unable or unwilling to retain competent legal assistance due to cost; and

(4) Strongly deter individuals seeking to take advantage of susceptible adults or older adults.

§13–603.

This subtitle does not apply to an act taken by:

(1) Any state or federal bank, trust company, credit union, or savings and loan association; or

(2) A subsidiary or affiliate of an institution described in item (1) of this section.

§13–604.

A susceptible adult or older adult who has been subjected to financial exploitation in the State or, in accordance with § 13–605 of this subtitle, a person acting on the susceptible adult's or older adult's behalf may bring a cause of action against a person who has committed financial exploitation against the susceptible adult or older adult to recover damages and obtain other appropriate relief as set forth under this subtitle.

§13–605.

(a) An action may be brought under this subtitle by a susceptible adult or older adult or by a person serving in one or more of the following representative capacities for a susceptible adult or older adult:

(1) An attorney in fact, guardian, trustee, or other fiduciary acting on behalf of the susceptible adult or older adult, or a successor named in an instrument providing such authorization;

(2) A person authorized to make health care decisions for the susceptible adult or older adult, or a successor named in an instrument providing the authorization;

(3) A spouse, parent, or descendent of the susceptible adult or older adult;

(4) An individual who would qualify as the susceptible adult's or older adult's presumptive heir;

(5) A person named as a beneficiary to receive any property, benefit, or contractual right on the susceptible adult's or older adult's death, including a person who would be a beneficiary but for the financial exploitation;

(6) The personal representative or special administrator of an estate of a deceased susceptible adult or older adult; or

(7) A government agency that otherwise has authority and jurisdiction, including:

(i) The Division of Consumer Protection in the Office of the Attorney General; and

(ii) The Securities Commissioner of the Division of Securities in the Office of the Attorney General.

(b) A cause of action authorized under this subtitle:

(1) Is in addition to and cumulative with any other criminal or administrative claims, causes of action at law or in equity, or remedies otherwise available to the susceptible adult or older adult, including an action under § 13–204 of the Commercial Law Article and § 11–209 of the Corporations and Associations Article; and

(2) Shall survive the death of the susceptible adult or older adult.

§13–606.

(a) (1) A plaintiff in an action brought under this subtitle is entitled to recover compensatory damages.

(2) The damages awarded under this section are in addition to and cumulative with other lawful and administrative damages available to a party.

(b) A party who brings an action under this subtitle to recover for injury or loss and is awarded compensatory damages may also seek and the court may award an amount not exceeding three times the compensatory damages and prejudgment interest.

(c) (1) In addition to monetary damages, a party who brings an action under this subtitle is also entitled to:

(i) Any other appropriate relief, including emergency, preliminary or permanent injunction, rescission, restitution, accounting, unjust enrichment, declaratory relief, and constructive trust; and

(ii) Emergency or interim injunctive relief to preserve the assets of the susceptible adult or older adult, without the requirement of a bond in the discretion of the court.

(2) The remedies provided in this subsection are in addition to and cumulative with other legal, equitable, and administrative remedies available to a party.

(d) The court may award reasonable attorney's fees and expenses to any person who brings an action under this subtitle for injury or loss and is awarded damages or any other remedy.

(e) If it appears to the satisfaction of the court, at any time, that an action is brought in bad faith or is of a frivolous nature, the court may order the offending party to pay to the other party reasonable attorney's fees and expenses.

§13–607.

(a) Except as provided in subsection (b) of this section, an action under this subtitle shall be commenced within 5 years after the susceptible adult or older adult, or the susceptible adult's or older adult's representative discovers or, through the exercise of reasonable diligence, should have discovered the facts constituting financial exploitation.

(b) (1) If a criminal prosecution is commenced that arises out of the same facts as an action under this subtitle, the time during which the prosecution is pending shall not be computed as part of the period within which the action under this subtitle may be brought.

(2) After the conclusion of the criminal prosecution described under paragraph (1) of this subsection, the action under this subtitle may be brought within the later of:

(i) The remainder of the period specified under subsection (a) of this section; or

(ii) 1 year.

§13–608.

(a) This subtitle shall be construed and applied liberally to promote its purpose of deterring and remedying the financial exploitation of susceptible adults and older adults.

(b) This subtitle is not intended to alter or amend the burdens of proof or presumptions required by law.

§13–609.

This subtitle may be cited as the Maryland Statute Against Financial Exploitation (SAFE) Act.

§13–701.

(a) Unless prohibited by agreement or court order, the surviving parent of a minor may appoint by will one or more guardians and successor guardians of the person of an unmarried minor.

(b) The guardian need not be approved by or qualify in any court.

§13–702.

(a) (1) On petition by any person interested in the welfare of the minor, and after notice and hearing as prescribed by the Maryland Rules, the court may appoint a guardian of the person of an unmarried minor if the court finds, by a preponderance of the evidence, that:

(i) The appointment is in the best interests of the minor;

(ii) No testamentary appointment has been made; and

(iii) 1. No parent is willing or able to serve as guardian of the person of the minor;

2. Each parent consents to the appointment of the guardian of the person; or

3. No parent files an objection to the appointment of the guardian of the person.

(2) If the minor is at least 14 years old, and if the person otherwise is qualified, the court shall appoint a person designated by the minor, unless the decision is not in the best interests of the minor.

(3) This section may not be construed to require court appointment of a guardian of the person of a minor if there is no good reason, such as a dispute, for a court appointment.

(4) This subsection may not be construed to provide that the appointment of a guardian of the person of a minor requires the termination of any parental rights with respect to the minor under Title 5 of the Family Law Article.

(b) (1) Venue in proceedings under this subtitle shall be as prescribed by the Maryland Rules.

(2) The contents of the petition and the manner of giving notice of the hearing on the petition shall be as prescribed by the Maryland Rules.

(c) If there is no victim's representative who can adequately assert the minor's rights as a victim of a crime or a delinquent act and no court has appointed a guardian ad litem to protect the minor's interests, the rights, duties, and powers that the court may order the guardian to exercise shall include serving as a victim's representative to assert the minor's interests.

§13–703.

(a) The guardian of the person of a minor may not be required to post any bond or to file any accounts.

(b) Unless otherwise provided by the will appointing a guardian of the person, the guardian of the person may not be entitled to any compensation for serving as guardian of the person.

§13–704.

(a) The court may:

(1) Superintend and direct the care of a disabled person;

(2) Appoint a guardian of the person; and

(3) Pass orders and decrees respecting the person as seems proper, including an order directing the disabled person to be sent to a hospital.

(b) Procedures in these cases shall be as prescribed by the Maryland Rules and in accordance with the provisions of this subtitle and Title 13.5 of this article.

(c) (1) On the filing of a petition for attorney's fees made in reasonable detail by an interested person or an attorney employed by the interested person, the court may order reasonable and necessary attorney's fees incurred in bringing a petition for appointment of a guardian of the person of a disabled person to be paid from the estate of the disabled person.

(2) Before ordering the payment of attorney's fees under paragraph (1) of this subsection, the court shall consider:

(i) The financial resources and needs of the disabled person; and

(ii) Whether there was substantial justification for the filing of the petition for guardianship.

(3) On a finding by the court of an absence of substantial justification for bringing the petition for guardianship, the court shall deny a petition for attorney's fees filed under paragraph (1) of this subsection.

(4) The court may not award attorney's fees under paragraph (1) of this subsection if the petition for guardianship is brought by:

(i) A government agency paying benefits to the disabled person;

(ii) A local department of social services; or

(iii) An agency eligible to serve as the guardian of the disabled person under § 13–707 of this subtitle.

§13–705.

(a) On petition and after any notice or hearing prescribed by law or the Maryland Rules, a court may appoint a guardian of the person of a disabled person.

(b) A guardian of the person shall be appointed if the court determines from clear and convincing evidence that:

(1) A person lacks sufficient understanding or capacity to make or communicate responsible personal decisions, including provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or addiction to drugs; and

(2) No less restrictive form of intervention is available that is consistent with the person's welfare and safety.

(c) (1) Procedures and venue in these cases shall be as described by Title 10, Chapters 100 and 200 of the Maryland Rules.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a petition for guardianship of a disabled person shall include signed and verified certificates of competency from the following health care professionals who have examined or evaluated the disabled person:

(i) Two licensed physicians; or

(ii) 1. One licensed physician; and

2. A. One licensed psychologist;

B. One licensed certified social worker–clinical;

C. One nurse practitioner; or

D. One licensed physician assistant.

(3) An examination or evaluation by at least one of the health care professionals under paragraph (2) of this subsection shall occur within 21 days before filing a petition for guardianship of a disabled person.

(d) (1) (i) Subject to paragraph (2) of this subsection, unless the alleged disabled person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding and may require the deposit of an appropriate sum into the court registry or the appointed attorney's escrow account within 30 days after the order of appointment has been entered, subject to further order of the court.

(ii) If the person is indigent, the State shall pay a reasonable attorney's fee.

(iii) The court may not require the deposit of an appropriate sum into the court registry or the appointed attorney's escrow account under subparagraph (i) of this paragraph if payment for the services of the court–appointed attorney for the alleged disabled person is the responsibility of:

1. A government agency paying benefits to the disabled person;

2. A local department of social services; or

3. An agency eligible to serve as the guardian of the disabled person under § 13–707 of this subtitle.

(2) In any action in which payment for the services of a court–appointed attorney for the alleged disabled person is the responsibility of the local department of social services, unless the court finds that it would not be in the best interests of the alleged disabled person, the court shall:

(i) Appoint an attorney who has contracted with the Department of Human Services to provide those services, in accordance with the terms of the contract; and

(ii) In an action in which an attorney has previously been appointed, strike the appearance of the attorney previously appointed and appoint the attorney who is currently under contract with the Department of Human Services, in accordance with the terms of the contract.

(e) (1) (i) The person alleged to be disabled is entitled to be present at the hearing unless the person has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity.

(ii) Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court.

(2) The person alleged to be disabled is also entitled to present evidence and to cross–examine witnesses.

(3) The issue may be determined at a closed hearing without a jury if the person alleged to be disabled or the person's counsel so requests and all hearings herein shall be confidential and sealed unless otherwise ordered by a court of competent jurisdiction for good cause shown.

(f) The court shall hear and rule on a petition seeking appointment of a guardian of the person of a disabled person in connection with medical treatment on an expedited basis.

§13–706.

(a) An adjudication of a disability for purposes of appointing a guardian of a person may not be the basis for commitment of the disabled person to a mental institution.

(b) Appointment of a guardian of the person:

(1) Is not evidence of incompetency of the disabled person; and

(2) Does not modify any civil right of the disabled person unless the court orders, including any civil service ranking, appointment, the right to apply for voluntary admission to a facility under § 10–611 of the Health – General Article, and rights relating to licensure, permit, privilege, or benefit under any law.

§13–707.

(a) Persons are entitled to appointment as guardian of the person according to the following priorities:

(1) A person, agency, or corporation nominated by the disabled person if the disabled person was 16 years old or older when the disabled person signed the designation and, in the opinion of the court, the disabled person had sufficient mental capacity to make an intelligent choice at the time the disabled person executed the designation;

(2) A health care agent appointed by the disabled person in accordance with Title 5, Subtitle 6 of the Health – General Article;

(3) The disabled person's spouse;

(4) The disabled person's parents;

(5) A person, agency, or corporation nominated by the will of a deceased parent;

(6) The disabled person's children;

(7) Adult persons who would be the disabled person's heirs if the disabled person were dead;

(8) A person, agency, or corporation nominated by a person caring for the disabled person;

(9) Any other person, agency, or corporation considered appropriate by the court; and

(10) (i) For adults less than 65 years old, the director of the local department of social services or, for adults 65 years old or older, the Secretary of Aging or the director of the area agency on aging, except in those cases where the department of social services has been appointed guardian of the person before age 65; and

(ii) On appointment as guardian under item (i) of this item, directors of local departments of social services, directors of area agencies on aging, and the Secretary of Aging may delegate responsibilities of guardianship to staff persons whose names and positions have been registered with the court.

(b) (1) A person specified in a priority in subsection (a)(2), (3), (5), or (6) of this section may waive and nominate in writing a person, agency, or corporation to serve in the person's stead.

(2) A nominee of a person holding priority has the same priority as the person making the nomination.

(c) (1) (i) Among persons with equal priority the court shall select the one best qualified of those willing to serve.

(ii) For good cause, the court may pass over a person with priority and appoint a person with a lower priority.

(2) If a guardian of the estate has been appointed, the court may select the guardian of the estate to be guardian of the person, regardless of priority.

(d) (1) Subject to paragraph (2) of this subsection, nonresidence does not disqualify any person from serving as guardian of the person.

(2) A nonresident who is appointed may not qualify until the nonresident files with the register or clerk an irrevocable designation by the nonresident of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the same effect as if it were served personally in the State on the nonresident.

(e) A local department of social services, local office on aging, or the Secretary of Aging, may be appointed as a guardian of a person regardless of whether that person resides in a State or private residential facility.

§13–708.

(a) (1) The court may grant to a guardian of a person only those powers necessary to provide for the demonstrated need of the disabled person.

(2) (i) The court may appoint a guardian of the person of a disabled person for the limited purpose of making one or more decisions related to the health care of that person.

(ii) The court may appoint a guardian of the person of a disabled person for a limited period of time if it appears probable that the disability will cease within 1 year of the appointment of the guardian.

(b) Subject to subsection (a) of this section, the rights, duties, and powers that the court may order include, but are not limited to:

(1) The same rights, powers, and duties that a parent has with respect to an unemancipated minor child, except that the guardian is not liable solely by reason of the guardianship to third persons for any act of the disabled person;

(2) The right to custody of the disabled person and to establish the disabled person's place of abode within and without the State, provided there is court authorization for any change in the classification of abode, except that, except as provided under § 10–611 of the Health – General Article, no one may be committed to a mental facility without an involuntary commitment proceeding as provided by law;

(3) The duty to provide for care, comfort, and maintenance, including social, recreational, and friendship requirements, and, if appropriate, for training and education of the disabled person;

(4) If it is in the best interest of the disabled person, the duty to foster and preserve family relationships including, as appropriate, assisting to arrange visitation and communication by telephone calls, personal mail, and electronic communications;

(5) The duty to take reasonable care of the clothing, furniture, vehicles, and other personal effects of the disabled person, and, if other property requires protection, the power to commence protective proceedings;

(6) If a guardian of the estate of the disabled person has not been appointed, the right to commence proceedings to compel performance by any person of the person's duty to support the disabled person, and to apply the estate to the support, care, and education of the disabled person, except that the guardian of the person may not obtain funds from the estate for room and board that the guardian, the guardian's spouse, parent, or child provide without a court order approving the charge, and the duty to exercise care to conserve any excess estate for the needs of the disabled person;

(7) If a guardian of the estate has been appointed, the duty to control the custody and care of the disabled person, to receive reasonable sums for room and board provided to the disabled person, and to account to the guardian of the estate for funds expended, and the right to ask the guardian of the estate to expend the estate in payment of third persons for care and maintenance of the disabled person;

(8) (i) The duty to file an annual or biannual report with the court indicating the present place of residence and health status of the ward, the guardian's plan for preserving and maintaining the future well–being of the ward, and the need

for continuance or cessation of the guardianship or for any alteration in the powers of the guardian; and

(ii) On receipt of a report under item (i) of this item:

1. The court shall renew the appointment of the guardian if the court is satisfied that the grounds for the original appointment stated in § 13–705(b) of this subtitle continue to exist;

2. If the court believes such grounds may not exist, the court shall hold a hearing, similar to that provided for in § 13–705 of this subtitle, at which the guardian shall be required to prove that such grounds exist;

3. If the court does not make these findings, the court shall order the discontinuance of the guardianship of the person; and

4. If the guardian declines to participate in the hearing, the court may appoint another guardian to replace the guardian pursuant to the priorities in § 13–707(a) of this subtitle; and

(9) The power to give necessary consent or approval for:

(i) Medical or other professional care, counsel, treatment, or service, including admission to a hospital or nursing home or transfer from one medical facility to another;

(ii) Withholding medical or other professional care, counsel, treatment, or service; and

(iii) Withdrawing medical or other professional care, counsel, treatment, or service.

(c) (1) Notwithstanding the powers conferred to a guardian under subsection (b)(8) of this section, and except as provided in paragraph (2) of this subsection, where a medical procedure involves, or would involve, a substantial risk to the life of a disabled person, the court must authorize a guardian's consent or approval for:

(i) The medical procedure;

(ii) Withholding the medical procedure; or

(iii) Withdrawing the medical procedure that involves, or would involve, a substantial risk to the life of the disabled person.

(2) The court may, upon such conditions as the court considers appropriate, authorize a guardian to make a decision regarding medical procedures that involve a substantial risk to life without further court authorization, if:

(i) The disabled person has executed an advance directive in accordance with Title 5, Subtitle 6 of the Health – General Article that authorizes the guardian to consent to the provision, withholding or withdrawal of a medical procedure that involves a substantial risk to life but does not appoint a health care agent; or

(ii) The guardian is:

1. Within a class of individuals specified in § 5–605(a)(2) of the Health – General Article as authorized to make health care decisions for the disabled person; and

2. Determined by the court to be familiar with the personal beliefs, values, and medical situation of the disabled person.

(3) A petition seeking the authorization of a court that a life–sustaining procedure be withheld or withdrawn is subject to the provisions of §§ 13–711 through 13–713 of this subtitle.

(d) (1) Notwithstanding subsection (a) of this section, and in addition to the rights, duties, and powers which the court may order under subsection (b) of this section, the court may order the relief provided under this subsection.

(2) (i) If a guardian of the estate has been appointed, a guardian of the person may ask the guardian of the estate to expend the estate in payment of care and maintenance services provided directly to the disabled person by the guardian of the person at the rate of reimbursement established under this subsection.

(ii) The guardian of the person shall maintain appropriate records to document the care and maintenance services provided directly to the disabled person to receive any payment under this subsection.

(3) To implement the provisions of this subsection, the court may:

(i) Adopt guidelines for the rate of reimbursement for care and maintenance services provided directly by the guardian of the person to a disabled person;

(ii) Establish appropriate procedures for records, inspections, audits, or other requirements to monitor care and maintenance services provided directly by the guardian of the person for which the guardian of the person is reimbursed; and

(iii) Order any act necessary for the best interests of the disabled person.

(e) Notwithstanding subsection (a) of this section, and in addition to the rights, duties, and powers that the court may order under subsection (b) of this section, the court may order the guardian of a person with a disability to serve as a victim's representative to assert the person's interests if:

(1) There is no victim's representative who can adequately assert the person's rights as a victim of a crime or a delinquent act; and

(2) No court has appointed a guardian ad litem to protect the person's interests.

§13–709.

(a) (1) A law enforcement officer shall transport an adult to an appropriate medical facility, which shall immediately notify the next of kin and the director, when, from personal observation of the officer, it appears probable that:

(i) The adult will suffer immediate and serious physical injury or death if not immediately placed in a health care facility;

(ii) The adult is incapable of giving consent; and

(iii) It is not possible to follow the procedures of this section.

(2) The medical care provided under paragraph (1) of this subsection may not be rendered in a State mental facility other than, in an appropriate case, the Walter P. Carter Community Mental Health and Retardation Center and the Highland Health Facility unless authorized by the courts in a civil commitment proceeding.

(3) (i) The director shall file a petition for any adult transferred under this subsection pursuant to subsection (b) of this section within 24 hours after the transfer of the person has taken place.

(ii) The court shall hold a hearing on the petition and render its decision within 48 hours after the transfer has occurred.

(b) Upon petition by an interested person, a court may issue an order authorizing the provision of protective services on an emergency basis to an adult after finding on the record, based on clear and convincing evidence, that:

(1) For the purpose of this section the person lacks capacity under the standards enumerated in § 13–705(b) of this subtitle;

(2) An emergency exists, as defined in § 13–101 of this title; and

(3) No person authorized by law or court order to give consent for the person is available to consent to emergency services.

(c) In issuing an emergency order, the court shall adhere to the following limitations:

(1) Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered; the court shall specifically designate the approved services in its order;

(2) Protective services authorized by an emergency order shall not include hospitalization or a change of residence unless the court specifically finds such action is necessary and gives specific approval for such action in its order;

(3) Protective services may be provided under an initial emergency order for not more than 144 hours, and the initial order may be renewed as provided in paragraph (5) of this subsection;

(4) In its order the court shall appoint the petitioner, another interested person, the director, or the Secretary of Aging as temporary guardian of the person with responsibility for the person's welfare and authority to give consent for the person for the approved protective services until the expiration of the order;

(5) (i) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, the court may extend the terms of the emergency order and the appointment of the temporary guardian until appointment of a guardian of the person pursuant to § 13–705 of this subtitle, on petition of the temporary guardian, the director, or the Secretary of Aging, as appropriate, and after a showing that the conditions found to exist in subsection (b) of this section will probably continue beyond the expiration of the extended emergency order;

(ii) A petition under subparagraph (i) of this paragraph shall be filed before the expiration of the 6–day period provided for in paragraph (3) of this

subsection and shall be accompanied by a petition for appointment of a guardian of the person pursuant to § 13–705 of this subtitle; and

(iii) A petition for appointment of a guardian of the person under subparagraph (ii) of this paragraph shall be heard on an expedited basis no more than 60 days after the filing of the petition;

(6) The issuance of an emergency order and the appointment of a temporary guardian shall not deprive the person of any rights except to the extent provided for in the order or appointment; and

(7) (i) To implement an emergency order, the court may authorize forcible entry of the premises of the person for the purpose of rendering protective services or transporting the person to another location for the provision of protective services only after a showing to the court that attempts to gain voluntary access to the premises have failed and forcible entry is necessary; and

(ii) Persons making authorized forcible entry under subparagraph (i) of this paragraph shall be accompanied by a law enforcement officer, the director or the director's representative, and if appropriate, a representative of the local department of health.

(d) The petition for an emergency order shall set forth:

(1) The name, address, and interest of the petitioner;

(2) The name, age, and address of the person in need of protective services;

(3) The nature of the person's disability, if determinable;

(4) The proposed protective services;

(5) The petitioner's reasonable belief, together with supportive facts, as to the existence of the facts stated in subsection (b)(1) through (3) of this section; and

(6) Facts showing the petitioner's attempts to obtain the person's consent to the services and the outcomes of the attempts.

(e) (1) Notice of the filing of the petition for an emergency order shall be given as required in the Maryland Rules and to the director.

(2) The notice shall be given in language reasonably understandable by the intended recipients at least 24 hours before the hearing for emergency intervention.

(3) The court may waive the 24–hour notice requirement on a showing that:

(i) Immediate and reasonably foreseeable physical harm to the person or others will result from the 24–hour delay; and

(ii) Reasonable attempts have been made to give notice.

(4) Notice of the court's final order shall be given to the same parties as required under paragraph (1) of this subsection.

(f) (1) The hearing on a petition for an emergency order for protective services shall be held under the following conditions:

(i) 1. The person shall be present unless the person has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity; and

2. Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court;

(ii) 1. The person has the right to counsel whether or not the person is present at the hearing;

2. Subject to paragraph (2) of this subsection, if the person is indigent or lacks the capacity to waive counsel, the court shall appoint counsel; and

3. If the person is indigent, the State shall pay reasonable attorney's fees; and

(iii) 1. The person may present evidence and cross–examine witnesses; and

2. The hearing shall be held no earlier than 24 hours after the notice required in subsection (e) of this section has been given, unless such notice has been waived by the court.

(2) In any action in which payment for the services of a court–appointed attorney for the person is the responsibility of the local department of social services, unless the court finds that it would not be in the best interests of the person, the court shall:

(i) Appoint an attorney who has contracted with the Department of Human Services to provide those services, in accordance with the terms of the contract; and

(ii) In an action in which an attorney has previously been appointed, strike the appearance of the attorney previously appointed and appoint the attorney who is currently under contract with the Department of Human Services, in accordance with the terms of the contract.

(g) The court shall issue for the record a statement of its findings in support of any order for emergency protective services.

(h) The person, the temporary guardian, or any interested person may petition the court to have the emergency order set aside or modified at any time, notwithstanding any prior findings by the court that the person is disabled.

(i) (1) If protective services are rendered on the basis of an emergency order, the temporary guardian shall submit a report describing the circumstances including the name, place, date, and nature of the services, and the use of forcible entry, if any, to the court and the director.

(2) The report under this subsection shall become part of the court record.

(j) The person or the guardian of the person may appeal any findings of a court under subsection (b) of this section. Such appeal shall be handled on an expedited basis by the appellate court.

§13–710.

(a) Any person filing a petition, participating in the making of a good–faith report, or participating in an investigation or in a judicial proceeding resulting therefrom, pursuant to § 13–705 or § 13–709 of this subtitle or Title 14, Subtitle 3 of the Family Law Article, shall have the immunity from civil liability or criminal penalty described under § 5–618(a) of the Courts and Judicial Proceedings Article.

(b) A law enforcement officer who transports an adult to an appropriate medical facility under § 13–709 of this subtitle shall have the immunity from civil or

criminal liability described under § 5–618(b) of the Courts and Judicial Proceedings Article.

§13–711.

(a) In this Part III of this subtitle the following words have the meanings indicated.

(b) "Best interest" means that the benefits to the disabled person resulting from a treatment outweigh the burdens to the disabled person resulting from that treatment, taking into account:

(1) The effect of the treatment on the physical, emotional, and cognitive functions of the disabled person;

(2) The degree of physical pain or discomfort caused to the disabled person by the treatment, or the withholding or withdrawal of the treatment;

(3) The degree to which the disabled person's medical condition, the treatment, or the withholding or withdrawal of treatment results in a severe and continuing impairment of the dignity of the disabled person by subjecting the individual to a condition of extreme humiliation and dependency;

(4) The effect of the treatment on the life expectancy of the disabled person;

(5) The prognosis of the disabled person for recovery, with and without the treatment;

(6) The risks, side effects, and benefits of the treatment or the withholding or withdrawal of the treatment; and

(7) The religious beliefs and basic values of the disabled person receiving treatment, to the extent these may assist the decision maker in determining best interest.

(c) "Life-sustaining procedure" means any medical procedure, treatment, or intervention used to sustain, restore, supplement, or supplant a spontaneous vital function in order to prevent or postpone the death of a disabled person.

(d) "Substituted judgment" means a determination by a court that a disabled person would, if competent, make the same health care decision regarding a life-sustaining procedure taking into account any information that may be relevant to the decision, including:

(1) The current diagnosis, prognosis with and without the life-sustaining procedure, and life expectancy of the disabled person;

(2) Any expressed preferences of the disabled person regarding the provision of, or the withholding or withdrawal of, the life-sustaining procedure at issue;

(3) Any expressed preferences of the disabled person about the provision of, or the withholding or withdrawal of, life-sustaining procedures generally;

(4) Any religious or moral beliefs or personal values of the disabled person in relation to the provision of, or the withholding or withdrawal of, life-sustaining procedures;

(5) Any behavioral or other manifestations of the attitude of the disabled person toward the provision of, or the withholding or withdrawal of, the life-sustaining procedure;

(6) Any consistent pattern of conduct by the disabled person regarding prior decisions about health care;

(7) Any reactions of the disabled person to the provision of, or the withholding or withdrawal of, a comparable life-sustaining procedure for another individual; and

(8) Any expressed concerns of the disabled person about the effect on the family or intimate friends of the disabled person if a life-sustaining procedure were provided, withheld, or withdrawn.

§13–712.

(a) The court may approve a request for the withholding or withdrawal of a life-sustaining procedure from a disabled person on the basis of a substituted judgment.

(b) The court may make a substituted judgment under subsection (a) of this section only on the basis of clear and convincing evidence that the disabled person would, if competent, decide to withhold or withdraw a life-sustaining procedure under the circumstances.

(c) Evidence of the intentions or wishes of the disabled person regarding the withholding or withdrawal of a life-sustaining procedure that might otherwise be inadmissible may be admitted, in the discretion of the court, if it is:

(1) Material and probative; and

(2) The best evidence available.

§13–713.

(a) If the court is unable to make a substituted judgment under § 13-712 of this subtitle, the court may approve a request for the withholding or withdrawal of a life-sustaining procedure from the disabled person if the court determines, on the basis of clear and convincing evidence, that the withholding or withdrawal is in the best interest of the disabled person.

(b) The decision of whether life-sustaining procedures should be provided, withheld, or withdrawn shall not be based, in whole or in part, on either a patient's preexisting, long-term mental or physical disability, or a patient's economic disadvantage.

§13–801.

(a) The Secretary of Veterans Affairs shall be an interested person in:

(1) Any proceeding for the appointment, removal, or discharge of any guardian who is receiving or expects to receive any money from the U.S. Department of Veterans Affairs for a minor or disabled person who is a U.S. Department of Veterans Affairs beneficiary; and

(2) Any suit or other proceeding affecting in any manner the administration by the guardian of the estate of any present or former beneficiary which includes assets derived in whole or in part from benefits paid by the U.S. Department of Veterans Affairs to the guardian or the guardian's predecessor for the beneficiary.

(b) Notice of a suit or proceeding shall be given to the office of the U.S. Department of Veterans Affairs having jurisdiction over the area in which the suit or proceeding is pending at least 15 days before any hearing unless notice is waived in writing.

§13–802.

If a petition is filed for the appointment of a guardian for a minor who is a U.S. Department of Veterans Affairs beneficiary, a certificate of the Secretary or the Secretary's authorized representative, setting forth the age of the minor as shown by the records of the U.S. Department of Veterans Affairs and the fact that appointment of a guardian is a condition precedent to the payment of any money due the minor from the U.S. Department of Veterans Affairs shall be prima facie evidence of the necessity for the appointment.

§13–803.

(a) The court, on the request of the U.S. Department of Veterans Affairs, shall require a guardian, other than a corporate guardian, to furnish a bond, preferably a corporate surety bond with sureties approved by the court, conditioned on faithful discharge of all duties of the guardianship according to law, if:

(1) The U.S. Department of Veterans Affairs is paying or planning to pay benefits to a person to be protected because of a legal disability; or

(2) A person to be protected because of a legal disability has an estate that includes assets derived in whole or in part from benefits paid by the U.S. Department of Veterans Affairs to the guardian or the guardian's predecessor for the benefit of the person.

(b) (1) The amount of the bond may not be less than the estate derived from U.S. Department of Veterans Affairs benefits paid to the guardian or the guardian's predecessor and anticipated income of the beneficiary from the U.S. Department of Veterans Affairs during the ensuing year, less the value of securities or money deposited with an insured financial institution, as defined in § 13–301(h) of this title, under arrangements requiring an order of the court for their removal, and the value of any land which the guardian, by express limitation of power, lacks powers to sell or convey without court authorization.

(2) The court for good cause shown may require the amount of the bond to be changed.

(3) Bond premiums shall be charged against the estate of the beneficiary.

§13–804.

(a) Every guardian of a beneficiary who is receiving benefits from the U.S. Department of Veterans Affairs or whose estate includes assets derived in whole or in part from benefits paid by the U.S. Department of Veterans Affairs to the guardian or the guardian's predecessor for the beneficiary shall file:

(1) (i) Annual accounts with each interested person or with the court; or

(ii) If the guardian does not file an accounting with the court, the guardian shall file with the court a written verification that the guardian has delivered the accounting to each interested person;

(2) A final account of the guardian's administration with the court on the guardian's resignation or removal or on the termination of the minority or disability; and

(3) Intermediate accounts at the times as the court may direct.

(b) (1) (i) The guardian, at the time of filing any account with the court, shall exhibit all securities or investments the guardian holds to the judge or clerk of the court of the guardian's appointment.

(ii) The judge or clerk of the court of the guardian's appointment shall endorse on the account and copy a certificate that the securities or investments shown therein as held by the guardian were each exhibited to the judge or clerk of the court and noting any omission or discrepancy.

(2) (i) The guardian may exhibit the securities or investments to an officer of the bank or other depository where the securities or investments are held for safekeeping, to the judge or clerk of a court of record in this State, to an authorized representative of the corporation which is surety on the guardian's bond, or on request of the guardian or other interested party, to any other reputable person designated by the court.

(ii) Any person to whom the guardian exhibited securities or investments under subparagraph (i) of this paragraph shall certify in writing that the person has examined the securities or investments and identified them with those described in the account and shall note any omission or discrepancies.

(3) The certificate, and the certificate of an official of the bank in which are deposited any funds for which the guardian is accountable, showing the amount on deposit, shall be prepared and signed in duplicate and one of each shall be filed by the guardian with the guardian's account.

(c) (1) At the time of filing in the court any account, a certified copy of it and a signed duplicate of each certificate filed with the court shall be sent by the guardian to the office of the U.S. Department of Veterans Affairs having jurisdiction over the area in which the court is located.

(2) A duplicate signed copy or a certified copy of any petition, motion or other pleading pertaining to an account, or to any matter other than an account which is filed in a guardianship proceeding, in which the Secretary of Veterans Affairs is an interested person, shall be furnished by the persons filing it to the proper office of the U.S. Department of Veterans Affairs.

§13–805.

(a) Every guardian of a U.S. Department of Veterans Affairs beneficiary shall invest the surplus funds of the estate of the beneficiary derived from U.S. Department of Veterans Affairs benefits paid to the guardian or the guardian's predecessor for the beneficiary in securities or property authorized under the laws of this State but only upon prior order of the court.

(b) Notwithstanding subsection (a) of this section, the funds may be invested, without prior court authorization, in:

(1) Direct unconditional interest–bearing obligations of this State or of the United States;

(2) Banks and savings and loan associations whose deposits are federally insured;

(3) Obligations the interest and principal of which are unconditionally guaranteed by the United States; or

(4) Securities of, or other interests in, any no–load open–end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80a–1, et seq., if:

(i) The portfolio of the no–load open–end management type investment company or investment trust is limited to obligations of the United States government and to repurchase agreements fully collateralized by United States government obligations;

(ii) The no–load open–end management type investment company or investment trust takes delivery of that collateral, either directly or through an authorized custodian; and

(iii) The no–load open–end management type investment company or investment trust does not impose a contingent deferred sales charge or distribution charge.

(c) A signed duplicate or certified copy of the petition for authority to invest shall be furnished the proper office of the U.S. Department of Veterans Affairs, and notice of hearing upon it shall be given the office.

§13–806.

No commission or compensation may be allowed a guardian of a U.S. Department of Veterans Affairs beneficiary on the money or other assets received from a prior fiduciary nor on the amount received from liquidation of loans or other investments if the money, assets, loans or investments were derived in whole or in part from benefits paid by the U.S. Department of Veterans Affairs to the guardian or the guardian's predecessor for the beneficiary.

§13–901.

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

(b) "Adverse immigration action" includes:

(1) Arrest or apprehension by a law enforcement officer for an alleged violation of federal immigration law;

(2) Detention or custody by the Department of Homeland Security or a federal, State, or local agency authorized or acting on behalf of the Department of Homeland Security;

(3) Departure from the United States under an order of removal, deportation, exclusion, voluntary departure, or expedited removal, or a stipulation of voluntary departure;

(4) The denial, revocation, or delay of the issuance of a visa or transportation letter by the Department of State;

(5) The denial, revocation, or delay of the issuance of a parole document or reentry permit by the Department of Homeland Security; or

(6) The denial of admission or entry into the United States by the Department of Homeland Security.

(c) (1) "Attending physician" means a physician who has primary responsibility for the treatment and care of a parent described under this subtitle.

(2) If more than one physician shares the responsibility for the treatment and care of a parent or if another physician is acting on the attending physician's behalf, any physician described in this paragraph may act as the attending physician under this subtitle.

(3) If no physician has responsibility for the treatment and care of a parent, any physician who is familiar with the parent's medical condition may act as the attending physician under this subtitle.

(d) (1) "Debilitation" means a person's chronic and substantial inability, as a result of a physically incapacitating illness, disease, or injury, to care for the person's dependent minor child.

(2) "Debilitated" means the state of having a debilitation.

(e) (1) "Incapacity" means a person's chronic and substantial inability, as a result of mental impairment, to understand the nature and consequences of decisions concerning the care of the person's dependent minor child, and a consequent inability to care for the child.

(2) "Incapacitated" means the state of having an incapacity.

(f) "Standby guardian" means a person:

(1) Appointed by a court under § 13–903 of this subtitle as standby guardian of the person or property of a minor, whose authority becomes effective on the incapacity or death of the minor's parent, or on the consent of the parent; or

(2) Designated under § 13–904 of this subtitle as standby guardian of the person or property of a minor, whose authority becomes effective on the incapacity of the minor's parent, on the debilitation and consent of the parent, or in the event of an adverse immigration action against the parent and the consent of the parent.

§13–902.

Except as otherwise provided in this subtitle, the provisions of this title concerning a guardian of the person or property of a minor shall apply to standby guardians.

§13–903.

(a) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, a petition for the judicial appointment of a standby guardian of the person

or property of a minor under this section may be filed only by a parent of the minor, and if filed, shall be joined by each person having parental rights over the minor.

(2) If a person who has parental rights cannot be located after reasonable efforts have been made to locate the person, the parent may file a petition for the judicial appointment of a standby guardian.

(3) If the petitioner submits documentation, satisfactory to the court, of the reasonable efforts to locate the person who has parental rights, the court may issue a decree under this section.

(b) A petition for the judicial appointment of a standby guardian shall state:

(1) The duties of the standby guardian;

(2) Whether the authority of the standby guardian is to become effective on the petitioner's incapacity, on the petitioner's death, or on whichever occurs first; and

(3) That there is a significant risk that the petitioner will become incapacitated or die, as applicable, within 2 years of the filing of the petition, and the basis for this statement.

(c) If the petitioner is medically unable to appear, the petitioner's appearance in court may not be required, except on a motion and for good cause shown.

(d) (1) If the court finds that there is a significant risk that the petitioner will become incapacitated or die within 2 years of the filing of the petition and that the interests of the minor will be promoted by the appointment of a standby guardian of the person or property of the minor, the court shall issue a decree accordingly.

(2) A decree under this subsection shall:

(i) Specify whether the authority of the standby guardian is effective on the receipt of a determination of the petitioner's incapacity, on the receipt of the certificate of the petitioner's death, or on whichever occurs first; and

(ii) Provide that the authority of the standby guardian may become effective earlier on written consent of the petitioner in accordance with subsection (e)(3) of this section.

(3) If at any time before the beginning of the authority of the standby guardian the court finds that the requirements of paragraph (1) of this subsection are no longer satisfied, the court may rescind the decree.

(e) (1) (i) If a decree under subsection (d) of this section provides that the authority of the standby guardian is effective on receipt of a determination of the petitioner's incapacity, the standby guardian's authority shall begin on the standby guardian's receipt of a copy of a determination of incapacity made under § 13-906 of this subtitle.

(ii) A standby guardian shall file a copy of the determination of incapacity with the court that issued the decree within 90 days of the date of receipt of the determination.

(iii) If a standby guardian fails to comply with subparagraph (ii) of this paragraph, the court may rescind the standby guardian's authority.

(2) (i) If a decree under subsection (d) of this section provides that the authority of the standby guardian is effective on receipt of a certificate of the petitioner's death, the standby guardian's authority shall begin on the standby guardian's receipt of a certificate of death.

(ii) The standby guardian shall file a copy of the certificate of death with the court that issued the decree within 90 days of the date of the petitioner's death.

(iii) If the standby guardian fails to comply with subparagraph (ii) of this paragraph, the court may rescind the standby guardian's authority.

(3) (i) Notwithstanding paragraphs (1) and (2) of this subsection, a standby guardian's authority shall begin on the standby guardian's receipt of the petitioner's written consent to the beginning of the standby guardian's authority signed by:

1. The petitioner in the presence of two witnesses at least 18 years of age, neither of whom may be the standby guardian; and

2. The standby guardian.

(ii) 1. If the petitioner is physically unable to sign a written consent to the beginning of the standby guardian's authority, another person may sign the consent on the petitioner's behalf and at the petitioner's direction.

2. A consent under this subparagraph to the beginning of the standby guardian's authority shall be signed in the presence of the petitioner and two witnesses at least 18 years of age, neither of whom may be the standby guardian.

3. A standby guardian also shall sign a written consent to the beginning of the standby guardian's authority under this subparagraph.

(iii) The standby guardian shall file the written consent with the court that issued the decree within 90 days of the date of receipt of the written consent.

(iv) If the standby guardian fails to comply with subparagraph (iii) of this paragraph, the court may rescind the standby guardian's authority.

(f) The petitioner may revoke a standby guardianship created under this section by:

(1) Executing a written revocation;

(2) Filing the revocation with the court that issued the decree; and

(3) Promptly notifying the standby guardian of the revocation.

(g) A person who is judicially appointed as a standby guardian under this section may at any time before the beginning of the person's authority renounce the appointment by:

(1) Executing a written renunciation;

(2) Filing the renunciation with the court that issued the decree; and

(3) Promptly notifying in writing the petitioner of the revocation.

§13–904.

(a) (1) A parent may designate a standby guardian by means of a written designation:

(i) Signed in the presence of two witnesses, at least 18 years old, neither of whom is the standby guardian; and

(ii) Signed by the standby guardian.

(2) (i) If a parent is physically unable to sign a written designation, another person may sign the designation on the parent's behalf and at the parent's direction.

(ii) 1. A designation under this paragraph shall be signed in the presence of the parent and two witnesses at least 18 years of age, neither of whom may be the standby guardian.

2. The standby guardian also shall sign a designation under this paragraph.

(b) (1) A designation of a standby guardian shall identify the parent, the minor, and the person designated to be the standby guardian, state the duties of the standby guardian, and indicate that the parent intends for the standby guardian to become the minor's guardian in the event the parent:

(i) Becomes incapacitated;

(ii) Becomes debilitated and consents to the beginning of the standby guardian's authority; or

(iii) Is subject to an adverse immigration action and consents to the beginning of the standby guardian's authority.

(2) A parent may designate an alternate standby guardian in the same writing and by the same manner as the designation of a standby guardian.

(3) A designation may, but need not, be in the following form:

Designation of Standby Guardian

I (name of parent) hereby designate (name, home address, and telephone number of standby guardian) as standby guardian of the person and property of my child(ren) (name of child(ren)).

(You may, if you wish, provide that the standby guardian's authority shall extend only to the person, or only to the property, of your child, by crossing out "person" or "property", whichever is inapplicable, above.) The standby guardian's authority shall take effect if and when:

(1) My doctor concludes I am mentally incapacitated, and thus unable to care for my child(ren);

(2) My doctor concludes that I am physically debilitated, and thus unable to care for my child(ren) and I consent in writing, before two witnesses, to the standby guardian's authority taking effect; or

(3) I am subject to an adverse immigration action, and I am thus unable to care for my child(ren) and I consent in writing, before two witnesses, to the standby guardian's authority taking effect.

If the person I designate above is unable or unwilling to act as guardian for my child(ren), I hereby designate (name, home address, and telephone number of alternate standby guardian), as standby guardian of my child(ren).

I also understand that my standby guardian's authority will cease 180 days after beginning unless by that date my standby guardian petitions the court for appointment as guardian.

I understand that I retain full parental rights even after the beginning of the standby guardian's authority, and may revoke the standby guardianship at any time.

Parent's Signature: _____

Address: _____

Date: _____

I declare that the person whose name appears above signed this document in my presence, or was physically unable to sign and asked another to sign this document, who did so in my presence. I further declare that I am at least 18 years old and am not the person designated as standby guardian.

Witness's Signature: _____

Address: _____

Date: _____

Witness's Signature: _____

Address: _____

Date: _____

Standby Guardian's Signature: _____

Address: _____

Date: _____

(4) A consent by another person with parental rights to a designation of a standby guardian by a parent may, but need not be, in the following form:

Consent to Designation of Standby Guardian

I (name of person with parental rights) agree with the designation by (name of parent) of (name, home address, and telephone number of standby guardian) as standby guardian of the person and property of my child(ren) (name of child(ren)).

I agree also to the terms stated above and understand that I retain full parental rights even after the beginning of the standby guardian's authority, and may revoke my consent to the standby guardianship at any time.

Signature of Person with Parental Rights: _____

Address: _____

Date: _____

I declare that the person whose name appears above signed this document in my presence, or was physically unable to sign and asked another to sign this

document, who did so in my presence. I further declare that I am at least 18 years old and am not the person designated as standby guardian.

Witness's Signature: _____
Address: _____
Date: _____
Witness's Signature: _____
Address: _____
Date: _____
Standby Guardian's Signature: _____
Address: _____
Date: _____

(c) The authority of the standby guardian under a designation shall begin on:

(1) The standby guardian's receipt of a copy of a determination of incapacity under § 13–906 of this subtitle;

(2) The standby guardian's receipt of:

(i) A copy of a determination of debilitation under § 13–906 of this subtitle;

(ii) A copy of the parent's written consent to the beginning of the standby guardianship, signed by the parent in the presence of two witnesses at least 18 years of age, neither of whom is the standby guardian, and signed by the standby guardian; and

(iii) A copy of the birth certificate for each child for whom the standby guardian is designated; or

(3) The standby guardian's receipt of:

(i) Evidence of an adverse immigration action against the parent; and

(ii) A copy of the parent's written consent to the beginning of the standby guardianship, signed by the parent in the presence of two witnesses at least 18 years of age, neither of whom is the standby guardian, and signed by the standby guardian.

(d) (1) If a parent is physically unable to sign a written consent to the beginning of the standby guardianship, another person may sign the written consent

to the beginning of the standby guardianship on the parent's behalf and at the parent's direction.

(2) A consent under this subsection to the beginning of the standby guardianship shall be signed in the presence of the parent and two witnesses at least 18 years of age, neither of whom may be the standby guardian.

(3) The standby guardian also shall sign a consent to the beginning of the standby guardianship under this subsection.

(e) (1) A standby guardian shall file a petition for judicial appointment within 180 days of the date of the beginning of the standby guardianship under this section.

(2) If the standby guardian fails to file the petition within the time specified in this subsection, the standby guardian's authority shall terminate 180 days from the date of the beginning of the standby guardianship.

(3) The standby guardian's authority shall begin again on the filing of the petition.

(f) (1) A standby guardian shall file a petition for appointment as guardian after receipt of:

(i) A copy of a determination of incapacity made under § 13–906 of this subtitle;

(ii) Copies of:

1. A determination of debilitation made under § 13–906 of this subtitle; and

2. The parent's written consent to the beginning of the standby guardianship under this section; or

(iii) 1. Evidence of an adverse immigration action against the parent; and

2. Copies of the parent's written consent to the beginning of the standby guardianship under this section.

(2) Subject to the provisions of paragraphs (3) and (4) of this subsection, the petition shall be accompanied by:

(i) The written designation of the standby guardian signed, or consented to, by each person having parental rights over the child;

(ii) 1. A copy of:

A. The determination of incapacity of the parent; or

B. The determination of debilitation and the parental consent to the beginning of the standby guardianship; or

2. Evidence of an adverse immigration action against the parent, the parental consent to the beginning of the guardianship, and a copy of the birth certificate or other evidence of parentage for each child for whom the standby guardian is designated; and

(iii) If the petition is filed by a person designated as alternate standby guardian, a statement that the person designated as standby guardian is unwilling or unable to act as standby guardian, and the basis for the statement.

(3) (i) If a person who has parental rights cannot be located after reasonable efforts have been made to locate the person, the standby guardian may file a petition under this section without the consent of the person to the designation of the standby guardian.

(ii) If a petition involves an adverse immigration action against a parent and a person who has parental rights resides outside the United States, the standby guardian may file a petition under this section without the consent of the person who has parental rights to the designation of the standby guardian.

(4) If the standby guardian submits documentation, satisfactory to the court, of the reasonable efforts to locate the person who has parental rights, the court may appoint a standby guardian under this section.

(g) The court shall appoint a person to be a standby guardian under this section if the court finds that:

(1) The person was duly designated as standby guardian;

(2) (i) A determination of incapacity, or a determination of debilitation and parental consent to the beginning of the standby guardianship, has been made under this section; or

(ii) There is evidence of an adverse immigration action and parental consent to the beginning of the standby guardianship has been given under this section;

(3) The interests of the minor will be promoted by the appointment of a standby guardian of the person or property of the minor; and

(4) If the petition is by a person designated as alternate standby guardian, the person designated as standby guardian is unwilling or unable to act as standby guardian.

(h) A parent may revoke a standby guardianship created under this section:

(1) Before the filing of a petition, by notifying the standby guardian verbally or in writing or by any other act that is evidence of a specific intent to revoke the standby guardianship; and

(2) If a petition has been filed by:

(i) Executing a written revocation;

(ii) Filing the revocation with the court in which the petition was filed; and

(iii) Promptly notifying the standby guardian of the revocation.

(i) A person who is judicially appointed as a standby guardian under this section may at any time before the beginning of the person's authority renounce the appointment by:

(1) Executing a written renunciation;

(2) Filing the renunciation with the court that issued the decree; and

(3) Promptly notifying in writing the parent of the revocation.

§13–905.

A standby guardian may also file a petition for appointment as guardian in any other manner permitted by this title, on notice to the parent, and may append a designation of a standby guardian to the petition for consideration by the court in the determination of the petition.

§13–906.

(a) (1) A determination of incapacity or debilitation under this subtitle shall:

(i) Be made by the attending physician to a reasonable degree of medical certainty;

(ii) Be in writing; and

(iii) Contain the attending physician's opinion regarding the cause and nature of the parent's incapacity or debilitation, and the extent and probable duration of the incapacity or debilitation.

(2) If a standby guardian's identity is known to an attending physician, the attending physician shall provide a copy of a determination of incapacity or debilitation to the standby guardian.

(b) If requested by a standby guardian, an attending physician shall make a determination regarding the parent's incapacity or debilitation for purposes of this subtitle.

(c) If the parent is able to comprehend the information, a standby guardian shall inform the parent of:

(1) The beginning of the standby guardian's authority as a result of a determination of incapacity; and

(2) The parent's right to revoke the authority promptly after receipt of the determination of incapacity.

§13–907.

(a) A standby guardian's authority under this subtitle may not, itself, divest a parent of any parental or guardianship rights.

(b) The authority of a standby guardian with respect to the minor is limited to the express authority granted to the standby guardian by a court under this subtitle.

(c) The appointment of a standby guardian of a minor under this subtitle may not be construed to require the termination of parental rights with respect to the minor under Title 5 of the Family Law Article.

§13–908.

The furnishing of a bond by a standby guardian shall be governed by the provisions of § 13-208 of this title.

§13.5–101.

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

(b) "Conservator" means a person appointed by a court to administer the property of an adult, including a person appointed as guardian under Title 13, Subtitle 2 of this article to manage the property of a disabled person.

(c) "Emergency" means a circumstance that likely will result in a substantial harm to the health, safety, or welfare of a respondent, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on behalf of the respondent.

(d) "Guardian" means a person appointed by a court to make decisions regarding the person of an adult, including a person appointed under Title 13, Subtitle 7 of this article.

(e) "Guardianship order" means an order appointing a guardian.

(f) "Guardianship proceeding" means a proceeding in which an order for the appointment of a guardian is sought or has been issued.

(g) "Home state" means the state in which the respondent was physically present for at least 6 consecutive months, including a period of temporary absence, immediately before the filing of a petition for the appointment of a guardian or protective order.

(h) "Incapacitated person" means an adult for whom a guardian has been appointed, including a "disabled person" as defined in § 13–101 of this article.

(i) "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.

(j) "Protected person" means an adult for whom a protective order has been made.

(k) "Protective order" means an order appointing a conservator or a guardian of the property in accordance with Title 13, Subtitle 2 of this article, or another court order related to management of an adult's property.

(l) "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.

(m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(n) "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought.

(o) (1) "Significant–connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(2) Determination of whether a respondent has a significant connection with a particular state shall include consideration of the following factors:

(i) The location of the family of the respondent and others required to be notified of the guardianship or protective proceeding;

(ii) The length of time the respondent at any time was physically present in the state and the duration of any absences;

(iii) The location of the respondent's property; and

(iv) The extent to which the respondent has other ties to the state such as voting registration, filing of state or local tax returns, vehicle registration, driver's license, social relationships, and receipt of services.

(p) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

§13.5–102.

(a) Subject to subsection (b) of this section, a court of this State may treat a foreign country as if the country were a state for the purpose of applying Subtitles 1, 2, 3, and 5 of this title.

(b) Unless a court of this State finds by a preponderance of the evidence that a foreign country applies and follows substantive and procedural due process consistent with the practices and policies of the State of Maryland, the court:

(1) May not request a court in the foreign country to issue an order or hold a hearing;

(2) May not decline to exercise jurisdiction if, by declining jurisdiction in this State, a court in the foreign country may obtain jurisdiction;

(3) May not dismiss or stay a proceeding in this State requested or ordered by a court in the foreign country;

(4) May not determine that a court in the foreign country is an appropriate forum;

(5) May decline to comply with notice requirements of the foreign country or this title;

(6) May proceed with the case if this State is otherwise an appropriate forum;

(7) May not issue an order or provisional order to transfer a guardianship or conservatorship to the foreign country; and

(8) May not recognize under any provision of law a guardianship or conservatorship order from the foreign country.

§13.5–103.

(a) (1) A court of this State may communicate with a court in another state concerning a proceeding arising under this title.

(2) The court may allow the parties to participate in a communication described in paragraph (1) of this subsection.

(3) (i) Except as otherwise provided in subsection (b) of this section, the court shall make a record of the communication.

(ii) A record described in this paragraph may be limited to the fact that the communication occurred.

(b) A court communicating with a court in another state under this section may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

§13.5–104.

(a) In a guardianship or protective proceeding in this State, a court of this State may request the appropriate court of another state to:

(1) Hold an evidentiary hearing;

(2) Order a person in the other state to produce or give evidence in accordance with procedures of that state;

(3) Order that an evaluation or assessment be made of the respondent, or order an appropriate investigation of a person involved in a proceeding;

(4) Forward to the court of this State a certified copy of the transcript or other record of a hearing under item (1) of this subsection or any other proceeding, evidence otherwise presented under item (2) of this subsection, and any evaluation or assessment prepared in compliance with a request under item (3) of this subsection;

(5) Issue any other order necessary to ensure the appearance of a person necessary to make a determination, including the respondent or the incapacitated or protected person; and

(6) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in the other state, including protected health information as defined in 45 C.F.R. § 164.504.

(b) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection (a) of this section, a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

§13.5–105.

(a) (1) In a guardianship proceeding or protective proceeding, in addition to other procedures that may be available, testimony of witnesses who are located in another state may be offered by deposition or other means allowable in this State for testimony taken in the other state.

(2) The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms on which the testimony is to be taken.

(b) (1) In a guardianship proceeding or protective proceeding, a court in this State may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means.

(2) A court of this State shall cooperate with courts of other states in designating an appropriate location for a deposition or testimony in a guardianship proceeding or protective proceeding under this section.

§13.5–201.

A court of this State has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) This State is the home state of the respondent;

(2) On the date the petition is filed, this State is a significant–connection state and:

(i) The respondent does not have a home state or a court of the home state of the respondent has declined to exercise jurisdiction because this State is a more appropriate forum; or

(ii) The respondent has a home state, a petition for the appointment of a guardian or protective order is not pending in a court of that state or another significant–connection state, and, before the court makes the appointment or issues the order:

1. A petition for an appointment or order is not filed in the home state of the respondent;

2. An objection to the jurisdiction of the court is not filed by a person required to be notified of the proceeding; and

3. The court concludes that the court is an appropriate forum under the factors set forth in § 13.5–204 of this subtitle;

(3) (i) This State does not have jurisdiction under item (1) or (2) of this subsection; and

(ii) The home state of the respondent and all significant–connection states have declined to exercise jurisdiction because:

1. This State is the more appropriate forum; and

2. Jurisdiction in this State is consistent with the constitutions of this State and the United States; or

(4) The requirements for special jurisdiction under § 13.5–202 of this subtitle are met.

§13.5–202.

(a) A court of this State lacking jurisdiction under § 13.5–201 of this subtitle has special jurisdiction to do any of the following:

(1) Appoint a guardian in an emergency in accordance with § 13–709 of this article for a term not exceeding 60 days for a respondent who is physically located in this State;

(2) Issue a protective order with respect to real or tangible personal property located in this State; and

(3) Appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued as provided in § 13.5–301 of this title.

(b) If a petition for the appointment of a guardian in an emergency is brought in this State in accordance with § 13–709 of this article and this State was not the home state of the respondent on the date the petition was filed, the court shall dismiss the proceeding at the request of the court in the other state, if any, whether dismissal is requested before or after the emergency appointment.

§13.5–203.

Except as otherwise provided in § 13.5–202 of this subtitle, a court that has appointed a guardian or issued a protective order consistent with this title has exclusive and continuing jurisdiction over the proceeding until the proceeding is terminated by the court or the appointment or order expires by the terms of the appointment or order.

§13.5–204.

(a) A court of this State having jurisdiction under § 13.5–201 of this subtitle to appoint a guardian or issue a protective order may decline to exercise jurisdiction if the court determines at any time that a court of another state is a more appropriate forum.

(b) (1) If a court of this State declines jurisdiction over a guardianship proceeding or protective proceeding under subsection (a) of this section, the court shall either dismiss the proceeding or stay the proceeding.

(2) A court under paragraph (1) of this subsection may impose any other condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or protective order be promptly filed in another state.

(c) In determining whether the court is an appropriate forum, a court shall consider all relevant factors, including:

(1) An expressed preference of the respondent;

(2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) The length of time the respondent was physically located in or was a legal resident of this State or another state;

(4) The distance of the respondent from the court in each state;

(5) The financial circumstances of the estate of the respondent;

(6) The nature and location of the evidence;

(7) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8) The familiarity of the court of each state with the facts and issues in the proceeding; and

(9) If an appointment were made, the ability of the court to monitor the conduct of the guardian or conservator.

§13.5–205.

(a) If at any time a court of this State determines that the court acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

(1) Decline to exercise jurisdiction;

(2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the property of the respondent or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or protective order is filed in a court of another state having jurisdiction; or

(3) Continue to exercise jurisdiction after considering:

(i) The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the jurisdiction of the court;

(ii) Whether the court is a more appropriate forum than the court of any other state under the factors set forth in § 13.5–204(c) of this subtitle; and

(iii) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of § 13.5–201 of this subtitle.

(b) (1) If a court of this State determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke the jurisdiction of the court engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses.

(2) The court may not assess fees, costs, or expenses of any kind against this State or a governmental subdivision, agency, or instrumentality of this State unless authorized by law other than this title.

§13.5–206.

(a) If a petition for the appointment of a guardian or issuance of a protective order is brought in this State and this State is not the home state of the respondent on the date the petition is filed, in addition to complying with the notice requirements of this State, notice of the petition shall be given by the petitioner to those persons who would be entitled to notice of the petition if the proceeding were brought in the home state of the respondent.

(b) The notice described in subsection (a) of this section shall be given in the same manner as notice is given in this State.

§13.5–207.

Except for a petition for the appointment of a guardian in an emergency or a protective order limited to property located in this State as provided in § 13.5–202 of this subtitle, if a petition for the appointment of a guardian or protective order is filed in this State and another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the court in this State has jurisdiction under § 13.5–201 of this subtitle, the court may proceed with the case unless a court in another state acquires jurisdiction under § 13.5–201 of this subtitle before the appointment or issuance of the order; or

(2) (i) If the court in this State does not have jurisdiction under § 13.5–201 of this subtitle, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state; and

(ii) If the court in the other state does not determine that the court in this State is a more appropriate forum, the court in this State shall dismiss the petition.

§13.5–301.

(a) Following the appointment of a guardian or conservator, the guardian or conservator may petition the court to transfer the guardianship or conservatorship to another state.

(b) Notice of a petition to transfer a guardianship or conservatorship under subsection (a) of this section shall be given by the petitioner to those persons that would be entitled to notice of a petition in this State for the appointment of a guardian or conservator.

(c) On the motion of the court or on request of the incapacitated person or protected person, or another interested person, a court shall hold a hearing on a petition filed in accordance with subsection (a) of this section.

(d) The court shall issue a provisional order granting a petition to transfer a guardianship if the court finds that:

(1) The incapacitated person is physically located in or is reasonably expected to move permanently to the other state;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person;

(3) The court is satisfied that plans for care and services for the incapacitated person in the other state are reasonable and sufficient; and

(4) The court is satisfied that the guardianship will be accepted by the court to which the proceeding will be transferred.

(e) The court shall issue a provisional order granting a petition to transfer a conservatorship if the court finds that:

(1) The protected person is physically located in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state, considering the factors set forth in § 13.5–101(o) of this title;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person;

(3) The court is satisfied that adequate arrangements will be made for management of the property of the protected person; and

(4) The court is satisfied that the conservatorship will be accepted by the court to which the proceeding will be transferred.

§13.5–302.

(a) (1) On issuance of a provisional order in another state to transfer a guardianship or conservatorship to this State under procedures similar to those in § 13.5–301 of this subtitle, the guardian or conservator shall petition the court in this State to accept the guardianship or conservatorship.

(2) The petition described in paragraph (1) of this subsection shall include a certified copy of the provisional order of the other state.

(b) (1) Notice of a petition under subsection (a) of this section to accept a guardianship or conservatorship from another state shall be given by the petitioner to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this State.

(2) The notice described in paragraph (1) of this subsection shall be given in the same manner as notice is given in this State.

(c) On the motion of the court or on request of the incapacitated person or protected person, or another interested person, a court shall hold a hearing on a petition filed in accordance with subsection (a) of this section to accept a guardianship or conservatorship from another state.

(d) The court shall issue a provisional order approving a petition filed under subsection (a) of this section unless an objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated person or protected person.

(e) In approving a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacity of the incapacitated person or protected person and the appointment of the guardian or conservator, if the guardian or conservator is eligible to act in this State.

(f) The denial of a petition filed under subsection (a) of this section to accept a guardianship or conservatorship from another state does not affect the ability of a guardian or conservator appointed by a court in another state to seek appointment as guardian of the person or property of the disabled person under Title 13 of this article.

§13.5–401.

If a guardian has not been appointed in this State and a petition for the appointment of a guardian is not pending in this State, a guardian appointed in another state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this State by filing, as a foreign judgment in a court in any appropriate county of this State, certified copies of the order and letters of office.

§13.5–402.

If a conservator has not been appointed in this State and a petition for a protective order is not pending in this State, a conservator appointed in another state, after giving notice to the appointing court of an intent to register, may register the protective order in this State by filing as a foreign judgment in a court of this State, in any county in which property belonging to the protected person is located, certified copies of the order, and letters of office and of any bond.

§13.5–403.

(a) On registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this State all powers authorized in the order of appointment except as prohibited under the laws of this State, including maintaining actions and proceedings in this State and, if the guardian or conservator is not a resident of this State, subject to any conditions imposed on nonresident parties.

(b) A court of this State may grant any relief available under this title and other law of this State to enforce a registered order.

§13.5–501.

In applying and construing this title, which is a uniform act, consideration shall be given to the need to promote uniformity of the law with respect to the subject matter of the law among the states that enact the law.

§13.5–502.

This title modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede § 101(c) of that act, 15 U.S.C. § 7001, or authorize electronic delivery of the notices described in § 103(b) of that act, 15 U.S.C. § 7003(b).

§13.5–503.

This title applies to guardianship and protective proceedings beginning on or after October 1, 2010.

§13.5–504.

This title may be cited as the Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

§14–301.

(a) Courts of equity have full jurisdiction to enforce trusts for charitable purposes upon suit of the State by the Attorney General or suit of any person having an interest in enforcement of the trust.

(b) "Charitable purposes" includes all purposes within either the spirit or letter of the statute of 43 Elizabeth ch. 4 (1601), commonly known as the statute of charitable uses.

(c) A charitable trust shall not be held invalid or unenforceable merely because the beneficiaries of the trust constitute an indefinite class.

§14–302.

(a) A court of equity, on application of any trustee, or any interested person, or the Attorney General of the State, may order an administration of a trust, devise or bequest as nearly as possible to fulfill the general charitable intention of the settlor or testator:

(1) (i) If the trust for charity is or becomes illegal or impossible or impracticable of enforcement; or

(ii) If the devise or bequest for charity, at the time it was intended to become effective, is illegal or impossible or impracticable of enforcement; and

(2) If the settlor or testator manifested a general intention to devote the property to charity.

(b) This section shall be interpreted and construed to effectuate its general purpose to make uniform the law of those states which enact it.

(c) This section may be cited as the Maryland Uniform Charitable Trusts Administration Act.

§14–303.

(a) In the administration of any trust which is a "private foundation," as defined in § 509 of the Internal Revenue Code, a "charitable trust," as defined in § 4947(a)(1) of the Internal Revenue Code, or a "split–interest trust," as defined in § 4947(a)(2) of the Internal Revenue Code, the acts specified in this section are prohibited.

(b) It is unlawful to engage in any act of "self–dealing," as defined in § 4941(d) of the Internal Revenue Code, which would cause any tax liability under § 4941(a) of the Internal Revenue Code.

(c) It is unlawful to retain any "excess business holdings," as defined in § 4943(c) of the Internal Revenue Code, which would cause any tax liability under § 4943(a) of the Internal Revenue Code.

(d) It is unlawful to make any investment which would jeopardize the carrying out of any exempt purposes under § 4944 of the Internal Revenue Code and cause any tax liability under § 4944(a) of the Internal Revenue Code.

(e) It is unlawful to make any "taxable expenditures," as defined in § 4945(d) of the Internal Revenue Code, which would cause any tax liability under § 4945(a) of the Internal Revenue Code.

(f) This section does not apply to any part of a split–interest trust which is not subject to the prohibitions applicable to private foundations because of the provisions of § 4947 of the Internal Revenue Code.

§14–304.

(a) Notwithstanding any provisions to the contrary in the governing instrument, the trustee or trustees of any charitable remainder trust created after July 31, 1969, with the consent of each beneficiary named in the governing instrument, without application to any court, may amend the governing instrument to conform to the provision of § 664 of the Internal Revenue Code by executing a written amendment to the trust for the purpose.

(b) Consent is not required as to individual named beneficiaries not living at the time of amendment.

(c) In the case of an individual beneficiary not competent to give consent, the consent of a guardian, appointed by a court of competent jurisdiction, shall be treated as consent of the beneficiary.

(d) In the case of any amendment to a trust created by will, the amendment, if provided in the amendment, may be considered to apply as of the date of death of the testator.

§14–305.

In the administration of any trust which is a "private foundation" as defined in § 509 of the Internal Revenue Code, or which is a "charitable trust" as defined in § 4947(a)(1) of the Internal Revenue Code, there shall be distributed, for the purposes specified in the trust instrument, for each taxable year, amounts at least sufficient to avoid liability for the tax imposed by § 4942(a) of the Internal Revenue Code.

§14–306.

The provisions of §§ 14-303 and 14-305 of this subtitle do not apply to any trust to the extent that a court of competent jurisdiction determines that the application

would be contrary to the terms of the instrument governing the trust and that it may not be changed properly to conform to these sections.

§14–307.

Sections 14-303 through 14-307 of this subtitle do not impair the rights and powers of the courts or the Attorney General with respect to any trust.

§14–401.

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

(b) "Adult" means an individual who is at least 18 years of age.

(c) "Beneficiary" means an individual for whose present benefit property is held by a trustee in accordance with this subtitle.

(d) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of an individual's property or a person legally authorized to perform substantially the same functions.

(e) "Court" means the circuit courts of the State of Maryland.

(f) "Declarant" means a transferor who creates a trust under this subtitle and serves as the trustee.

(g) "Guardian" means a person appointed or qualified by a court as a guardian of the person of an individual, including a limited guardian, but not a person who is only a guardian ad litem.

(h) "Legal representative" means a personal representative, conservator, or an attorney in fact under a durable power of attorney.

(i) "Member of the beneficiary's family" means a beneficiary's spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(j) "Person" means an adult, corporation, organization, or any other legal entity.

(k) "Personal representative" means an executor, administrator, or special administrator of a decedent's estate, a person legally authorized to perform substantially the same functions, or a successor to any of them.

(l) "State" means the United States of America, a state or subdivision thereof, a territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(m) (1) "Transferor" means a person who creates a trust by transfer or declaration under this subtitle.

(2) "Transferor" does not include a person, other than the person who created the trust, who augments an existing trust.

(n) (1) "Trust" means a trust created under this subtitle.

(2) "Trust" does not include a trust created by the transferor for the benefit of the transferor.

(o) "Trust property" means any property, income, or proceeds resulting from the investment of property held in trust under this subtitle.

(p) "Trustee" means a person authorized by law to act as trustee who is designated as trustee of a trust under this subtitle or successor to the person designated.

§14–402.

(a) (1) The trustee holds title to the trust property.

(2) Trust property may not be considered property or an available resource of the beneficiary.

(3) The beneficiary may not have any interest in trust property that can be assigned or attached.

(4) No part of the trust property may be subject to claims for costs of care provided to the beneficiary by a state.

(b) (1) The trustee has sole discretion over trust property expenditures.

(2) The trustee shall decide what expenditures will be made, how they will be made, and when they will be made for the benefit of the beneficiary.

(3) A trust may be used to ensure that trust property is available to provide for the needs of the beneficiary to the extent not provided for by other sources,

including public and private benefit programs for which the beneficiary would or might be eligible if the trust did not exist.

(4) A trustee may retain any trust property received from a transferor.

(c) A person dealing with a transferor, declarant, or trustee is protected in those dealings in accordance with § 14-405 of this subtitle.

(d) Any person except the beneficiary may augment trust property.

(e) (1) When establishing a trust, the transferor may designate the trust to be either revocable or irrevocable.

(2) If no designation is made, the trust is revocable.

§14–403.

(a) Any person having the right to transfer property to another person may create a trust as a transferor under this subtitle.

(b) The transferor may:

(1) As declarant serve as trustee;

(2) Designate a trustee;

(3) Designate how the trustee will be chosen;

(4) Designate successor trustees in the order in which they will serve; and

(5) Designate how successor trustees will be chosen.

(c) The trustee shall hold, manage, expend, and transfer trust property as provided in this subtitle.

(d) The successor trustee shall assume the responsibilities of the trustee when the trustee is no longer willing or able to serve.

(e) A trust may have only one beneficiary but more than one trustee.

(f) A trustee:

(1) Is not personally liable to a third person:

(i) On a contract properly entered into in a fiduciary capacity unless the trustee fails to reveal that capacity or to identify the trust in the contract; or

(ii) For an obligation arising from control of trust property or for a tort committed in the course of the administration of the trust, unless the trustee is personally at fault;

(2) May decline to serve as trustee before accepting trust property by notifying in writing the person who designated the trustee, or that person's legal representative; and

(3) May resign as trustee by notifying the successor trustee in writing, transferring all trust property to the successor trustee, providing the successor trustee with a complete accounting of trust property, and confirming that the successor trustee has accepted the trust property.

(g) The next willing successor trustee in line shall accept the records and trust property and become trustee as soon as practicable after:

(1) The resignation of the trustee;

(2) The declination of the trustee;

(3) The death of the trustee; or

(4) The removal of the trustee.

(h) If the trustee is unable or unwilling to serve and no successor trustee will serve, the following persons in the order listed may petition the court to designate a successor trustee:

(1) The transferor or the legal representative of the transferor;

(2) The trustee;

(3) The beneficiary or the beneficiary's legal representative;

(4) The guardian of the person of the beneficiary;

(5) An adult member of the beneficiary's family or that family member's legal representative; or

(6) A person interested in the trust property or a person interested in the welfare of the beneficiary, either of whom the court determines to have a legitimate interest.

(i) Unless renounced by the transferor, the transferor may at any time remove or change the designation of the trustee and successor trustees.

§14–404.

(a) A person may create a trust by transferring property in writing to another person if the document transfers property in a legally recognized manner and:

(1) Identifies the recipient of the property as the trustee;

(2) Identifies the beneficiary of the trust; and

(3) Identifies the property as being transferred under the Maryland Discretionary Trust Act.

(b) A person may create a trust by written declaration if the written declaration is executed in a legally recognized manner and:

(1) Identifies the property to be held in trust;

(2) Identifies the beneficiary of the trust;

(3) Identifies the declarant as trustee and title holder; and

(4) Identifies the property as being held in trust under the Maryland Discretionary Trust Act.

(c) A person having the right to transfer property upon a future event may create a trust upon the occurrence of the future event by:

(1) Designating:

(i) The event;

(ii) The property;

(iii) The beneficiary; and

(iv) The trustee or mechanism for selecting the trustee; and

(2) Creating the trust by:

(i) Making the designation in a will, a trust, a deed, an insurance policy, an instrument exercising a power of appointment, or a writing designating a beneficiary of contractual rights; or

(ii) Registering the designation with or delivering it to the fiduciary, payor, issuer, or obligor of the future right.

(d) A transferor creates a trust whenever the transferor registers property in the name of or transfers property to the trustee or declarant and uses in substance the following words after the trustee's or declarant's name: "As trustee for _____ (name of beneficiary) under the Maryland Discretionary Trust Act."

(e) The obligations of a trustee begin when the trustee accepts the trust property by writing in substance the following words:

"Trustee's Receipt and Acceptance

I, _____ (name of trustee) acknowledge receipt of the trust property described below or in the attached instrument and accept the trust as trustee for _____ (name of beneficiary) under the Maryland Discretionary Trust Act. I undertake to administer and distribute the trust property pursuant to the Maryland Discretionary Trust Act. The trust property consists of _____ (description of property).

Dated: _____

_____

(Signature of Trustee)"

(f) A trust may be created by specifying that property is to be held in trust under the Maryland Discretionary Trust Act.

(g) (1) A trust may be created under this subtitle if, at the time the trust is created, the transferor, the trustee, or the beneficiary is a resident of this State, the transferor's, the trustee's, or the beneficiary's principal place of business is in this State, or trust property is located in this State.

(2) The trust remains subject to this subtitle even upon a subsequent change in residence or principal place of business of the transferor or trustee, or removal of the trust property from this State.

(3) A registration, declaration, or transfer made under an act of another state substantially similar to this subtitle:

(i) Is governed by the law of that state; and

(ii) May be enforced in this State.

(h) (1) This subtitle may not limit other means of declaring trusts or transferring property in trust.

(2) A trust, the terms of which do not conform to this subtitle, may be enforceable according to its terms.

§14–405.

(a) The trustee's obligations begin when the trustee accepts the trust property by writing words substantially similar to those specified in § 14-404(e) of this subtitle.

(b) A trustee shall:

(1) Take control of trust property;

(2) Register or record title to trust property if appropriate; and

(3) Collect, hold, manage, invest, and reinvest trust property.

(c) In administering trust property, a trustee shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries.

(d) If a trustee has a special skill or expertise, or is named trustee on the basis of representations of a special skill or expertise, the trustee shall utilize that skill or expertise.

(e) (1) A trustee shall at all times keep trust property separate and distinct from all other property in a manner sufficient to identify it clearly as trust property.

(2) Trust property consisting of an undivided interest is so identified if the trustee's interest is held as a tenant in common.

(3) Trust property subject to recordation is so identified if it is recorded, registered, or held in an account designated in the name of the trustee, followed by the words, "As trustee for _____ (name of beneficiary) under the Maryland Discretionary Trust Act", or similar words.

(f) A trustee, acting in a fiduciary capacity, has all the rights and powers over trust property that an unmarried adult owner has over individually owned property, but a trustee may exercise those rights and powers in a fiduciary capacity only.

(g) A claim based on a contract entered into by a trustee acting in a fiduciary capacity, an obligation arising from the trustee's ownership or control of trust property, or a tort committed in the course of administering the trust, may be asserted by a third person against the trust property by proceeding against the trustee in a fiduciary capacity, whether or not the trustee is personally liable.

(h) At any time, the transferor may require the trustee to furnish bond.

(i) The trustee shall maintain complete records of all trust property and all trust transactions.

(j) (1) The following persons in the order listed may request an accounting of trust property and transactions:

(i) The transferor or the transferor's legal representative;

(ii) The beneficiary or the beneficiary's legal representative;

(iii) The guardian of the person of the beneficiary;

(iv) An adult member of the beneficiary's family or that family member's legal representative; or

(v) A person interested in the trust property or a person interested in the welfare of the beneficiary, either of whom the court determines to have a legitimate interest.

(2) The trustee shall provide a written accounting of all trust property and trust transactions for the previous year, or for a longer period if needed for tax purposes, upon request by and at reasonable times to a person authorized in paragraph (1) of this subsection.

(3) The trustee shall give the transferor, successor trustee, or court a complete accounting, including a written accounting of all trust property, a description and records of all trust transactions, and any other relevant documents and information concerning the trust upon the resignation or removal of the trustee, the termination of the trust, or the demand of the court.

(4) The trustee may petition the court for approval of final accounts.

(5) Upon removal of a trustee by a court, the court shall require:

(i) An accounting of trust property;

(ii) The delivery of the trust property and records to the successor trustee; and

(iii) The execution of all instruments required for transfer of the trust property.

(k) Upon petition of the trustee or any person who may petition for an accounting as specified in subsection (j) of this section, the court, after notice to those persons as directed by the court, may:

(1) Issue instructions to the trustee;

(2) Review the propriety of the acts of a trustee; and

(3) Review the reasonableness of the trustee's compensation or the compensation of other persons.

(l) A successor trustee may not be held liable for the acts or omissions of any predecessor trustee.

(m) Except as otherwise provided in the registration, declaration, or other instrument of transfer creating the trust, or by court order, a trustee:

(1) Is entitled to reimbursement from trust property for reasonable expenses incurred in the performance of fiduciary services; and

(2) Has a noncumulative election, to be made no later than 6 months after the end of each calendar year, to charge reasonable compensation, not to exceed the maximum commissions for trustee services provided for at the time by Maryland law, for fiduciary services performed during that calendar year.

§14–406.

(a) The trust shall terminate upon the first to occur of:

(1) The death of the beneficiary;

(2) A date or event specified in the trust document; or

(3) The determination by the trustee, in the trustee's sole and absolute discretion, that by judicial, legislative, or administrative action, trust property or income has been or will be determined to be property or an available resource of the beneficiary.

(b) Upon termination of a trust, the trustee shall transfer the unexpended trust property:

(1) As designated in the instrument creating the trust; or

(2) If there is no designation, in the following order:

(i) To the transferor, if living;

(ii) If the transferor is not living and died with a will, to those persons, other than the beneficiary, designated as residuary legatees in the transferor's will in the proportions to which they were entitled under the transferor's will; or

(iii) If the transferor is not living and died without a will, to those persons, other than the beneficiary, who would be entitled to receive the trust property at the time if the transferor died owning the trust property, without a will, and a resident of Maryland.

(c) The powers and duties of the trustee shall continue until the final and complete distribution of the trust property is made.

§14–407.

(a) The following form may be used to create a trust by transfer:

"Transfer Under the Maryland Discretionary Trust Act

(A). I, _____ (name of transferor or name of representative capacity if a fiduciary), transfer the property described in paragraph D to the trustee named in paragraph B, and such trustee's successors, to be held in trust under the

Maryland Discretionary Trust Act by the trustee for the benefit of the beneficiary named in paragraph C.

(B) (1) The trustee shall be _____
(name one or more).

(2) At any time when the trustee is unable to serve as trustee, the following persons shall succeed as trustee in the order named (specify who replaces whom for multiple trustees):

(i) _____
(ii) _____
(iii) _____

(C) The beneficiary shall be _____
(name one only)

(D) The trust property shall be:

(1) _____
(2) _____

(E) The trust shall terminate upon the first to occur of (check those applicable):

(1) _____ the death of the beneficiary
(2) _____ the following date: _____
(3) _____ the following event: _____

(F) Upon termination, the remaining trust property shall be distributed to _____
(name person or persons)

(G) Revocability (check one):

(1) _____ The transferor may revoke this trust.
(2) _____ The transferor may not revoke this trust.

Signature of transferor _____
Date of execution _____
Signature of witness _____
Date: _____
Name of attorney preparing this statement of transfer:
_____

State of Maryland, _____ : ss

I hereby certify that on _____ (fill in date) before me, a notary public of the State of Maryland, personally appeared _____ (name of transferor) known to me, or satisfactorily proven, to be the person whose name is subscribed to the within instrument and who acknowledges that he/she (strike one) executed the same for the purposes therein contained.

Witness my hand and Notarial Seal.

_____
Notary Public

My commission expires: _____."

(b) The following form may be used to create a trust by declaration:

"Declaration of Trust Under the Maryland Discretionary Trust Act

(A) I, _____ (name of property owner) declare that henceforth I as trustee will hold the property described in paragraph D in trust under the Maryland Discretionary Trust Act for the benefit of the beneficiary named in paragraph C.

(B) (1) At any time when I am unable to serve as trustee, the trustee shall be:

_____

(name one or more)

(2) At any time when the trustee who succeeds me is unable to serve as trustee, the following persons shall succeed as trustee in the order named (specify who replaces whom for multiple trustees):

(i) _____

(ii) _____

(iii) _____

(C) The beneficiary shall be _____

(D) The trust property shall be:

(1) _____

(2) _____

(E) The trust shall terminate upon the first to occur of (check those applicable):

(1) _____ The death of the beneficiary

(2) _____ The following date: _____

(3) _____ The following event: _____

_____

(F) Upon termination, the remaining trust property shall be distributed to

_____

(name person or persons)

(G) Revocability (check one):

(1) _____ The declarant may revoke this trust

(2) _____ The declarant may not revoke this trust

Signature of declarant _____

Date of execution _____

Signature of witness _____

Date _____

Name of attorney preparing this declaration:

_____

State of Maryland, _____ : ss

I hereby certify that on _____ (fill in date) before me, a notary public of the State of Maryland, personally appeared _____

(name of declarant) known to me, or satisfactorily proven, to be the person whose name is subscribed to the within instrument and who acknowledges that he/she (strike one) executed the same for the purposes therein contained.

Witness my hand and Notarial Seal.

_____
Notary Public

My commission expires: _____."

§14–408.

This subtitle may be cited as the "Maryland Discretionary Trust Act".

§14–501.

(a) In this subtitle, "health savings account" has the meaning stated in § 223 of the Internal Revenue Code.

(b) A health savings account may be established as provided in § 15–144 of the Insurance Article.

(c) Except as provided in this subtitle or required by federal law, this article does not apply to a health savings account.

§14–601.

(a) The definitions in § 14.5–103 of this article apply in this subtitle.

(b) In this subtitle the following words have the meanings indicated.

(c) (1) "Authorized fiduciary" means a trustee or other fiduciary, other than a settlor, who has discretion to distribute or direct a trustee to distribute all or part of the principal of the first trust to a beneficiary.

(2) "Authorized fiduciary" includes:

(i) A special fiduciary appointed under § 14–606 of this subtitle; and

(ii) A special needs fiduciary, as defined in § 14–610 of this subtitle.

(d) "Charitable interest" means an interest in a trust that:

(1) Is held by an identified charitable organization and makes the organization a qualified beneficiary;

(2) Benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or

(3) Is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary.

(e) "Charitable organization" means:

(1) A person, other than an individual, organized and operated exclusively for charitable purposes; or

(2) A government or governmental subdivision, agency, or instrumentality that holds funds exclusively for charitable purposes.

(f) "Court" means the court in this State having jurisdiction in matters relating to trusts.

(g) (1) "Current beneficiary" means a beneficiary that, on the date the beneficiary's qualification is determined, is a distributee or permissible distributee of trust income or principal.

(2) "Current beneficiary" includes a person who is a beneficiary solely because the person holds a presently exercisable general power of appointment.

(3) "Current beneficiary" does not include a person who is a beneficiary only because the person holds a power of appointment other than a presently exercisable general power of appointment.

(h) "Decanting power" means the power of an authorized fiduciary to distribute property of a first trust to one or more second trusts or to modify the terms of a first trust.

(i) "Expanded distributive discretion" means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard.

(j) "First trust" means a trust over which an authorized fiduciary may exercise decanting power.

(k) "First trust instrument" means the trust instrument of a first trust.

(l) "Powerholder" means a person in which a settlor creates a power of appointment.

(m) (1) "Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time.

(2) "Presently exercisable power of appointment" includes a power of appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:

(i) The occurrence of the specified event;

(ii) The satisfaction of the ascertainable standard; or

(iii) The passage of the specified time.

(3) "Presently exercisable power of appointment" does not include a power exercisable only at the powerholder's death.

(n) "Reasonably definite standard" means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. § 674(b)(5)(A) and any applicable regulations.

(o) "Record" means information that is:

(1) Inscribed on a tangible medium; or

(2) (i) Stored in an electronic or other medium; and

(ii) Retrievable in perceivable form.

(p) "Second trust" means:

(1) A first trust which has been modified under this title; or

(2) A trust to which a distribution of property from a first trust has or may be made under this title.

(q) "Second trust instrument" means the trust instrument of a second trust.

§14–602.

(a) Except as otherwise provided in this section, this subtitle applies to any express trust that:

(1) Is irrevocable or revocable by the settlor only with the consent of the trustee or a person holding an adverse interest; and

(2) (i) Has its principal place of administration in this State, including a trust whose principal place of administration has been changed to this State; or

(ii) Is governed by the law of this State for the purpose of:

1. Administration, including administration of a trust whose governing law for purposes of administration has been changed to the law of this State;

2. Construction of the terms of the trust; or

3. Determining the meaning or effect of the terms of the trust.

(b) This subtitle does not apply to a trust held solely for charitable purposes.

(c) Except as otherwise provided in this subtitle, a trust instrument may restrict or prohibit the exercise of the decanting power.

(d) This subtitle does not limit the power of a trustee, a powerholder, or any other person to:

(1) Distribute or appoint property in further trust; or

(2) Modify a trust under the trust instrument, law of this State other than this title, common law, a court order, or a nonjudicial settlement agreement.

(e) This subtitle does not limit the ability of a settlor to provide in a trust instrument for the distribution or appointment in further trust of trust property or the modification of the trust instrument.

§14–602.1.

(a) Notice to a person under this subtitle or the sending of a document to a person under this subtitle shall be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document.

(b) An authorized fiduciary shall provide notice to a person under this subtitle:

(1) By personal service;

(2) By certified mail or first–class mail, postage prepaid, return receipt requested;

(3) By courier delivery service, delivery service prepaid, delivery confirmation requested; or

(4) If a person entitled to receive notice under this subtitle agrees in writing to accept an alternative form of notice:

(i) By first–class mail, postage prepaid;

(ii) By facsimile transmission from a facsimile device that produces a confirmation page that specifies the date and time of a successful facsimile transmission; or

(iii) By e–mail, acknowledgement requested.

(c) (1) A person may revoke the authorized fiduciary's authorization to provide notice by an alternative method under subsection (b)(4) of this section by providing notice to the authorized fiduciary in a method specified under subsection (b)(1) through (3) of this section.

(2) An authorized fiduciary authorized to provide notice by an alternative method under subsection (b)(4) of this section may continue to provide notice by the authorized alternative method until the person entitled to receive notice revokes the authorization in accordance with paragraph (1) of this subsection.

(d) If an authorized fiduciary who provides notice by an alternative method under subsection (b)(4) of this section knows or should know that the person entitled to receive notice did not actually receive notice, the authorized fiduciary shall provide notice to the person by a method specified under subsection (b)(1) through (3) of this section.

§14–603.

(a) In exercising the decanting power, an authorized fiduciary shall act in accordance with its fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

(b) This subtitle does not create or imply a duty to exercise the decanting power or give notice to beneficiaries of the applicability of this subtitle.

(c) Except as otherwise provided in a first trust instrument, for purposes of this title and §§ 14.5–801 and 14.5–802(a) of this article, the terms of the first trust are deemed to include the decanting power.

§14–604.

A trustee or other person who reasonably relies on the validity of a distribution of trust property to another trust or on a modification of a trust under this subtitle, the law of this State, or the law of any other jurisdiction is not liable to any person for any act or failure to act as a result of the reliance.

§14–605.

(a) Except as otherwise provided in this subtitle, an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.

(b) (1) Except as provided in subsection (d) of this section and paragraph (2) of this subsection, an authorized fiduciary shall give notice in a record of any intended exercise of the decanting power at least 60 days before the exercise to:

(i) Each settlor of the first trust, if living or then in existence;

(ii) Each qualified beneficiary of the first trust and the Attorney General if the Attorney General has the rights of a qualified beneficiary under § 14–611 of this subtitle;

(iii) Each holder of a presently exercisable power of appointment over any part of the first trust;

(iv) Each person that currently has a right to remove or replace the authorized fiduciary; and

(v) Any other fiduciary of the first or second trusts.

(2) An authorized fiduciary is not required to give notice to any person under this subsection if the person is not known to the fiduciary or is known to the fiduciary and cannot be located after reasonable diligence.

(c) The notice required under subsection (b) of this section shall:

(1) Specify the manner in which the authorized fiduciary intends to exercise the decanting power;

(2) Specify the proposed effective date for the exercise of the power; and

(3) Include a copy of the first trust instrument and all second trust instruments.

(d) An authorized fiduciary may exercise the decanting power sooner than 60 days after providing the notice required by subsection (b) of this section if all persons entitled to receive the notice waive the period in a signed record.

(e) The receipt of notice, waiver of the notice period, or expiration of the notice period does not affect the right of a person to file an application asserting that:

(1) An attempted exercise of the decanting power is ineffective because the exercise:

(i) Did not comply with the provisions of this subtitle;

(ii) Was an abuse of discretion; or

(iii) Was a breach of fiduciary duty; or

(2) § 14–619 of this subtitle applies to the exercise of the decanting power.

(f) An exercise of the decanting power is not ineffective because an authorized fiduciary failed to give notice as required by subsection (b) of this section if the authorized fiduciary acted with reasonable care to comply with the requirements of this section.

§14–606.

On application of an authorized fiduciary or a person entitled to receive notice under § 14–605 of this subtitle, a court may:

(1) Determine whether a proposed or attempted exercise of the decanting power is allowed under this subtitle and consistent with the fiduciary duties of the authorized fiduciary;

(2) Appoint a special fiduciary and authorize the special fiduciary to determine whether the decanting power should be exercised and to exercise the decanting power;

(3) Approve the exercise of the decanting power;

(4) Determine that the proposed or attempted exercise of the decanting power is ineffective:

(i) Due to a failure to comply with the provisions of this subtitle;

(ii) As an abuse of the authorized fiduciary's discretion; or

(iii) As a breach of the authorized fiduciary's fiduciary duties;

(5) Determine the extent to which § 14–619 of this subtitle applies to a prior exercise of the decanting power;

(6) Determine the application of § 14–619 of this subtitle to a prior exercise of the decanting power; or

(7) Order other relief to carry out the purposes of this title.

§14–607.

(a) Any exercise of the decanting power shall be made in a record signed by an authorized fiduciary.

(b) (1) The record required by this subsection shall identify:

(i) The first trust;

(ii) Any second trust;

(iii) Any property being distributed to a second trust; and

(iv) Any property remaining in the first trust.

(2) The record required by this subsection may include information by reference to the notice required by § 14–605 of this subtitle.

§14–608.

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

(2) (i) "Noncontingent right" means a right that is not subject to the exercise of discretion or the occurrence of a specified event that is not certain to occur.

(ii) "Noncontingent right" does not include a right held by a beneficiary if any other person has discretion to distribute property subject to the right to any person other than the beneficiary or the beneficiary's estate.

(3) "Presumptive remainder beneficiary" means a qualified beneficiary other than a current beneficiary.

(4) (i) "Successor beneficiary" means a beneficiary that is not a qualified beneficiary on the date that the beneficiary's qualification is determined.

(ii) "Successor beneficiary" does not include a person that is a beneficiary solely because the person holds a nongeneral power of appointment.

(5) "Vested interest" means:

(i) A right to a mandatory distribution that is a noncontingent right as of the date of the exercise of the decanting power;

(ii) A current and noncontingent right, at least annually, to a mandatory distribution of income, a specified dollar amount, or a percentage value of some or all of the trust property;

(iii) A current and noncontingent right, at least annually, to withdraw income, a specified dollar amount, or a percentage value of some or all of the trust property;

(iv) A presently exercisable general power of appointment; or

(v) A right to receive an ascertainable part of trust property on termination of the trust that is not subject to the exercise of discretion or the occurrence of a specified event that is not certain to occur.

(b) Except as otherwise provided in § 14–610 of this subtitle, an authorized fiduciary that has expanded distributive discretion over the principal of a first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(c) Except as otherwise provided in § 14–610 of this subtitle, in exercising the decanting power, a second trust may not:

(1) Except as provided in subsection (d) of this section, include as a current beneficiary a person that is not a current beneficiary of the first trust;

(2) Except as provided in subsection (d) of this section, include as a presumptive remainder beneficiary or successor beneficiary a person that is not a current beneficiary, presumptive remainder beneficiary, or successor beneficiary of the first trust; or

(3) Reduce or eliminate a vested interest.

(d) Subject to subsection (c)(3) of this section and § 14–611 of this subtitle, in the exercise of the decanting power under this section, one or more second trusts may be created or administered under the law of any jurisdiction and may:

(1) Retain a power of appointment granted in the first trust;

(2) Omit a power of appointment granted in the first trust, other than a presently exercisable general power of appointment;

(3) Create or modify a power of appointment if the powerholder is a current beneficiary of the first trust and the authorized fiduciary has expanded distributive discretion to distribute principal to that beneficiary; or

(4) Create or modify a power of appointment if the powerholder is a presumptive remainder beneficiary or successor beneficiary of the first trust and the exercise of the power may take effect only after the powerholder becomes, or would have become if then living, a current beneficiary.

(e) (1) A power of appointment described in subsection (d) of this section may be general or nongeneral.

(2) The class of permissible appointees in favor of which a power of appointment described in subsection (d) of this section may be exercised may be broader than or different from the beneficiaries of the first trust.

(f) If an authorized fiduciary has expanded distributive discretion over part but not all of the principal of a first trust, the authorized fiduciary may exercise the decanting power under this section only over the part of the principal over which the authorized fiduciary has expanded distributive discretion.

§14–609.

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

(2) "Deferred distribution" means a provision in a second trust that defers or postpones, as compared with the first trust, a contingent right of a beneficiary to receive an outright distribution of assets on the attainment of a certain age or the occurrence of a specified event.

(3) "Limited distributive discretion" means a discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

(b) An authorized fiduciary who has limited distributive discretion over the principal of a first trust may exercise the decanting power over the principal of the first trust.

(c) (1) Subject to § 14–611 of this subtitle, one or more second trusts may be created or administered under the law of any jurisdiction.

(2) The second trusts, in the aggregate, shall grant each beneficiary of the first trust beneficial interests that are substantially similar to the beneficiary's beneficial interests under the first trust.

(3) Notwithstanding paragraph (2) of this subsection, a second trust may:

(i) Include a deferred distribution, if the second trust provides that:

1. During the lifetime of the beneficiary, no portion of the income or principal attributable to the deferred distribution may be distributed to, or for the benefit of, any person other than the beneficiary; and

2. A. The beneficiary shall have a testamentary qualified power of appointment exercisable in favor of the beneficiary's estate over the deferred distribution; or

B. The deferred distribution shall be payable to the beneficiary's estate if the second trust does not terminate during the beneficiary's lifetime;

(ii) Expand a power of appointment existing in the first trust to include as permissible appointees the creditors of the powerholder's estate; or

(iii) Narrow a power of appointment existing in the first trust that is not presently exercisable to remove as permissible appointees any of the following:

1. The powerholder;

2. The powerholder's estate;

3. The creditors of the powerholder; or

4. The creditors of the powerholder's estate.

(d) (1) A power to make a distribution under a second trust for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary.

(2) A distribution is for the benefit of the beneficiary if:

(i) The distribution is applied for the benefit of the beneficiary;

(ii) 1. The beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated; and

2. The distribution is made as allowed by this title; or

(iii) The distribution is made as allowed under the terms of the first trust instrument and the second trust instrument for the benefit of the beneficiary.

(e) If an authorized fiduciary has limited distributive discretion over part of but not all of the principal of a first trust, the authorized fiduciary may exercise the decanting power under this section only over the part of the principal over which the authorized fiduciary has limited distributive discretion.

§14–610.

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

(2) "Beneficiary with a disability" means a beneficiary of a first trust who the special needs fiduciary reasonably believes qualifies for governmental benefits based on disability, whether or not the beneficiary currently receives governmental benefits or has been adjudicated incapacitated.

(3) "Governmental benefits" means financial aid or services from a State, federal, or other public agency.

(4) "Special needs fiduciary" means, with respect to a trust that has a beneficiary with a disability:

(i) A trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the principal of a first trust to one or more current beneficiaries;

(ii) If no trustee or fiduciary has discretion under item (i) of this paragraph, a trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the income of the first trust to one or more current beneficiaries; or

(iii) If no trustee or fiduciary has discretion under item (i) or (ii) of this paragraph, a trustee or other fiduciary, other than a settlor, that is required to distribute part or all of the income or principal of the first trust to one or more current beneficiaries.

(5) "Special needs trust" means a trust that the trustee reasonably believes would not be considered a resource for the purpose of determining whether a beneficiary with a disability is eligible for governmental benefits.

(b) A special needs fiduciary may exercise the decanting power over the principal of a first trust as if the fiduciary had authority to distribute principal to a beneficiary with a disability subject to expanded distributed discretion, if:

(1) A second trust is a special needs trust that benefits the beneficiary with a disability; and

(2) The special needs fiduciary determines that the exercise of the decanting power will further purposes of the first trust.

(c) Notwithstanding any provision to the contrary, in an exercise of the decanting power under this section:

(1) The interest in a second trust of a beneficiary with a disability may, but is not required to:

(i) Be a pooled trust, as defined in Title 42 of the United States Code, for a beneficiary with a disability; or

(ii) Contain payback provisions complying with the requirements for reimbursement in Title 42 of the United States Code;

(2) A second trust may reduce or eliminate a vested interest of a beneficiary with a disability; and

(3) Except as affected by any change to the interests of the beneficiary with a disability, a second trust, or second trusts in the aggregate, shall grant each other beneficiary of the first trust beneficial interests in the second trusts that are substantially similar to the beneficiary's beneficial interests in the first trust.

§14–611.

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

(2) "Determinable charitable interest" means a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event, or after passage of a specified time and that is unconditional or will be held solely for charitable purposes.

(3) "Unconditional" means not subject to the occurrence of a specified event that is not certain to occur, other than a requirement that a charitable organization be in existence or qualify under a particular provision of Title 26 of the United States Code on the date of the distribution, if the charitable organization meets the requirement on the date of determination.

(b) (1) If a first trust contains a determinable charitable interest, the Attorney General has the rights of a qualified beneficiary and may represent and bind the charitable interest.

(2) If a first trust contains a charitable interest, a second trust may not:

(i) Diminish the charitable interest;

(ii) Diminish the interest of an identified charitable organization that holds the charitable interest;

(iii) Alter any charitable purpose stated in the first trust instrument; or

(iv) Alter any condition or restriction related to the charitable interest.

(3) If a first trust contains a determinable charitable interest, the second trust shall be administered under the law of this State, unless:

(i) The Attorney General, after receiving notice of the exercise of the decanting power, does not object within 60 days after receiving the notice;

(ii) The Attorney General consents in a signed record to the second trust being administered under the law of another jurisdiction; or

(iii) A court approves the exercise of the decanting power.

(c) If there are two or more second trusts, the second trusts shall be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the charitable interest or diminishes the interest of an identified charitable organization for purposes of subsection (b) of this section.

§14–612.

(a) An authorized fiduciary may not exercise the decanting power to the extent that the first trust instrument expressly prohibits exercise of:

(1) The decanting power; or

(2) A power granted by State law to the fiduciary to distribute all or part of the trust to another trust or to modify the trust.

(b) Exercise of the decanting power is subject to any restriction in the first trust instrument that expressly applies to exercise of:

(1) The decanting power; or

(2) A power granted by State law to the fiduciary to distribute all or part of the trust to another trust or to modify the trust.

(c) Exercise of the decanting power is not prohibited by:

(1) A general prohibition of the amendment or revocation of a first trust;

(2) A spendthrift clause; or

(3) A clause restraining the voluntary or involuntary transfer of a beneficiary's interest.

(d) Subject to subsections (a) and (b) of this section, an authorized fiduciary may exercise the decanting power even if the first trust instrument allows the authorized fiduciary or another person to modify the first trust instrument or to distribute part or all of the principal of the first trust to another trust.

(e) If a first trust instrument contains an express prohibition or restriction described in subsection (a) or (b) of this section, the same prohibition or restriction shall be included in any second trust instrument.

§14–613.

An authorized fiduciary may not exercise the decanting power to increase the authorized fiduciary's compensation, unless:

(1) All qualified beneficiaries of the second trust consent to the increase in a signed record;

(2) A court approves the increase; or

(3) The increase is incidental to other changes made by the exercise of the decanting power.

§14–614.

(a) Except as otherwise provided in this section, a second trust instrument may not:

(1) Relieve an authorized fiduciary from liability for breach of trust to a greater extent than a first trust instrument; or

(2) Reduce fiduciary liability in the aggregate.

(b) A second trust instrument may provide for indemnification of an authorized fiduciary of the first trust or another person acting as a fiduciary of the first trust for any liability or claim that would have been payable from the first trust if the decanting power had not been exercised.

(c) Subject to subsection (a)(2) of this section, a second trust instrument may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution advisors, investment advisors, trust protectors, or other persons, and relieve a fiduciary from liability for an act or failure to act of another fiduciary as allowed by the law of this State other than this title.

§14–615.

An authorized fiduciary may not exercise the decanting power to modify a provision in a first trust instrument granting another person the power to remove or replace the authorized fiduciary unless:

(1) If the modification applies only to the person, the person holding the power consents to the modification in a signed record;

(2) The person holding the power and the qualified beneficiaries of the second trust consent to the modification in a signed record and the modification grants a substantially similar power to another person; or

(3) A court approves the modification and the modification grants a substantially similar power to another person.

§14–616.

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

(2) "Grantor trust" means a trust as to which a settlor of a first trust is considered the owner under 26 U.S.C. §§ 671 through 677 or § 679.

(3) "Internal Revenue Code" means Title 26 of the United States Code.

(4) "Nongrantor trust" means a trust that is not a grantor trust.

(5) "Qualified benefits property" means property subject to the minimum distribution requirements of 26 U.S.C. § 401(a)(9), any applicable regulations, or similar requirements.

(6) (i) "Tax benefit" means a federal or State tax deduction, exemption, exclusion, or other benefit.

(ii) "Tax benefit" does not include a benefit arising from being a grantor trust.

(b) (1) If the first trust contains property that qualified, or would have qualified but for any provision of this subtitle other than this section, for a marital deduction for purposes of the gift tax or estate tax under the Internal Revenue Code or a State gift, estate, or inheritance tax, the second trust instrument may not include or omit any term that, if included in or omitted from the trust instrument for the trust to which property was transferred, would have prevented the transfer from qualifying for the deduction or would have reduced the amount of the deduction under

the provisions of the Internal Revenue Code or State law under which the transfer qualified.

(2) If the first trust contains property that qualified, or would have qualified but for any provision of this subtitle other than this section, for a charitable deduction for purposes of the income, gift, or estate tax under the Internal Revenue Code or a State income, gift, estate, or inheritance tax, the second trust instrument may not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction or would have reduced the amount of the deduction under the same provisions of the Internal Revenue Code or State law under which the transfer qualified.

(3) (i) If the first trust contains property that qualified, or would have qualified but for any provision of this subtitle other than this section, for the exclusion from the gift tax described in 26 U.S.C. § 2503(b), the second trust instrument may not include or omit a term that, if included or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. § 2503(b).

(ii) If the first trust contains property that qualified, or would have qualified but for any provision of this subtitle other than this section, for the exclusion from the gift tax described in 26 U.S.C. § 2503(b) by application of 26 U.S.C. § 2503(c), the second trust instrument may not include or omit a term that, if included or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. § 2503(c).

(4) (i) If the property of the first trust includes shares of stock in an S corporation, as defined in the Internal Revenue Code, and the first trust is, or would be but for any provision of this subtitle other than this section, a permitted shareholder under any provision of 26 U.S.C. § 1361, an authorized fiduciary may exercise the decanting power with respect to part or all of the S corporation stock only if any second trust receiving the stock is a permitted shareholder under 26 U.S.C. § 1361(c)(2).

(ii) If the property of the first trust includes shares of stock in an S corporation, as defined in the Internal Revenue Code, and the first trust is, or would be but for any provision of this subtitle other than this section, a qualified subchapter S trust within the meaning of 26 U.S.C. § 1361(d), the second trust instrument may not include or omit a term that prevents the second trust from qualifying as a qualified subchapter S trust.

(5) If the first trust contains property that qualified, or would have qualified but for any provision of this subtitle other than this section, for a zero inclusion ratio for purposes of the generation–skipping transfer tax under 26 U.S.C. § 2642(c), the second trust instrument may not include or omit a term that, if included or omitted from the first trust instrument, would have prevented the transfer to the first trust from qualifying for a zero inclusion ratio under 26 U.S.C. § 2642(c).

(6) (i) If the first trust is directly or indirectly the beneficiary of qualified benefits property, the second trust instrument may not include or omit any term that, if included in or omitted from the first trust instrument, would have increased the minimum distributions required with respect to the qualified benefits property under 26 U.S.C. § 401(a)(9) and any applicable regulation or similar requirements.

(ii) If an attempted exercise of the decanting power violates this paragraph:

1. The trustee is deemed to have held the qualified benefits property and any reinvested distributions of the property as a separate share from the date of the exercise of the decanting power; and

2. § 14–619 of this subtitle applies to the separate share.

(7) If the first trust qualifies as a grantor trust because of the application of 26 U.S.C. § 672(f)(2)(A), the second trust may not include or omit a term that, if included or omitted from the first trust instrument, would have prevented the first trust from qualifying under 26 U.S.C. § 672(f)(2)(A).

(8) Subject to paragraph (9) of this subsection, a second trust instrument may not include or omit a term that, if included or omitted from the first trust instrument, would have prevented qualification for a tax benefit if:

(i) 1. The first trust instrument expressly indicates an intent to qualify for the benefit; or

2. The first trust instrument is clearly designed to enable the first trust to qualify for the benefit; and

(ii) The transfer of property held by the first trust or the first trust qualified, or would have qualified but for any provision of this subtitle other than this section, for the tax benefit.

(9) Except as otherwise provided in this subsection, the second trust may be a nongrantor trust or a grantor trust.

(10) An authorized fiduciary may not exercise the decanting power if a settlor objects in a signed record delivered within the notice period to the fiduciary and:

(i) 1. The first trust and a second trust are both grantor trusts, in whole or in part;

2. The first trust grants the settlor or another person the power to cause the first trust to cease to be a grantor trust; and

3. The second trust does not grant an equivalent power to the settlor or other person; or

(ii) The first trust is a nongrantor trust and a second trust is a grantor trust, in whole or in part, with respect to the settlor, unless:

1. The settlor has the power at all times to cause the second trust to cease to be a grantor trust; or

2. A. The first trust instrument contains a provision granting the settlor or another person a power that would cause the first trust to cease to be a grantor trust; and

B. The second trust instrument contains the same provision.

§14–617.

(a) Subject to subsection (b) of this section, a second trust may have a duration that is the same as or different from the duration of the first trust.

(b) To the extent that the property of a second trust is attributable to property of a first trust, the property of the second trust is subject to any rules governing maximum perpetuity, accumulation, or suspension of the power of alienation that apply to the property of the first trust.

§14–618.

An authorized fiduciary may exercise the decanting power whether or not under the first trust's discretionary distribution standard the fiduciary would have

made or could have been compelled to make a discretionary distribution of principal at the time of the exercise.

§14–619.

(a) If an exercise of the decanting power violates the provisions of this subtitle solely because a second trust instrument in part does not comply with the requirements of this subtitle, the exercise is effective.

(b) If an exercise of the decanting power is effective notwithstanding a failure to meet any requirement of this subtitle in accordance with subsection (a) of this section, with respect to the principal of the second trust attributable to the exercise of the power:

(1) Any provision in the second trust instrument prohibited by this subtitle is void to the extent necessary to comply with this subtitle; and

(2) The second trust instrument shall be treated as containing any provision which is required by this subtitle but not included in the instrument.

(c) If a trustee or other fiduciary of a second trust determines that an exercise of the decanting power is effective notwithstanding a failure to meet any requirement of this subtitle under subsection (a) of this section, that fiduciary shall take corrective action.

§14–620.

(a) The decanting power may be exercised for a trust established under § 14.5–407 of this article to the same extent that the decanting power could be exercised if each animal benefitting from the trust were a person.

(b) Notwithstanding any other provision of this title, in an exercise of the decanting power under this section, the second trust must provide that trust property may be applied only to its intended purpose for the period the first trust benefitted the animal.

§14–621.

A reference in Title 14.5 of this article to a trust instrument or terms of a trust includes a second trust instrument and the terms of a second trust.

§14–622.

(a) A settlor of a first trust is deemed to be the settlor of the second trust with respect to any portion of the principal of the first trust subject to the exercise of the decanting power.

(b) In determining settlor intent with respect to a second trust, a court may consider the intent of:

(1) A settlor of the first trust;

(2) A settlor of the second trust; and

(3) An authorized fiduciary.

§14–623.

(a) Except as provided in subsection (c) of this section, if an exercise of the decanting power was intended to distribute all the principal of the first trust to one or more second trusts, later–discovered property belonging to the first trust and property paid to or acquired by the first trust after the exercise of the decanting power is part of the trust estate of the second trust or trusts.

(b) Except as provided in subsection (c) of this section, if an exercise of the decanting power was intended to distribute less than all of the principal of the first trust to one or more second trusts, later–discovered property belonging to the first trust or property paid to or acquired by the first trust after the exercise of the decanting power remains part of the trust estate of the first trust.

(c) An authorized fiduciary may provide in an exercise of the decanting power or the terms of a second trust instrument for the disposition of later–discovered property belonging to the first trust or property paid to or acquired by the first trust after the exercise of the decanting power.

§14–624.

A debt, liability, or other obligation enforceable against property of a first trust is enforceable to the same extent against the property when held by a second trust after the exercise of the decanting power.

§14–625.

This subtitle may be cited as the Maryland Trust Decanting Act.

§14.5–101.

This title may be cited as the Maryland Trust Act.

§14.5–102.

This title applies to express charitable or noncharitable trusts and trusts created in accordance with a statute (including the Maryland Discretionary Trust Act, unless otherwise provided by the statute), judgment, or decree that requires the trust to be administered in the manner of an express trust.

§14.5–103.

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

(b) "Action", with respect to an act of a trustee, includes a failure to act.

(c) "Ascertainable standard" means a standard relating to an individual's health, education, support, or maintenance within the meaning of § 2041(b)(1)(A) or § 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on January 1, 2015.

(d) "Beneficiary" means a person that:

(1) Has a present or future beneficial interest in a trust, vested or contingent; or

(2) In a capacity other than that of a trustee, holds a power of appointment over trust property.

(e) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in § 14–301(b) of this article.

(f) "Delivery address" means:

(1) The last known place of residence or place of business of a person;

(2) A facsimile number provided by a person for the purpose of receiving notice; or

(3) An e–mail address provided by a person for the purpose of receiving notice.

(g) (1) "Discretionary distribution provision" means a provision in a trust that provides that the trustee has discretion, or words of similar import, to determine one or more of the following:

(i) Whether to distribute to or for the benefit of an individual or a class of beneficiaries the income or principal or both of the trust;

(ii) The amount, if any, of the income or principal or both of the trust to distribute to or for the benefit of an individual or a class of beneficiaries;

(iii) Which, if any, among a class of beneficiaries will receive income or principal or both of the trust;

(iv) Whether the distribution of trust assets is from income or principal or both of the trust; or

(v) When to pay income or principal, except that a power to determine when to distribute income or principal within or with respect to a calendar or taxable year of the trust is not a discretionary distribution provision if the distribution must be made.

(2) "Discretionary distribution provision" includes a provision in a trust instrument that:

(i) Provides one or more standards or other guidance for the exercise of the discretion of the trustee; or

(ii) Contains a spendthrift provision.

(h) (1) "Environmental law" means a federal, State, or local law, rule, regulation, or ordinance that relates to the protection of the environment.

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

(i) "General power of appointment", subject to § 14.5–507(b)(7) of this title, means a power of appointment that:

(1) By the terms of the trust specifically authorizes the holder to direct trust property to the holder, the estate of the holder, or the creditors of the holder;

(2) Is held in a capacity other than as a trustee;

(3) Is not limited by an ascertainable standard; and

(4) Is exercisable by the holder or holders without the consent of another person.

(j) (1) "Guardian of the person" means a person appointed by the court or, in the case of a minor with no living parent, by the probated will of a parent of the minor, to make decisions regarding the support, care, education, health, and welfare of a minor or an adult individual.

(2) "Guardian of the person" does not include a guardian ad litem.

(k) "Guardian of the property" means a person appointed by the court to administer the estate of a minor or an adult individual.

(l) "Incapacitated" means the state of having an incapacity.

(m) "Incapacity" means the inability of an individual to manage the individual's property or financial affairs effectively due to:

(1) Physical or mental disability;

(2) Disease or illness;

(3) Habitual drunkenness;

(4) Drug addiction;

(5) Imprisonment;

(6) Compulsory hospitalization;

(7) Detention by a foreign power; or

(8) Disappearance.

(n) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(o) "Jurisdiction", with respect to a geographic area, includes a state or country.

(p) (1) "Mandatory distribution provision" means a provision in a trust that requires the trustee to make a distribution of income or principal to a beneficiary, including a distribution on termination of the trust.

(2) "Mandatory distribution provision" does not include a provision in a trust that allows the trustee to make a distribution subject to the exercise of the discretion of the trustee even if:

(i) The discretion is expressed in the form of a standard of distribution; or

(ii) The terms of the trust authorizing a distribution couple language of discretion with language of direction.

(q) "Person" means:

(1) An individual;

(2) A corporation;

(3) A business trust;

(4) An estate;

(5) A trust;

(6) A partnership;

(7) A limited liability company;

(8) An association;

(9) A joint venture;

(10) A government;

(11) A governmental subdivision;

(12) An agency;

(13) An instrumentality;

(14) A public corporation; or

(15) Any other legal or commercial entity.

(r) "Power of appointment" means the authority to designate the recipient or recipients of beneficial interests in property.

(s) "Power of withdrawal", subject to § 14.5–507(b) of this title, means a presently exercisable power to withdraw trust property from a trust for the use or benefit of the power holder, other than a power:

(1) Exercisable by a trustee and limited by an ascertainable standard;

(2) Exercisable by another person only on consent of the trustee or a person holding an adverse interest; or

(3) Exercisable only with respect to trust property having a value that is less than or equal to the greatest of:

(i) The amount specified in § 2041(b)(2) or § 2514(e) of the Internal Revenue Code of 1986, as amended;

(ii) The amount specified in § 2503(b) of the Internal Revenue Code of 1986, as amended, if the donor of the property subject to the power of withdrawal is unmarried at the time of the transfer of the property to the trust; or

(iii) Twice the amount specified in § 2503(b) of the Internal Revenue Code of 1986, as amended, if the donor of the property subject to the power of withdrawal is married at the time of the transfer of the property to the trust.

(t) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or an interest in the thing.

(u) (1) "Qualified beneficiary" means a beneficiary that on the date the qualification of the beneficiary is determined:

(i) Is a distributee or permissible distributee of trust income or principal;

(ii) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in item (i) of this paragraph terminated on that date without causing the trust to terminate; or

(iii) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date and no power of appointment was exercised.

(2) "Qualified beneficiary" does not include an appointee under the will of a living person or the object of an unexercised inter vivos power of appointment.

(v) "Revocable", as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(w) (1) "Settlor" means a person, including a testator, that creates or contributes property to a trust.

(2) "Settlor" includes a person that, with other settlors, creates or contributes property to a trust in which case each such person is a settlor of the portion of the trust property attributable to the contribution of that person except to the extent another person has the power to revoke or withdraw that portion.

(x) "Spendthrift provision" means a term of a trust that:

(1) Restrains both voluntary and involuntary transfer of the interest of a beneficiary; or

(2) Restrains involuntary transfer of the interest of a beneficiary and permits voluntary transfer of the interest of a beneficiary only with the consent of a person that is not a beneficiary.

(y) (1) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(2) "State" includes a Native American tribe or band recognized by federal law or formally acknowledged by a state.

(z) (1) "Support provision" means a mandatory distribution provision in a trust that provides that the trustee shall distribute income or principal or both for the health, education, support, or maintenance of a beneficiary, or language of similar import.

(2) "Support provision" does not include a provision in a trust that provides that a trustee has discretion whether to distribute income or principal or both for the purposes under paragraph (1) of this subsection or to select from among a class of beneficiaries to receive distributions in accordance with the trust provision.

(aa) "Terms of a trust" means the manifestation of the intent of the settlor regarding the provisions of a trust as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.

(bb) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including amendments to the trust.

(cc) "Trustee" includes an original, an additional, and a successor trustee and a cotrustee.

§14.5–104.

A person has knowledge of a fact if the person:

(1) Has actual knowledge of the fact;

(2) Has received a notice or notification of the fact; or

(3) From all the facts and circumstances known to the person at the time, knows or should know the fact.

§14.5–105.

The terms of a trust prevail over a provision of this title, except:

(1) The requirements for creating a trust;

(2) The duty of a trustee to act reasonably under the circumstances and in accordance with the terms and purposes of the trust and the interests of the beneficiaries;

(3) The requirement that a trust and the terms of the trust be for the benefit of the beneficiaries of the trust and that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve;

(4) The prohibition under § 14.5–306 of this title against a person serving as a representative of a beneficiary of a trust when that person is serving as a trustee of the same trust;

(5) The power of the court to modify or terminate a trust under §§ 14.5–410, 14.5–411, 14.5–413, and 14.5–414 of this title;

(6) The rights of certain creditors and assignees to reach a trust as provided in Subtitle 5 of this title;

(7) The power of the court under § 14.5–702 of this title to require, dispense with, modify, or terminate a bond;

(8) The subject matter jurisdiction and venue for commencing a proceeding as provided by the laws of this State;

(9) The power of the court under § 14.5–708(a) of this title to increase or decrease the commissions of a trustee;

(10) The duties to provide information, copies, and notices specified under § 14.5–813(a) and (c) of this title;

(11) The duty under § 14.5–813(a) and (b) of this title to:

(i) Notify qualified beneficiaries of an irrevocable trust who have attained 25 years of age of the existence of the trust, the identity of the trustee, and their right to request trustee's reports and a copy of the trust; and

(ii) Respond to the request of a qualified beneficiary of an irrevocable trust for reports by the trustee and other information reasonably related to the administration of the trust;

(12) The effect of an exculpatory term under § 14.5–906 of this title;

(13) The rights under §§ 14.5–908 through 14.5–910 of this title of a person other than a trustee or beneficiary;

(14) The power of the court to take an action and exercise jurisdiction as may be necessary in the interests of justice; and

(15) Periods of limitation for bringing a judicial action.

§14.5–106.

The common law of trusts and principles of equity supplement this title, except to the extent modified by this title or another statute of this State.

§14.5–107.

The meaning and effect of the terms of a trust are determined by:

(1) The law of the jurisdiction designated in the terms unless the designation of that jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter at issue; or

(2) In the absence of a controlling designation in the terms of the trust, the law of the jurisdiction having the most significant relationship to the matter at issue.

§14.5–108.

(a) Without precluding other means for establishing a sufficient connection with the designated jurisdiction, terms of a trust designating the principal place of administration are valid and controlling if:

(1) The principal place of business of a trustee is located in or a trustee is a resident of the designated jurisdiction; or

(2) All or part of the administration of the trust occurs in the designated jurisdiction.

(b) A trustee is under a continuing duty to administer the trust at a place appropriate to its purposes, its administration, and the interests of the beneficiary.

(c) Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the duty under subsection (b) of this section, may transfer the principal place of administration of the trust to another state or a jurisdiction outside the United States.

(d) (1) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than 60 days before initiating the transfer.

(2) The notice of proposed transfer under paragraph (1) of this subsection must include:

(i) The name of the jurisdiction to which the principal place of administration is to be transferred;

(ii) The address and telephone number at the new location at which the trustee can be contacted;

(iii) An explanation of the reasons for the proposed transfer;

(iv) The date on which the proposed transfer is anticipated to occur; and

(v) The date, not less than 60 days after the giving of the notice, by which the qualified beneficiary must notify the trustee of an objection to the proposed transfer.

(e) The authority of a trustee under this section to transfer a trust's principal place of administration terminates if a qualified beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

§14.5–109.

(a) (1) Notice to a person under this title or the sending of a document to a person under this title shall be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document.

(2) Permissible methods of notice to a person or for sending a document to a person under this title include first–class mail, personal delivery, or delivery to the person's delivery address.

(3) (i) This paragraph applies to:

1. The proposed termination of a trust;

2. The proposed modification of the administrative or dispositive terms of a trust;

3. The proposed combination of two or more trusts into a single trust;

4. The proposed division of a trust into two or more separate trusts;

5. The proposed resignation of a trustee or cotrustee;

6. The proposed transfer of the principal place of administration of a trust; or

7. The notice required to be given to a qualified beneficiary under § 14.5–813 of this title.

(ii) Notwithstanding paragraphs (1) and (2) of this subsection, a trustee shall provide notice to a person under this title:

1. By personal service;

2. By certified mail or first–class mail, postage prepaid, return receipt requested;

3. By courier delivery service, delivery service prepaid, delivery confirmation requested; or

4. If a person entitled to receive notice under this title agrees, in writing, to accept an alternative method of notice:

A. By first–class mail, postage prepaid;

B. By facsimile transmission from a facsimile device that produces a confirmation page that specifies the date and time of a successful facsimile transmission; or

C. By e–mail, acknowledgment requested.

(iii) 1. A person may revoke the trustee's authorization to provide notice by an alternative method under subparagraph (ii)4 of this paragraph by providing notice to the trustee in a method specified under subparagraph (ii)1 through 3 of this paragraph.

2. A trustee authorized to provide notice by an alternative method under subparagraph (ii)4 of this paragraph may continue to provide notice by an alternative method until the person entitled to receive notice revokes authorization.

(iv) If a trustee who provides notice by an alternative method under subparagraph (ii)4 of this paragraph knows or should know that the person did not receive notice, the trustee shall provide notice to the person by a method specified under subparagraph (ii)1 through 3 of this paragraph.

(b) Except as expressly provided in this title, notice required under this title or a document required to be sent under this title need not be provided:

(1) To a person whose identity, location, or delivery address is unknown to and not reasonably ascertainable by the trustee; or

(2) By a person to himself or herself.

(c) Notice under this title or the sending of a document under this title may be waived in writing by the person to be notified or sent the document.

(d) Notice of a judicial proceeding under this title shall be given as provided in the applicable rules of civil procedure.

§14.5–110.

(a) Whenever notice to qualified beneficiaries of a trust is required under this title, the trustee shall also give notice to any other beneficiary that has sent the trustee a request for notice.

(b) A charitable organization expressly designated to receive distributions under the terms of a charitable trust has the rights of a qualified beneficiary under this title if the charitable organization on the date the qualification of the charitable organization is being determined:

(1) Is a distributee or permissible distributee of trust income or principal;

(2) Would be a distributee or permissible distributee of trust income or principal on the termination of the interests of other distributees or permissible distributees then receiving or eligible to receive distributions; or

(3) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(c) A person appointed to enforce a trust created for the care of an animal as provided in § 14.5–407 of this title or another noncharitable purpose as provided in § 14.5–408 of this title has the rights of a qualified beneficiary under this title.

(d) The State's Attorney General has the rights of a qualified beneficiary with respect to a charitable trust having the principal place of administration of the charitable trust in this State.

§14.5–111.

(a) In this section, "interested person" means a person whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the court.

(b) Except as otherwise provided in subsection (c) of this section, on or after October 1, 2016, interested persons may enter into a binding nonjudicial settlement agreement with respect to a matter involving a trust.

(c) A nonjudicial settlement agreement is valid only to the extent the settlement does not violate a material purpose of the trust and includes terms and

conditions that could be properly approved by the court under this title or other applicable law.

(d) Matters that may be resolved by a nonjudicial settlement agreement include:

(1) The interpretation or construction of the terms of the trust;

(2) The approval of a report or accounting of a trustee;

(3) Direction to a trustee to refrain from performing a particular act or the grant to a trustee of a necessary or desirable power;

(4) The resignation or appointment of a trustee and the determination of the compensation of a trustee;

(5) Transfer of the principal place of administration of a trust; and

(6) Liability of a trustee for an action relating to the trust.

(e) An interested person may request the court to:

(1) Determine whether the representation as provided in Subtitle 3 of this title was adequate; and

(2) Determine whether the agreement contains terms and conditions the court could have properly approved.

§14.5–112.

(a) In the absence of express language to the contrary, the rules contained in §§ 1–202, 1–203, 1–204, 1–205, 1–206, 1–207, 1–208, 1–209, and 1–210.1 of this article shall be applied in construing the terms of an inter vivos trust.

(b) Whenever a provision in §§ 1–202, 1–203, 1–204, 1–205, 1–206, 1–207, 1–208, 1–209, and 1–210.1 of this article refers to a "will", "estate", or a similar term relevant primarily to wills and estates or a taker under a will or an estate, the term shall be modified to mean "trust instrument", "trust", or a similar term to reflect the application of the principles of those provisions to an inter vivos trust.

§14.5–113.

If probable cause exists for instituting proceedings, a provision in a trust purporting to penalize an interested person for contesting the trust or instituting other proceedings relating to the estate is void.

§14.5–201.

(a) On the invocation of the court's jurisdiction by an interested person, on the court's own motion, or as otherwise provided by law, the court may intervene actively in the administration of a trust, fashioning and implementing remedies as the public interest and the interests of the beneficiaries may require.

(b) A trust is not subject to continuing judicial supervision unless ordered by the court.

(c) A judicial proceeding involving a trust may relate to a matter involving the administration of the trust, including a request for instructions and an action to declare rights.

(d) (1) A court having equity jurisdiction has general superintending power with respect to trusts.

(2) The provisions of Titles 1 through 13 of this article do not affect or supersede the power described in paragraph (1) of this subsection.

§14.5–202.

(a) By accepting the trusteeship of a trust having the principal place of administration for the trust in the State or by moving the principal place of administration to the State, the trustee submits personally to the jurisdiction of the courts of the State regarding a matter involving the trust.

(b) (1) With respect to the interests of a beneficiary of a trust having the principal place of administration of the trust in the State, the beneficiary is subject to the jurisdiction of the courts of the State regarding a matter involving the trust.

(2) By accepting a distribution from a trust described in paragraph (1) of this subsection, the recipient submits personally to the jurisdiction of the courts of the State regarding a matter involving the trust.

(c) This section does not preclude other methods of obtaining jurisdiction over a trustee, a beneficiary, or any other person receiving property from the trust.

§14.5–203.

(a) (1) A discretionary power conferred on the trustee to determine the benefits of a beneficiary is subject to judicial control to prevent misinterpretation or abuse of the discretion of the trustee.

(2) The benefits to which a beneficiary of a discretionary distribution provision is entitled, and what may constitute an abuse of discretion by the trustee, depend on the terms of the discretion, including the proper construction of accompanying standards, and on the settlor's purposes in granting the discretionary power and in creating the trust.

(3) Notwithstanding the breadth of discretion granted to a trustee by the terms of a trust, including the use of the terms "absolute", "sole", or "uncontrolled", a trustee abuses the discretion of the trustee in exercising or failing to exercise a discretionary power if the trustee:

(i) Acts dishonestly;

(ii) Acts with an improper motive, even though not a dishonest motive;

(iii) Fails to exercise the judgment of the trustee in accordance with the terms and purposes of the trust; or

(iv) Acts beyond the bounds of reasonable judgment.

(b) A court may review an action by a trustee under a support provision or a mandatory distribution provision in the trust.

§14.5–301.

(a) Except as required by the applicable rules of civil procedure in a judicial proceeding, notice to a person that is authorized to represent and bind another person under this subtitle has the same effect as if notice were given directly to the other person unless the person represented objects to the representation by notifying the trustee and the representative before the notice would otherwise have become effective.

(b) The consent of a person that is authorized to represent and bind another person under this subtitle is binding on the person represented unless the person represented objects to the representation by notifying the trustee and the representative before the consent would otherwise have become effective.

(c) Except as otherwise provided in § 14.5–602 of this title, a person that under this subtitle is authorized to represent a settlor that lacks capacity may receive notice and give a binding consent on behalf of the settlor.

(d) A representative may act on behalf of the individual represented with respect to a matter arising under this title, whether or not a judicial proceeding concerning the trust is pending.

(e) In making decisions as a representative of an individual, the representative may consider the general benefit accruing to the living members of the family of the individual.

§14.5–302.

(a) The holder of a qualified power of appointment may represent and bind persons whose interests as permissible appointees or takers in default are subject to the power.

(b) A qualified power of appointment is:

(1) A general power of appointment; or

(2) A power of appointment exercisable in favor of all persons other than the power holder, the estate of the power holder, the creditors of the power holder, and the creditors of the estate of the power holder.

§14.5–303.

To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

(1) A guardian of the property may represent and bind the minor or disabled person;

(2) A guardian of the person may represent and bind the minor or disabled person if a guardian of the property has not been appointed;

(3) An agent having specific authority to act with respect to trust matters may represent and bind the principal;

(4) A trustee of a trust that is a beneficiary of another trust may represent and bind the beneficiaries of the trust that is the beneficiary of the other trust;

(5) A personal representative of the estate of a decedent that is a beneficiary of a trust may represent and bind interested persons in the estate;

(6) A parent may represent and bind the minor, incapacitated, unborn, or unknown child of the parent or child of the parent whose location is unknown and not reasonably ascertainable if a guardian of the property or guardian of the person for the child has not been appointed; and

(7) If a minor, an incapacitated, unborn, or unknown individual or an individual whose location is unknown and not reasonably ascertainable is not otherwise represented under this section, a grandparent or more remote ancestor may represent and bind the individual.

§14.5–304.

Unless otherwise represented, a minor, an incapacitated or unborn individual, or an individual whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by a representative having a substantially identical interest with respect to a particular question or dispute, but only to the extent that there is no conflict of interest between the representative and the individual represented with respect to the question or dispute.

§14.5–305.

(a) If the court determines that an interest is not represented under this subtitle or that the otherwise available representation might be inadequate, the court may appoint a representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, an incapacitated individual, an unborn individual, or a person whose identity or location is unknown or is not reasonably ascertainable as long as there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute.

(b) A representative may be appointed to represent several persons or interests under this title.

§14.5–306.

(a) A settlor may:

(1) Designate one or more persons who may serve as a representative or successor representative of a beneficiary of the trust;

(2) Designate one or more other persons who may designate a representative or successor representative of a beneficiary of the trust; and

(3) Specify the order of priority among two or more persons who are authorized under this title to serve as a representative or successor representative of a beneficiary of the trust.

(b) Notwithstanding subsection (a) of this section, except as provided in § 14.5–303 of this subtitle, a person designated under subsection (a) of this section may not serve as a representative of a beneficiary of a trust if the person serves as a trustee of the same trust.

(c) (1) A representative designated under subsection (a) of this section may be held liable to the beneficiary on whose behalf the representative acts only if:

(i) The representative has undertaken or agreed to represent the beneficiary; and

(ii) Subject to paragraph (2) of this subsection, the representative's action or failure to act is proven by clear and convincing evidence to have been in bad faith with respect to the beneficiary.

(2) For purposes of determining liability under paragraph (1)(ii) of this subsection, a representative acts, or fails to act, in bad faith only if:

(i) The action or inaction was the result of intentional wrongdoing by the representative; or

(ii) The representative acted, or failed to act, with reckless indifference to the purposes of the trust or the interests of the beneficiary on whose behalf the representative acted.

§14.5–401.

A trust may be created by:

(1) Transfer of property to another person as trustee during the lifetime of the settlor or by will or other disposition taking effect on the death of the settlor;

(2) Declaration by the owner of property that the owner holds identifiable property as trustee; or

(3) Exercise of a power of appointment in favor of a trustee.

§14.5–402.

(a) A trust is created only if:

(1) The settlor has capacity to create a trust;

(2) The settlor indicates an intention to create the trust;

(3) The trust has a definite beneficiary or is:

(i) A charitable trust;

(ii) A trust for the care of an animal, as provided in § 14.5–407 of this subtitle; or

(iii) A trust for a noncharitable purpose, as provided in § 14.5–408 of this subtitle; and

(4) The trustee has duties to perform.

(b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(c) (1) A power in a trustee or in another person under the terms of the trust to select a beneficiary from an indefinite class is valid.

(2) If the power described in paragraph (1) of this subsection is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons that would have taken the property had the power not been conferred.

§14.5–403.

A trust not created by will is validly created if the creation of the trust complies with:

(1) The law of the jurisdiction in which the trust instrument was executed; or

(2) The law of the jurisdiction in which, at the time of creation:

(i) The settlor was domiciled or was a national;

(ii) A trustee of the trust was domiciled or had a place of business; or

(iii) Any trust property was located.

§14.5–404.

(a) A trust may be created only to the extent that the purposes of the trust are lawful, not contrary to public policy, and possible to achieve.

(b) A trust and the terms of the trust shall be for the benefit of the beneficiaries of the trust.

§14.5–405.

A trust is void to the extent that the creation of the trust was induced by fraud, duress, or undue influence.

§14.5–406.

Except as required by a provision other than this title, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and the terms of the oral trust may be established only by clear and convincing evidence.

§14.5–407.

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

(b) A trust authorized by this section terminates:

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

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

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

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

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

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

(i) To the settlor, if living; or

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

§14.5–408.

Except as otherwise provided in § 14.5–407 of this subtitle or by another statute, the following rules apply:

(1) (i) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee; and

(ii) A trust described in item (i) of this item may not be enforced for more than 21 years unless the settlor elects otherwise;

(2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court; and

(3) (i) Property of a trust authorized by this section may be applied only to the intended use of the trust, except to the extent that the court determines that the value of the trust property exceeds the amount required for the intended use; and

(ii) Except as otherwise provided in the terms of a trust described in item (i) of this item, property not required for the intended use shall be distributed to the settlor, if then living, or to the successors in interest of the settlor, if the settlor is not then living.

§14.5–409.

(a) In addition to the methods of termination prescribed by §§ 14.5–410 through 14.5–412 of this subtitle, a trust terminates to the extent:

(1) The trust is revoked or expires in accordance with the terms of the trust; or

(2) The purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

(b) A proceeding to approve or disapprove a proposed modification or termination under §§ 14.5–410 through 14.5–414 of this subtitle, or combination or division of a trust under § 14.5–415 of this subtitle, may be commenced by a trustee or beneficiary.

§14.5–410.

(a) (1) A noncharitable irrevocable trust may be terminated on consent of the trustee and all beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust.

(2) A noncharitable irrevocable trust may be modified on consent of the trustee and all beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(b) The existence of a spendthrift provision or similar protective language in the terms of the trust does not prevent a termination of a trust under subsection (a)(1) of this section.

(c) On termination of a trust under subsection (a)(1) of this section, the trustee shall distribute the trust property as agreed by the beneficiaries.

(d) If not all beneficiaries consent to a proposed modification or termination of the trust under subsection (a) of this section, the modification or termination may be approved by the court if the court is satisfied that:

(1) If all beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) The interests of a beneficiary that does not consent will be adequately protected.

§14.5–411.

(a) (1) The court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust.

(2) To the extent practicable, the modification described in paragraph (1) of this subsection shall be made in accordance with the probable intention of the settlor.

(b) The court may modify the administrative terms of a trust if continuation of the trust on its existing terms would be impracticable or wasteful or impair the administration of the trust.

(c) On termination of a trust under subsection (a) of this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust as ordered by the court.

§14.5–412.

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

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

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

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

(c) (1) (i) A trustee proposing to terminate a trust under this section shall send notice of the proposed termination to each cotrustee and each qualified beneficiary of the trust at the last known address of the cotrustee or qualified beneficiary.

(ii) The notice described in subparagraph (i) of this paragraph shall be:

1. Personally delivered; or

2. Mailed by certified mail, postage prepaid, return receipt requested.

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

(i) The name of the trust;

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

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

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

(v) The name of any cotrustee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) A distribution to a minor qualified beneficiary shall be made to the custodian of the minor under the Maryland Uniform Transfers to Minors Act.

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

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

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

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

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

(1) The provisions of the governing instrument make the trust eligible to qualify for the marital deduction for United States estate tax or for United States gift tax purposes under the Internal Revenue Code of 1986, as amended, unless all qualified beneficiaries agree that all of the trust estate shall be distributed to the spouse of the creator of the trust; or

(2) The provisions of the governing instrument make the trust qualify, in whole or in part, for a charitable deduction for United States estate tax, United States gift tax, or United States income tax purposes under the Internal Revenue Code of 1986, as amended, unless all qualified beneficiaries agree that all of the trust estate shall be distributed to one or more qualified beneficiaries that qualify for the charitable deduction under the Internal Revenue Code of 1986, as amended.

§14.5–413.

The court may reform the terms of a trust, even if unambiguous, to conform the terms to the intention of the settlor if it is proved by clear and convincing evidence that both the intent of the settlor and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

§14.5–414.

(a) To achieve the tax objectives of the settlor, the court may modify the terms of a trust in a manner that is not contrary to the probable intention of the settlor.

(b) The court may provide that the modification described in subsection (a) of this section has retroactive effect.

§14.5–415.

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

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

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

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

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

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

1. The accomplishment of trust purposes; or

2. The interests of the beneficiaries.

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

(i) A trustee;

(ii) A personal representative;

(iii) A beneficiary; or

(iv) A party in interest.

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

(c) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, if a trust instrument does not provide for the consolidation or division of a trust, a trustee may, without an order of a court:

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

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

(2) A trustee may not divide a trust into two or more separate trusts or consolidate two or more trusts into a single trust if a beneficiary objects in writing within 30 days after the trustee provided notice under § 14.5–109 of this title.

(3) A trustee may divide a trust or consolidate trusts:

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

(ii) If the division of a trust or consolidation of a trust grants beneficial interests to the beneficiaries that, in the aggregate, are substantially similar to the interests the beneficiaries had before the division of the trust or consolidation of the trust; and

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

1. The accomplishment of trust purposes; or

2. The interests of the beneficiaries.

§14.5–501.

(a) A court may authorize a creditor or an assignee of a beneficiary to reach the interest of the beneficiary by attachment of present or future distributions to or for the benefit of the beneficiary or by other means if that interest is not subject to a discretionary distribution provision, a support provision, or a spendthrift provision.

(b) The court may limit the amount, timing, or other terms and conditions of an award under this section to relief as is appropriate under the circumstances considering, among other factors:

(1) The support needs of the beneficiary, the spouse of the beneficiary, the former spouse of the beneficiary, and the dependent children of the beneficiary;

(2) With respect to a beneficiary that is the recipient of public benefits, the supplemental needs of the beneficiary if the trust was not intended to provide for the basic support of the beneficiary; and

(3) The amount of the claim of the creditor or assignee and the likely proceeds that a sale would produce as compared to the potential value of the interest to the beneficiary.

§14.5–502.

(a) (1) A beneficiary of a discretionary distribution provision has no property right in a trust interest that is subject to a discretionary distribution provision.

(2) A beneficial interest that is subject to a discretionary distribution provision may not be judicially foreclosed, attached by a creditor, or transferred by the beneficiary.

(b) (1) The creditor of the beneficiary of a discretionary distribution provision created by someone other than that beneficiary has no enforceable right to trust income or principal that may be distributed only in the exercise of the discretion of the trustee.

(2) Trust property that is subject to a discretionary distribution provision is not subject to the enforcement of a judgment until income or principal or both is distributed directly to the beneficiary.

(c) A creditor of a beneficiary may not compel a distribution that is subject to a discretionary distribution provision created by someone other than that beneficiary.

(d) A trust may contain a discretionary distribution provision with respect to one or more but less than all beneficiaries.

(e) If a beneficiary of a discretionary distribution provision has a power of withdrawal created by someone other than that beneficiary:

(1) During the period the power may be exercised, the portion of the trust the beneficiary may withdraw may not be deemed to be subject to the discretionary distribution provision with respect to that beneficiary;

(2) During the period the power may be exercised, the portion of the trust the beneficiary may not withdraw shall be deemed to be subject to the discretionary distribution provision with respect to that beneficiary; and

(3) During periods in which the beneficiary does not have a power of withdrawal, the trust interest of the beneficiary shall be deemed to be subject to the discretionary distribution provision with respect to that beneficiary.

(f) If a beneficiary and one or more others have made contributions to a trust subject to a discretionary distribution provision, the portion of the trust attributable to the contributions of the beneficiary may not be deemed to be subject to that discretionary distribution provision with respect to that beneficiary, but the portion of the trust attributable to the contributions of others shall be deemed to be subject to the discretionary distribution provision with respect to that beneficiary.

(g) The interest of a beneficiary who is blind or disabled as defined in 42 U.S.C. § 1382c(a)(3) may be subject to a discretionary distribution provision notwithstanding:

(1) Precatory language in the trust instrument regarding the intended purpose of the trust of providing supplemental goods and services to or for the benefit of the beneficiary, and not to supplant benefits from public assistance programs; or

(2) A prohibition against providing food, clothing, and shelter to the beneficiary.

§14.5–503.

(a) Except as provided in §§ 14.5–505 and 14.5–506(b) of this subtitle:

(1) A beneficial interest that is subject to a support provision may not be judicially foreclosed, attached by a creditor, or transferred by the beneficiary; and

(2) Trust property that is subject to a support provision is not subject to the enforcement of a judgment until income or principal or both is distributed directly to the beneficiary.

(b) (1) The use, occupancy, and enjoyment of a single parcel of residential real property, as designated by the trustee, and tangible personal property by a beneficiary whose interest is subject to a support provision may not be transferred by the beneficiary of the use, occupancy, or enjoyment.

(2) The use, occupancy, and enjoyment described in paragraph (1) of this subsection are not subject to the enforcement of a judgment against the beneficiary.

§14.5–504.

(a) A spendthrift provision is valid and enforceable.

(b) A provision of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust", or words of similar import, restrains both voluntary and involuntary transfer of the beneficiary's interest.

(c) A beneficial interest that is subject to a spendthrift provision may not be judicially foreclosed or attached by a creditor.

(d) (1) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in this subtitle, a creditor or an assignee of the beneficiary may not reach the interest or a distribution by the trustee before the receipt by the beneficiary of the interest or distribution.

(2) An attempt by a beneficiary to transfer an interest in a trust in violation of a valid spendthrift provision shall be void and of no effect.

(e) (1) The use, occupancy, and enjoyment of a single parcel of residential real property, as designated by the trustee, and tangible personal property by a beneficiary whose interest is subject to a spendthrift provision may not be transferred.

(2) The use, occupancy, and enjoyment described in paragraph (1) of this subsection are not subject to the enforcement of a judgment against the beneficiary.

§14.5–505.

(a) In this section, "child" includes any person for whom an order or a judgment for child support has been entered in this State or another state.

(b) Subject to the provisions of § 14.5–502 of this subtitle, the interest of a beneficiary that is subject to either a spendthrift provision or a support provision or both can be reached in satisfaction of an enforceable claim against the beneficiary by the following:

(1) A child, spouse, or former spouse of the beneficiary that has a judgment or court order against the beneficiary for support or maintenance;

(2) A judgment creditor that has provided services for the protection of the interest of a beneficiary in the trust; or

(3) A claim of this State or the United States to the extent a statute of this State or federal law so provides.

(c) (1) A claimant described in subsection (b) of this section may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary.

(2) The court may only order the trustee to satisfy all or part of the judgment out of payments of income or principal as they become due.

(3) The court may limit the award to such relief as is appropriate under the circumstances, considering among any other factors determined appropriate by the court:

(i) The support needs of the beneficiary's spouse, former spouse, and dependent children;

(ii) The support needs of the beneficiary; or

(iii) With respect to a beneficiary that is the recipient of public benefits, the supplemental needs of the beneficiary if the trust was not intended to provide for the basic support of the beneficiary.

§14.5–506.

(a) To the extent that the interest of a beneficiary subject to a mandatory distribution provision, other than a support provision, does not contain a spendthrift provision, the court may authorize a creditor or an assignee of the beneficiary to attach present or future mandatory distributions to or for the benefit of the beneficiary, or to reach the beneficiary's interest by other means, as provided in § 14.5–501 of this subtitle.

(b) A creditor or an assignee of a beneficiary may reach a mandatory distribution of a trust if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date, whether or not the trust contains a spendthrift provision or a support provision.

§14.5–507.

(a) (1) A power of appointment held by a person other than the settlor of the trust is not a property interest.

(2) A power of appointment described in paragraph (1) of this subsection and property subject to that power of appointment may not be judicially foreclosed or attached by a creditor of the holder of the power.

(b) None of the following shall be sufficient to create a general power of appointment or a power of withdrawal with respect to a beneficiary or settlor:

(1) The beneficiary serving as a trustee or cotrustee;

(2) The settlor or the beneficiary holding an unrestricted power to remove or replace a trustee;

(3) The settlor or the beneficiary of a trust serving as a trust administrator, a partner of a partnership, a manager of a limited liability company, or an officer of a corporation, or serving in another managerial function of another type of entity if part or all of the trust property consists of an interest in the entity;

(4) A person related by blood or adoption to the settlor or the beneficiary serving as trustee of the trust;

(5) The agent, accountant, attorney, financial adviser, or friend of the settlor or beneficiary serving as trustee of the trust;

(6) A business associate of the settlor or the beneficiary serving as trustee of the trust;

(7) A power of appointment held by the settlor other than the reserved power of the settlor to withdraw trust property for the benefit of the settlor, the creditors of the settlor, the estate of the settlor, or the creditors of the estate of the settlor;

(8) A power to substitute property of equivalent value for trust property as defined in § 675(4)(C) of the Internal Revenue Code of 1986, as amended; or

(9) A power to borrow trust property for less than adequate interest or without security as defined in § 675(2) of the Internal Revenue Code of 1986, as amended.

§14.5–508.

(a) The following rules apply, whether or not the terms of a trust contain a spendthrift provision:

(1) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the creditors of the settlor;

(2) With respect to an irrevocable trust, a creditor or an assignee of the settlor may reach only the lesser of:

(i) The claim of the creditor or assignee; and

(ii) The maximum amount that can be distributed to or for the benefit of the settlor;

(3) If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the interest of the settlor in the portion of the trust attributable to the contribution of that settlor;

(4) With respect to a trust described in 42 U.S.C. § 1396p(d)(4)(A) or (C), the court may limit the award of the creditor of a settlor under items (1) and (2)

of this subsection to the relief that is appropriate under the circumstances, considering among other factors determined appropriate by the court, the supplemental needs of the beneficiary; and

(5) After the death of a settlor, and subject to subsection (b) of this section and the right of the settlor to direct the source from which liabilities will be paid, the property of a trust that was revocable at the death of the settlor is subject to claims of the creditors of the settlor.

(b) (1) Whether or not the terms of a trust contain a spendthrift provision, if a proceeding other than for a small estate under Title 5, Subtitle 6 of this article is commenced to administer the estate of a deceased settlor as provided in Title 5 of this article, property of a trust that was revocable at the death of the settlor is not subject to, and the trustee and beneficiaries of that trust may not be held liable for, claims of the creditors of the settlor that are not properly presented in the estate proceeding within the time periods specified in § 8–103 of this article or that are disallowed and barred as provided in § 8–107 of this article.

(2) (i) If a proceeding as described under paragraph (1) of this subsection has not been commenced, the trustee of the trust of which the decedent was a settlor may publish a notice once a week for 3 successive weeks in a newspaper of general circulation in what would otherwise be the proper venue for an administrative or judicial probate for that decedent under § 5–103 of this article.

(ii) The notice shall:

1. Announce the death of the decedent;

2. Provide the name and address of the trustee;

3. Notify creditors of the decedent to present their claims to the trustee; and

4. Be substantially in the following form:

Notice to Creditors of a Settlor of a Revocable Trust

To all persons interested in the trust of _____:

This is to give notice that _____ died on or about _____. Before the decedent's death, the decedent created a revocable trust for which the undersigned, _____, whose address is _____, is now a trustee.

To have a claim satisfied from the property of this trust, a person who has a claim against the decedent must present the claim on or before the date that is 6 months after the date of the first publication of this notice to the undersigned trustee at the address stated above. The claim must include the following information:

A verified written statement of the claim indicating its basis;
The name and address of the claimant;
If the claim is not yet due, the date on which it will become due;
If the claim is contingent, the nature of the contingency;
If the claim is secured, a description of the security; and
The specific amount claimed.

Any claim not presented to the trustee on or before that date or any extension provided by law is unenforceable.

_____Trustee

Date of first publication: _____.

(3) The publication of a notice in accordance with paragraph (2) of this subsection shall afford the trust property, the trustee, and the beneficiaries of the trust those protections under § 8–103 of this article afforded to a decedent's estate, personal representative, and heirs and legatees against claims presented more than 6 months after the date of the first publication of the notice.

(4) Claims against a deceased settlor are forever barred as against the trust property, the trustee, and the trust beneficiaries unless, within 6 months after the date of the first publication of a notice in accordance with paragraph (2) of this subsection, the creditor:

(i) Files an action against the trustee on the creditor's claim and serves a copy of the complaint on the trustee within 30 days of the filing; or

(ii) Presents to the trustee at the address provided in the notice:

1. A verified written statement of the claim indicating its basis;

2. The name and address of the claimant;

3. If the claim is not yet due, the date on which it will become due;

4. If the claim is contingent, the nature of the contingency;

5. If the claim is secured, a description of the security; and

6. The specific amount claimed.

(5) A claim may not be deemed to have been presented to the trustee unless the claimant has provided all the information specified in paragraph (4) of this subsection.

(6) (i) If a claim is presented to the trustee as provided in paragraph (4) of this subsection and the trustee disallows the claim wholly or in a stated amount, the claimant is forever barred to the extent of the disallowance unless the claimant files an action against the trustee or against any person to whom trust property has been distributed.

(ii) An action under subparagraph (i) of this paragraph shall be filed within 60 days after the mailing of the notice of disallowance by the trustee to the claimant.

(iii) The notice informing the claimant of the disallowance shall contain a warning to the claimant concerning the time limitation under subparagraph (ii) of this paragraph for commencing an action.

(c) (1) During the period the power of withdrawal may be exercised, the holder of a power of withdrawal shall be treated in the same manner as the settlor of a revocable trust to the extent of the property subject to that power.

(2) After the lapse, waiver, or release of a power of withdrawal, the former power holder shall no longer be considered a settlor of the trust.

§14.5–509.

Trust property is not subject to personal obligations of the trustee of the trust, even if the trustee becomes insolvent or bankrupt.

§14.5–510.

(a) A creditor may not attach, exercise, reach, or otherwise compel distribution of the beneficial interest of a beneficiary that is a trustee or the sole trustee of the trust, but that is not a settlor of the trust, except to the extent that the

interest would be subject to the claim of the creditor were the beneficiary not acting as cotrustee or sole trustee of the trust.

(b) A creditor may not attach, exercise, reach, or otherwise compel distribution of the beneficial interest of a beneficiary or any other person that holds an unconditional or conditional power to remove a trustee, to replace a trustee, or to remove and replace a trustee, except to the extent that the interest would be subject to the claim of the creditor if the beneficiary or other person did not have the power to remove, replace, or remove and replace a trustee.

§14.5–511.

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

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

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

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

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

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

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

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

(1) The husband and wife remain married;

(2) The property or the proceeds from the property continue to be held in trust by the trustee or trustees or the successors in trust of the trustee or trustees;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§14.5–601.

(a) The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

(b) Nothing in this section shall be construed to prohibit the creation of a revocable trust if that creation is otherwise authorized under State law.

(c) The fact that the settlor becomes incapacitated or loses the capacity required to create a will does not convert a revocable trust into an irrevocable trust.

§14.5–602.

(a) (1) Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust.

(2) This subsection does not apply to a trust created under an instrument executed before January 1, 2015.

(b) If a revocable trust is created or funded by more than one settlor:

(1) To the extent the trust consists of community property, the trust may be revoked by either spouse acting alone but may be amended only by joint action of both spouses;

(2) To the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to the contribution of that settlor; and

(3) On the revocation or amendment of the trust by fewer than all of the settlors, the trustee shall promptly notify the other settlors of the revocation or amendment.

(c) The settlor may revoke or amend a revocable trust:

(1) By substantially complying with a method to revoke or amend the trust provided in the terms of the trust; or

(2) If the terms of the trust do not provide a method to revoke or amend the trust or the method provided in the terms of the trust is not expressly made exclusive, by:

(i) A later will or codicil that expressly refers to the trust or specifically devises property that would have passed otherwise according to the terms of the trust; or

(ii) Another method manifesting clear and convincing evidence of the intent of the settlor.

(d) On revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.

(e) The powers of a settlor with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney

only to the extent expressly authorized by the terms of the trust and the power of attorney.

(f) A guardian of the property of the settlor or, if no guardian of the property has been appointed, a guardian of the person of the settlor may exercise the powers of the settlor with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the guardianship and only if the trust instrument does not provide otherwise.

§14.5–603.

(a) Except as provided in subsection (b) of this section, while a trust is revocable, rights of the beneficiaries are subject to the control of the settlor and the duties of the trustee are owed exclusively to the settlor.

(b) While a trust is revocable and a settlor does not have the capacity to revoke the trust, a beneficiary to which distributions may be made during the lifetime of the settlor shall have the right to enforce the trust as if the trust were irrevocable.

§14.5–604.

(a) This section applies:

(1) (i) With respect to a final judgment of absolute divorce of the settlor and the settlor's spouse, if the final judgment was entered into on or after October 1, 2016; or

(ii) With respect to an annulment of the marriage, if the annulment occurred on or after October 1, 2016; and

(2) Unless otherwise expressly provided:

(i) In the trust instrument;

(ii) By court order; or

(iii) By written agreement between the settlor and the settlor's spouse or former spouse.

(b) On the absolute divorce of the settlor and the settlor's spouse or the annulment of the marriage occurring after the creation of the settlor's revocable trust:

(1) All terms of the trust relating to trust distributions to or for the benefit of the spouse shall be revoked, and, for the purposes of the trust, the spouse shall be deemed to have died on the date of the absolute divorce or annulment;

(2) If the spouse is serving as a trustee or as an advisor to the trustee of the trust, the spouse shall be removed as a trustee or an advisor on the date of the absolute divorce or annulment without further court action; and

(3) After the divorce or annulment, the former spouse may not:

(i) Serve as a trustee or as an advisor to the trustee of the trust; or

(ii) Exercise any trust or fiduciary powers provided in the terms of the trust, including any power of appointment.

§14.5–605.

A person shall commence a judicial proceeding to contest the validity of a trust that was revocable at the death of the settlor within the earliest of:

(1) 1 year after the death of the settlor; or

(2) 6 months after the trustee sends the person a copy of the trust instrument and a notice informing the person of the existence of the trust, the name and address of the trustee, and the time allowed for commencing a proceeding.

§14.5–606.

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

(2) "Estate subject to election" has the meaning stated in § 3–401 of this article.

(3) "Spousal benefits" has the meaning stated in § 3–401 of this article.

(b) After the filing of an election to take an elective share under § 3–403 of this article becomes final:

(1) All property or other benefits that would have passed to the surviving spouse under the trust instrument, other than any portion of the spousal benefits, shall be treated as if the surviving spouse had died on the day before the settlor; and

(2) The surviving spouse or a person claiming through the surviving spouse may not receive property, other than property forming any portion of the spousal benefits, under the trust instrument.

§14.5–701.

(a) Except as otherwise provided in subsection (c) of this section, a person designated as trustee accepts the trusteeship:

(1) By substantially complying with a method of acceptance provided in the terms of the trust; or

(2) If the terms of the trust do not provide a method of acceptance of the trusteeship or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

(b) (1) A person designated as trustee that has not yet accepted the trusteeship may reject the trusteeship.

(2) A designated trustee that does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have rejected the trusteeship.

(c) A person designated as trustee, without accepting the trusteeship, may:

(1) Act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is deceased or lacks capacity, to a qualified beneficiary; and

(2) Inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

§14.5–702.

(a) A trustee shall give bond to secure performance of the duties of the trustee only if the court:

(1) Finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust; and

(2) Has not dispensed with the requirement.

(b) (1) The court may specify the amount of a bond, the liabilities of the bond, and whether sureties for the bond are necessary.

(2) The court may modify or terminate a bond at any time.

§14.5–703.

(a) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

(b) A cotrustee shall participate in the performance of the function of a trustee unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.

(c) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or cotrustees may act for the trust.

(d) (1) A trustee may delegate investment and management functions to a cotrustee as prudent under the circumstances.

(2) Unless a delegation of an investment or management function was irrevocable, a trustee may revoke a delegation previously made.

§14.5–704.

(a) A vacancy in a trusteeship occurs if:

(1) A person designated as trustee rejects the trusteeship;

(2) A person designated as trustee cannot be identified or does not exist;

(3) A trustee resigns;

(4) A trustee is disqualified or removed;

(5) A trustee dies;

(6) A guardian of the person or guardian of the property is appointed for an individual serving as trustee;

(7) A trustee cannot be located for 120 consecutive days; or

(8) A trustee is unable to handle business affairs as determined by two licensed physicians.

(b) (1) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled.

(2) A vacancy in a trusteeship shall be filled if the trust has no remaining trustee.

(c) A vacancy in a trusteeship that is required to be filled shall be filled in the following order of priority by a person:

(1) Designated in accordance with the terms of the trust to act as successor trustee;

(2) Appointed by unanimous agreement of the qualified beneficiaries; or

(3) Appointed by the court.

(d) The court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust, whether or not a vacancy in a trusteeship exists or is required to be filled.

§14.5–705.

(a) A trustee may resign:

(1) On at least 30 days' notice to:

(i) The qualified beneficiaries;

(ii) The settlor, if living;

(iii) All cotrustees; and

(iv) Any person that has a right to replace or appoint a successor to the resigning trustee; or

(2) With the approval of the court.

(b) In approving a resignation of a trustee, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

(c) Liability of a resigning trustee or of a surety on the bond of the trustee for acts or omissions of the trustee is not discharged or affected by the resignation of the trustee.

§14.5–706.

In addition to the grounds and procedures for removal of a fiduciary set forth in § 15–112 of this article:

(1) The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on the court's own initiative;

(2) The court may remove a trustee if:

(i) The trustee has committed a serious breach of trust;

(ii) Lack of cooperation among cotrustees substantially impairs the administration of the trust;

(iii) Because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries; or

(iv) There has been a substantial change of circumstances and removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interest of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available; and

(3) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order appropriate relief under § 14.5–901(b) of this title as may be necessary to protect the trust property or the interests of the beneficiaries.

§14.5–707.

(a) Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to the trust property, a trustee that has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.

(b) A trustee that has resigned or has been removed shall proceed expeditiously to deliver the trust property within the possession of the trustee to the cotrustee, successor trustee, or other person entitled to the trust property.

§14.5–708.

(a) (1) If the terms of a trust do not specify a trustee's compensation, the trustee is entitled to compensation that is reasonable under the circumstances.

(2) If the terms of a trust specify a trustee's compensation, the trustee is entitled to be compensated as specified in the terms, but the court may authorize more or less compensation if:

(i) The duties of the trustee are substantially different from those contemplated when the trust was first created; or

(ii) The compensation specified by the terms of the trust would be unreasonably low or high.

(3) If the trustee has rendered other services in connection with the administration of the trust, the trustee shall also be allowed reasonable compensation for the other services rendered in addition to reasonable compensation as trustee.

(b) In determining whether a trustee's compensation is reasonable, a court shall consider:

(1) The value and character of the trust property;

(2) The risk and responsibility of administering the trust property;

(3) The time spent on and the quality and character of the services provided by the trustee;

(4) The character and cost of services provided by others;

(5) The trustee's skill and experience;

(6) The results obtained by the trustee;

(7) The terms of the trust; and

(8) Any other factor the court considers relevant.

(c) (1) In determining what is a single trust for the application of the rates provided in this section, all property held undivided under the terms of the will or other instrument creating the trust shall be considered as a single trust.

(2) After shares have been set apart or divided in accordance with paragraph (1) of this subsection, to be held in separate trust, each separate trust set apart shall be considered as a single trust.

(d) (1) A trustee may charge compensation that is reasonable under the circumstances and calculated in accordance with a schedule of rates previously filed by the trustee with the appropriate agency as specified in paragraph (2) of this subsection, if the trustee is:

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

(ii) A member of the Maryland Bar.

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

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

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

(iii) For a trustee administering an estate under the jurisdiction of a court, in addition to the filing described in item (i) or (ii) of this paragraph, with the trust clerk of the court.

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

(4) (i) On the filing by a trustee of a schedule of rates under this subsection, the trustee shall give notice to the qualified beneficiaries of each affected trust.

(ii) The notice required under this paragraph shall be delivered to the qualified beneficiaries personally or sent to the qualified beneficiaries

at the last known address of the qualified beneficiaries by certified mail, postage prepaid, return receipt requested.

(iii) A qualified beneficiary of a trust that objects to the schedule of rates to be charged to that trust, after notifying the trustee of the objection, may petition the appropriate circuit court to review the reasonableness of the rates to be charged.

(iv) The notice required by this paragraph shall include a clear statement of the rights and procedures available to qualified beneficiaries under this subsection.

(v) If the court finds that the rates in the schedule are unreasonable for the current fiscal year of the particular trust, the commissions of the trustee for that trust for that fiscal year shall be limited to the rates charged that trust during the previous fiscal year.

(5) If a trustee does not file a schedule of rates with the appropriate agency under paragraph (2)(i) or (ii) of this subsection and does not notify qualified beneficiaries as provided in paragraph (4) of this subsection, the trustee is entitled to compensation as provided in subsection (a) of this section.

(e) An individual trustee that is not authorized to file a schedule of rates under this section is entitled to compensation as provided in subsection (a) of this section unless the trustee petitions the circuit court for the county where the trustee is located and obtains approval to file a schedule of rates after giving notice of the action to the qualified beneficiaries of the affected trusts.

(f) The legal and court costs incurred by the trustee in accordance with a court review under subsection (d)(4) or subsection (e) of this section shall be charged against fees of the trustee and may not be assumed by the trust or the beneficiaries.

§14.5–709.

(a) A trustee is entitled to be reimbursed out of the trust property, with interest as appropriate, for:

(1) Expenses that were properly incurred in the administration of the trust; and

(2) To the extent necessary to prevent unjust enrichment of the trust, expenses that were not properly incurred in the administration of the trust.

(b) An advance by the trustee of money for the protection of the trust gives rise to a lien against trust property to secure reimbursement with reasonable interest.

§14.5–710.

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

(1) An individual;

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

(3) An organization exempt from taxation under § 501(c) of the Internal Revenue Code of 1986, as amended; and

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

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

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

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

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

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

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

(iii) A resident agent; and

(iv) Additional information considered necessary by the Commissioner for protection of the public.

§14.5–711.

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

§14.5–801.

On acceptance of a trusteeship, the trustee shall administer the trust reasonably under the circumstances, in accordance with the terms and purposes of the trust and the interests of the beneficiaries, and in accordance with this title.

§14.5–802.

(a) A trustee shall administer the trust solely in the interests of the beneficiaries.

(b) Subject to the rights of persons dealing with or assisting the trustee as provided in § 14.5–909 of this title, a sale, an encumbrance, or any other transaction involving the investment or management of trust property entered into by the trustee for the personal account of the trustee or which is otherwise affected by a conflict between the fiduciary and personal interests of the trustee is voidable by a beneficiary affected by the transaction unless:

(1) The transaction was authorized by the terms of the trust;

(2) The transaction was approved by the court;

(3) The beneficiary did not commence a judicial proceeding within the time allowed by law;

(4) The beneficiary consented to the conduct of the trustee, ratified the transaction, or released the trustee in compliance with § 14.5–907 of this title; or

(5) The transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming the trustee.

(c) A sale, an encumbrance, or any other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if the transaction is entered into by the trustee with:

(1) The spouse of the trustee;

(2) A descendant, sibling, or parent of the trustee or a spouse of a descendant, sibling, or parent of the trustee;

(3) An agent or attorney of the trustee; or

(4) A corporation or any other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the best judgment of the trustee.

(d) A transaction that does not concern trust property in which the trustee engages in an individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

(e) (1) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries.

(2) If the trust is the sole owner of a corporation or any other form of enterprise, the trustee shall elect or appoint directors or other managers that will manage the corporation or enterprise in the best interests of the beneficiaries.

(f) This section does not preclude the following transactions, if fair to the beneficiaries:

(1) An agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;

(2) Payment of reasonable compensation to the trustee;

(3) A transaction between a trust and another trust, decedent's estate, or guardianship estate of which the trustee is a fiduciary or in which a beneficiary has an interest; or

(4) An advance by the trustee of money for the protection of the trust.

(g) The court may appoint a special fiduciary to make a decision with respect to a proposed transaction that might violate this section, if entered into by the trustee.

§14.5–803.

If a trust has two or more beneficiaries, the trustee shall act impartially in investing, managing, and distributing the trust property, giving due regard to the respective interests of the beneficiaries.

§14.5–804.

(a) A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements, and other circumstances of the trust.

(b) In satisfying the standard described in subsection (a) of this section, the trustee shall exercise reasonable care, skill, and caution.

§14.5–805.

In administering a trust, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust, and the skills of the trustee.

§14.5–806.

A trustee that has special skills or expertise, or is named trustee in reliance on the representation of the trustee that the trustee has special skills or expertise, shall use those special skills or expertise.

§14.5–807.

(a) (1) A trustee may delegate duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances to an agent, even if the agent is associated with the trustee.

(2) A trustee shall exercise reasonable care, skill, and caution in:

(i) Selecting an agent;

(ii) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and

(iii) Periodically reviewing the actions of the agent in order to monitor the performance of the agent and compliance with the terms of the delegation by the agent.

(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) By accepting a delegation of powers or duties from the trustee of a trust that is subject to the laws of this State, an agent submits to the jurisdiction of the courts of this State.

(d) This section does not apply to a delegation of investment duties or powers in accordance with § 15–114 of this article.

§14.5–808.

(a) While a trust is revocable, the trustee may follow a written direction of the settlor that is contrary to the terms of the trust.

(b) (1) (i) Except as provided in paragraph (2) of this subsection, if the terms of a trust confer on one or more persons, other than the settlor of a revocable trust, a power to direct, consent to, or disapprove the actual or proposed investment decisions, distribution decisions, or other decisions of the trustee, the persons shall be considered advisers and fiduciaries that, as such, are required to act reasonably under the circumstances with regard to the purposes of the trust and the interests of the beneficiaries.

(ii) The trustee may not act in accordance with an exercise of the power if:

1. The attempted exercise is manifestly contrary to the terms of the trust, unless expressly waived in writing by the settlor; or

2. The trustee knows the attempted exercise would constitute a breach of a fiduciary duty that the person holding the power owes to the beneficiaries of the trust.

(2) A beneficiary that holds a power to direct, consent to, or disapprove of a trustee action may not be treated as a fiduciary with respect to the exercise of the power to the extent that the only persons whose interests in the trust are affected by the decision of the beneficiary are the beneficiary and those persons whose interests in the trust are subject to control by the beneficiary through the exercise of a power of appointment.

(3) An adviser under this subsection is liable for a loss that results from breach of a fiduciary duty.

(c) (1) If the terms of a trust require that a trustee shall follow the direction of an adviser with respect to proposed investment decisions, distribution decisions, or other decisions of the trustee:

(i) The trustee shall act in accordance with the direction of the adviser and may not be liable for a loss resulting directly or indirectly from the act except in the case of willful misconduct on the part of the trustee; and

(ii) The trustee shall have no duty to:

1. Monitor the conduct of the adviser;

2. Provide advice to the adviser; or

3. Communicate with, warn, or apprise a beneficiary or third party concerning instances in which the trustee would or might have exercised the discretion of the trustee in a manner different from the manner directed by the adviser.

(2) Absent a preponderance of the evidence to the contrary, the actions of the trustee pertaining to matters within the scope of the authority of the adviser, such as confirming that the directions of the adviser have been carried out and recording and reporting actions taken at the direction of the adviser, shall be presumed to be administrative actions taken by the trustee solely to allow the trustee to perform those duties assigned to the trustee by the terms of the trust, and these administrative actions may not be deemed to constitute an undertaking by the trustee to monitor the adviser or otherwise participate in actions within the scope of the authority of the adviser.

(d) Unless the terms of a trust otherwise provide, an adviser that is given authority with respect to investment decisions has the power to perform the following:

(1) Direct the trustee with respect to the retention, purchase, sale, or encumbrance of the trust property and the investment and reinvestment of principal and income from the trust;

(2) Vote proxies for securities held in trust; and

(3) Select one or more investment advisers, managers, or counselors, including the trustee, and delegate to the advisers, managers, or counselors a power of the adviser.

(e) The terms of a trust may confer on a trustee or other person a power to direct the modification or termination of the trust.

§14.5–809.

A trustee shall take reasonable steps to take control of and protect the trust property, except that this duty does not apply to, and the trustee is not responsible for, items of tangible personal property that are property of a trust that is revocable by the settlor and that are not in the possession or control of the trustee.

§14.5–810.

(a) A trustee shall keep adequate records of the administration of the trust.

(b) A trustee shall keep trust property separate from the property of the trustee.

(c) Except as otherwise provided in subsection (d) of this section, a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.

(d) If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of two or more separate trusts.

§14.5–811.

(a) A trustee shall take reasonable steps to enforce claims of the trust and to defend claims against the trust.

(b) A trustee may abandon a claim that is unreasonable to enforce or assign the claim to one or more of the beneficiaries of the trust holding the claim.

§14.5–812.

(a) A trustee is not liable to the beneficiary for a breach of trust committed by a former trustee.

(b) A trustee is liable to the beneficiary for a breach of trust if the trustee:

(1) Knows or should know of a situation constituting a breach of trust committed by a former trustee and the trustee improperly permits it to continue;

(2) Neglects to take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee; or

(3) Neglects to take reasonable steps to redress a breach of trust committed by a former trustee.

§14.5–813.

(a) Unless unreasonable under the circumstances, a trustee shall promptly respond to the request of a qualified beneficiary for information related to the administration of the trust, including a copy of the trust instrument.

(b) (1) A trustee:

(i) Within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number; and

(ii) Within 90 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection (c) of this section.

(2) Notice required under this subsection shall be:

(i) To the extent the names and locations or delivery addresses of the qualified beneficiaries are known to the trustee:

1. By delivery of the notice to the qualified beneficiaries personally; or

2. By sending the notice to the qualified beneficiaries at their delivery address by a method of notice specified in § 14.5–109(a)(3)(ii) of this title; and

(ii) If the name, location or delivery address, or both of a qualified beneficiary is not known to the trustee, by publication in a newspaper of

general circulation in the county where the trust property is located once a week for 3 successive weeks.

(c) (1) On request by a qualified beneficiary, a trustee shall send to the qualified beneficiary annually and at the termination of the trust a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the compensation of the trustee, a listing of the trust assets, and, if feasible, the respective market values of the trust assets.

(2) On a vacancy in a trusteeship, unless a cotrustee remains in office, the former trustee shall send a report to the qualified beneficiaries that request the report.

(3) A personal representative, a guardian, or an attorney–in–fact may send the qualified beneficiaries a report on behalf of the former trustee.

(d) (1) A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section.

(2) A qualified beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

(3) If a trustee is a qualified beneficiary of the trust for which the trustee is serving, the trustee is not required to provide himself or herself a trustee's report or other information required to be furnished under this section.

(e) Subsection (b) of this section does not apply to a trustee that accepts a trusteeship before January 1, 2015, to an irrevocable trust created before January 1, 2015, or to a revocable trust that becomes irrevocable before January 1, 2015.

§14.5–814.

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

(1) The power to make discretionary distributions of either principal or income to, or for the benefit of, the trustee in the individual capacity of the trustee, unless limited by an ascertainable standard relating to the health, education, support, or maintenance of the trustee, as defined in 26 U.S.C. §§ 2041 and 2514 and the U.S. Treasury regulations issued under those sections;

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

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

(4) A power, in whatever capacity held, to remove or replace a trustee that holds a power proscribed in this subsection; or

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

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

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

(d) This section does not apply if:

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

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

(3) Contributions to the trust qualify for the annual exclusion under § 2503(c) of the Internal Revenue Code of 1986, as amended, as in effect on the effective date of this title, or as later amended.

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

(i) Each trustee of the trust then serving; and

(ii) Each income beneficiary and remainder beneficiary of the trust then in existence or, if the beneficiary has not attained majority or is otherwise incapacitated, the legal representative of the beneficiary under applicable law or the donee of the beneficiary under a durable power of attorney that is sufficient to grant the authority.

(2) Except as provided in subsection (d) of this section, this section applies to:

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

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

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

§14.5–815.

(a) A trustee, without authorization by the court, may exercise:

(1) Powers conferred by the terms of the trust; or

(2) Except as limited by the terms of the trust:

(i) All powers over the trust property that an unmarried competent owner has over individually owned property;

(ii) Other powers appropriate to achieve the proper investment, management, and distribution of the trust property; and

(iii) Other powers conferred by this title or Title 15, Subtitle 6 of this article.

(b) The exercise of a power described in subsection (a) of this section is subject to the fiduciary duties prescribed by this title.

§14.5–816.

(a) A trustee has those powers enumerated in the trust instrument.

(b) Without limiting the authority conferred by § 14.5–815 of this subtitle and § 15–102 of this article, a trustee may exercise the powers specified in this section.

(c) With respect to possible liability for violation of environmental law, a trustee may:

(1) Inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;

(2) Take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;

(3) Decline to accept property into trust or disclaim a power with respect to property that is or may be burdened with liability for violation of environmental law;

(4) Compromise claims against the trust which may be asserted for an alleged violation of environmental law; and

(5) Pay the expense of an inspection, a review, an abatement, or a remedial action to comply with environmental law.

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

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

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

§14.5–817.

(a) (1) On termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution.

(2) The right of a beneficiary to object to a proposed distribution under paragraph (1) of this subsection terminates if the beneficiary does not notify the trustee of an objection within 60 days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

(b) On the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to the trust property, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

§14.5–901.

(a) (1) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.

(2) A breach of trust under this subsection may occur by reason of an action or by reason of a failure to act.

(b) To remedy a breach of trust by the trustee that has occurred or may occur, the court may:

(1) Compel the trustee to perform the duties of the trustee;

(2) Enjoin the trustee from committing a breach of trust;

(3) Compel the trustee to redress a breach of trust by paying money, restoring property, or other means;

(4) Order a trustee to account;

(5) Appoint a special fiduciary to take possession of the trust property and administer the trust;

(6) Suspend the trustee;

(7) Remove the trustee as provided in § 14.5–706 of this title;

(8) Reduce or deny compensation to the trustee;

(9) Subject to § 14.5–909 of this subtitle, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or proceeds from the property; or

(10) Order other appropriate relief.

§14.5–902.

(a) A trustee that commits a breach of trust is liable to the beneficiaries affected by the breach for the greater of:

(1) The amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or

(2) The profit the trustee made by reason of the breach.

(b) (1) Except as otherwise provided in this subsection, if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees that are also liable.

(2) A trustee that received a benefit from a breach of trust under this subsection is not entitled to contribution from another trustee to the extent of the benefit received.

§14.5–903.

Absent a breach of trust or the applicable standard of care, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit.

§14.5–904.

(a) Except as otherwise provided in § 14.5–907 of this subtitle, a beneficiary may not bring a judicial action against a trustee for breach of trust more than 1 year after the date that the beneficiary or the representative of the beneficiary is sent a report that adequately discloses the existence of a potential claim for breach of trust and informs the beneficiary or the representative of the beneficiary of the time allowed for bringing a judicial action.

(b) A report adequately discloses the existence of a potential claim for breach of trust if the report provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into the existence of the claim.

(c) This section does not limit the time for bringing an action against a trustee for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries.

§14.5–906.

(a) A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that the term:

(1) Relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries;

(2) Was inserted into the trust as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor; or

(3) Was unreasonable under the circumstances.

(b) An exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair under the circumstances and that the existence and contents of the exculpatory term were adequately communicated to the settlor.

(c) If the settlor was represented by independent counsel, an exculpatory term is not considered drafted or caused to be drafted by the trustee, even if the term incorporates suggested provisions provided by the trustee.

§14.5–907.

(a) In this section, "interested party" means a beneficiary, representative of a beneficiary, co–trustee, successor trustee, or any other person having an interest in or authority over a trust.

(b) A trustee is not liable to a beneficiary for breach of trust if the beneficiary consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

(1) The consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or

(2) At the time of the consent, release, or ratification, the beneficiary did not know of the rights of the beneficiary or of the material facts relating to the breach.

(c) (1) When a trust terminates in accordance with the terms of the trust or Subtitle 4 of this title, or on the removal or resignation of a trustee in accordance with the terms of the trust or Subtitle 7 of this title, a trustee may elect to follow the procedures set forth in this subsection concerning the release of the trustee from liability for the administration of the trust.

(2) A trustee seeking a release of the trustee from liability under this subsection shall send to the interested party from whom the trustee is seeking the release, by first–class and certified mail, return receipt requested, a report that:

(i) Informs the interested party that the trust is terminating or that the trustee has resigned or has been removed;

(ii) Provides the interested party:

1. An accounting of the trust, such as account statements, for the immediately preceding 5 years;

2. An estimate of any trust property or interests reasonably anticipated but not yet received or disbursed; and

3. The amount of any fees, including trustee fees, remaining to be paid; and

(iii) Notifies the interested party that:

1. The interested party may submit within 120 days after the trustee mailed the report:

A. A written objection to the trustee regarding the trustee's administration of the trust; or

B. A written statement to the trustee that the interested party does not object;

2. If the interested party does not submit a written objection to the trustee within 120 days after the trustee mailed the report, the interested party shall be deemed to have released the trustee and consented to and ratified all actions of the trustee; and

3. The trustee is unaware of any undisclosed information that could give rise to a claim by an interested party.

(d) An interested party to whom a report was sent under subsection (c)(2) of this section shall be deemed to have released the trustee and consented to and ratified all actions of the trustee if, within 120 days after the trustee mailed the report, the interested party:

(1) Does not submit a written objection to the trustee; or

(2) Submits a written statement to the trustee that the interested party does not object.

(e) (1) Subject to paragraph (2) of this subsection, if no interested party to whom a report was sent under subsection (c)(2) of this section submits a written objection to the trustee within 120 days after the trustee mailed the report, the trustee shall distribute the trust property to the appropriate successors in interest within a reasonable period of time.

(2) If each interested party to whom a report was sent under subsection (c)(2) of this section provides a written statement in accordance with subsection (d)(2) of this section, the trustee may distribute the trust property to the appropriate successors in interest within the 120–day period after the mailing of the report.

(f) If an interested party to whom a report was sent under subsection (c)(2) of this section submits a written objection to the trustee within 120 days after the trustee mailed the report, the objection may be:

(1) Submitted to the court, with notice to all interested parties to whom a report was sent under subsection (c)(2) of this section, to commence a proceeding for resolution of the objection; or

(2) Resolved by the agreement of all interested parties to whom a report was sent under subsection (c)(2) of this section and the trustee, in accordance with applicable laws.

§14.5–908.

(a) Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into by the trustee in the fiduciary capacity of the trustee in the course of administering the trust if the trustee in the contract disclosed the fiduciary capacity.

(b) A claim based on a contract entered into by a trustee in the fiduciary capacity of the trustee, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted in a judicial proceeding against the trustee in the fiduciary capacity of the trustee, regardless of whether the trustee is personally liable for the claim.

§14.5–909.

(a) In the absence of actual knowledge or of reasonable cause to inquire as to whether a trustee is improperly exercising the trustee's power, a person dealing with a trustee need not inquire whether a trustee is properly exercising the power of the trustee and is protected as if the trustee properly exercised the power.

(b) A person need not see to the proper application of trust assets paid or delivered to a trustee.

§14.5–910.

(a) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

(1) That the trust exists and the date the trust instrument was executed;

(2) The identity of the settlor;

(3) The identity and address of the currently acting trustee;

(4) The powers of the trustee in the pending transaction;

(5) The revocability or irrevocability of the trust and the identity of a person holding a power to revoke the trust;

(6) The authority of cotrustees to sign or otherwise authenticate and whether the authentication of all or fewer than all of the cotrustees is required in order to exercise powers of the trustee;

(7) The taxpayer identification number of the trust, unless the taxpayer identification number is also the Social Security number of a settlor; and

(8) The manner and name in which title to trust property may be taken.

(b) A certification of trust may be signed or otherwise authenticated by a trustee.

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

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

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

(f) A person that acts reasonably in reliance on a certification of trust without knowledge that the representations contained in the certification are incorrect is not liable for the act.

(g) While acting reasonably under the circumstances, a person that enters into a transaction in reliance on a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) This section does not limit:

(1) The right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust; or

(2) The right of a title insurance producer or title insurer to obtain a copy of the trust instrument for the sole purpose of determining whether the settlor's interest in real property may be subject to creditors' claims, when the trustee is selling, encumbering, or disposing of the real property and title insurance has been requested for the transaction.

§14.5–1001.

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

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

(3) "Trust" does not include:

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

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

(4) "Vehicle" includes:

(i) A motor vehicle, a trailer, a semitrailer, a moped, a motor scooter, or an off–highway recreational vehicle for which sales and use tax is not collected at the time of purchase; or

(ii) A motor vehicle, trailer, or semitrailer that is in interstate operation and registered under § 13–109(c) or (d) of the Transportation Article without a certificate of title.

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

(1) The transfer is to a trust; or

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

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

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

(iii) The transfer is made to a beneficiary of a revocable trust as a result of the death of the settlor of the trust.

(c) An excise tax or a certificate of title fee imposed under Title 13, Subtitle 8 of the Transportation Article may not be imposed on the issuance of an original or subsequent certificate of title issued for a vehicle that is transferred without consideration if:

(1) The transfer is to a trust and the transfer would be exempt from the excise tax under § 13–810 of the Transportation Article if the transferor transferred the vehicle directly to one or more of the beneficiaries; or

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

(i) The transfer is made to a person that would be exempt from the excise tax under § 13–810 of the Transportation Article if the transfer had been made to that person directly by the transferor of the vehicle to the trust;

(ii) The transfer is made during the life of the settlor of the trust and the trustee of the trust originally acquired the vehicle for adequate consideration; or

(iii) The transfer is made to a beneficiary of a revocable trust as a result of the death of the settlor of the trust.

§14.5–1002.

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

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

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

(i) Are not more restrictive than existing federal law, regulations, or policies with regard to the treatment of a special needs trust or supplemental needs trust, including a trust defined in 42 U.S.C. § 1396p(c)(2) and (d)(4);

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

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

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

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

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

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

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

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

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

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

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

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

§14.5–1003.

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

(1) That interest is the authority of the trustee under the trust instrument or any other provision of law to pay or reimburse the individual for any

tax on trust income or trust principal that is payable by the individual under the law imposing that tax; or

(2) All of the following apply:

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

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

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

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

(1) Any principal or income of the trust;

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

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

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

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

§14.5–1004.

The provisions of this title governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of those records or signatures, conform to the requirements of § 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7002) and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.

§14.5–1005.

If a provision of this title or the application of a provision to a person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this title which can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

§14.5–1006.

(a) Except as otherwise provided in this title:

(1) This title applies to all trusts created before, on, or after January 1, 2015;

(2) This title applies to all judicial proceedings concerning trusts commenced on or after January 1, 2015;

(3) This title does not apply to judicial proceedings concerning trusts commenced before January 1, 2015;

(4) A rule of construction or presumption provided in this title applies to trust instruments executed before January 1, 2015, unless there is a clear indication of a contrary intent in the terms of the trust; and

(5) An act done before January 1, 2015, is not affected by this title.

(b) If a right is acquired, extinguished, or barred on the expiration of a prescribed period that has commenced to run under another statute before January 1, 2015, that statute continues to apply to the right even if the statute has been repealed or superseded.

§15–101.

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

(b) "Committee" includes any reorganization or protective committee formed for the purpose of formulating, proposing, or carrying out any plan of reorganization or to act in any other manner for the protection of the interests of the holders of any class or classes of securities, or persons performing a similar function, and any corporation formed or acting for any such purpose.

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

(d) "Depositary" includes any person receiving securities for deposit, exchange, or distribution under any reorganization agreement or plan of reorganization, or stamping securities presented to it to indicate the assent of any

present or future holder or holders to any plan of reorganization affecting the securities or that the securities have been absolutely or conditionally made subject to any plan of reorganization.

(e) "Deposited or exchanged", as applied to securities, includes the presentation of securities to a depositary for stamping to indicate the assent of any present or future holder to any plan of reorganization affecting the securities or that the securities have been absolutely or conditionally made subject to any plan or organization.

(f) (1) "Environmental law" means a federal, State, or local law, rule, regulation, or ordinance that relates to the protection of the environment.

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

(g) "Fiduciary" includes a trustee acting under a deed, will, declaration of trust or other instrument in the nature of a trust or appointed by a court, a receiver, custodian, committee or guardian of the property of a minor or disabled person, executor, administrator, or personal representative.

(h) "Person" includes the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, fiduciary, or any partnership, firm, association, public or private corporation, or any other entity.

(i) "Plan of reorganization" includes any plan for the reorganization of any corporation, public or private, or of any partnership, firm or association, and any plan of adjustment, readjustment, refunding, refinancing, or recapitalization affecting any securities, whether or not the plan is proposed or submitted in connection with any proceedings under the jurisdiction of any court.

(j) "Reorganization agreement" includes any deposit agreement, protective agreement for the protection of holders of any class of securities, or similar agreement or instrument which embodies any plan of reorganization or provides for or permits the formulation or carrying out of a plan of reorganization.

(k) "Securities" includes stocks, bonds, debentures, notes, voting trust certificates, equipment trust certificates, certificates of deposit, certificates of participation, certificates of beneficial interest, stock rights, stock warrants issued by or in connection with any corporation, partnership, firm, association or similar organization, and any other instruments evidencing rights of a similar character.

(l) "Trust company" has the meaning stated in § 1–101 of this article.

§15–102.

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

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

(ii) "Beneficiary" includes:

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

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

(3) (i) "Fiduciary" means a trustee:

1. Acting under a deed, will, or declaration of trust or other instrument in the nature of a trust, whether the trust or estate is created before or after the effective date of this subtitle; or

2. Appointed by a court or a committee or guardian of the property of a minor or a disabled person, whether the appointment is made before or after the effective date of this subtitle.

(ii) "Fiduciary" does not include a receiver, trustee of a trust for the benefit of creditors, executor, administrator, or personal representative.

(b) (1) A fiduciary may perform the functions and duties enumerated in this section without application to, approval of, or ratification by a court.

(2) Except as expressly limited in the governing instrument, the powers of a fiduciary under this section are in addition to those derived from common law, statute, or the governing instrument.

(3) The powers listed in this section may be extended or limited by the appropriate court, and the court may also eliminate any limitation imposed by a court on a fiduciary.

(c) A fiduciary may invest in, sell, mortgage, exchange, or lease any property, real or personal.

(d) A fiduciary may borrow money for the purpose of protecting property and pledge property as security for the loan.

(e) A fiduciary may effect a fair and reasonable compromise with any debtor, obligor, creditor or obligee, or extend or renew any obligation by or to the fiduciary estate.

(f) A fiduciary may retain assets owned by the minor or disabled person, in the case of a guardian, or owned by the decedent or the grantor, in the case of a trustee or otherwise coming into the hands of the fiduciary pending distribution or liquidation, including those in which the fiduciary is personally interested or which are otherwise improper for trust investment.

(g) A fiduciary may receive assets from any sources, including other fiduciaries.

(h) (1) A fiduciary may perform the contracts of the decedent or disabled person that continue as obligations of the fiduciary estate.

(2) In performing an enforceable contract to convey or lease land the fiduciary may execute and deliver a deed or conveyance for cash payment of all sums remaining due, or for the note of the purchaser for the sum remaining due secured by a mortgage or deed of trust on the land, as the contract may provide.

(i) A fiduciary may satisfy written charitable pledges of the disabled person or decedent.

(j) A fiduciary may deposit funds for the account of the fiduciary estate in checking accounts, in insured interest–bearing accounts, or in short–term loan arrangements.

(k) A fiduciary may vote securities in person or by general or limited proxy, or enter into or participate in a voting trust or agreement of shareholder.

(l) A fiduciary may insure the property of the fiduciary estate against damage, loss and liability, and himself or herself, as fiduciary against liability in respect to third persons.

(m) A fiduciary may pay taxes, assessments and other expenses incident to the administration of the fiduciary estate.

(n) A fiduciary may sell or exercise stock subscription, conversion or option rights, consent to or oppose, directly or through a committee or other agent, the

reorganization, consolidation, merger, dissolution or liquidation of a corporation or other business enterprises.

(o) A fiduciary may employ for reasonable compensation agents, attorneys, auditors, investment advisors or other persons with special skills, to advise or assist the fiduciary in the performance of the administrative duties of the fiduciary, but no attorney's fee in an amount exceeding $50 shall be paid in a fiduciary estate administered under court jurisdiction unless the amount of the fee has been first approved by order of court.

(p) (1) Except as provided in the Maryland Rules, a fiduciary may prosecute, defend, or submit to arbitration any actions, claims, or proceedings in any jurisdiction for the protection of the fiduciary estate.

(2) The fiduciary may request criminal injuries compensation, restitution, or any other financial property interest of a beneficiary who is a victim of a crime.

(q) A fiduciary may continue as or become a limited partner in any partnership or a member in any limited liability company, including a single member limited liability company.

(r) A fiduciary may incorporate any business or venture which forms a part of the fiduciary estate.

(s) A fiduciary may convert a sole proprietorship the decedent was engaged in at the time of the decedent's death to a limited liability company.

(t) A fiduciary may exercise options, rights and privileges contained in a life insurance policy, annuity, or endowment contract constituting property of the fiduciary estate, including the right to obtain the cash surrender value, convert a policy to another type of policy, revoke any mode of settlement, and pay any part or all of the premiums on the policy or contract.

(u) A fiduciary may pay any valid claim.

(v) If any assets of the fiduciary estate are encumbered by mortgage, pledge, lien, or other security interest, a fiduciary may pay the encumbrance or any part of it, renew, or extend an obligation secured by the encumbrance, or convey or transfer the assets to the creditor in satisfaction of the security interest of the creditor, in whole or in part, if the act appears to be in the best interest of the fiduciary estate.

(w) A fiduciary may release or terminate any mortgage or security interest, if the obligation secured by the mortgage or security interest has been fully satisfied.

(x) A guardian may exercise any inter vivos power which the minor or disabled person could have exercised under an instrument, including the power to sell, mortgage, or lease.

(y) A fiduciary may hold a security in the name of a nominee or in other form without disclosure of the interest of the fiduciary estate, but the fiduciary shall be liable for a wrongful act of the nominee in connection with the security so held.

(z) (1) To comply with an environmental law, a fiduciary may:

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

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

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

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

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

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

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

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

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

§15–103.

(a) Whenever securities are deposited or exchanged, or tendered for deposit or exchanged by a fiduciary under a reorganization agreement or plan of reorganization, a committee formulating, proposing, or carrying out a plan or soliciting deposits or exchanges under an agreement or plan, any depositary with or through which the deposit or exchange of securities may be made, solicited, requested or permitted, and a person to whom or to which securities are to be delivered pursuant to an agreement or a plan, may accept, receive, hold and ultimately dispose of the securities in accordance with the authorization or instructions of the fiduciary depositing or exchanging securities or tendering them for deposit or exchange under a reorganization agreement or plan of reorganization, without an obligation to inquire whether a fiduciary is authorized to make a deposit or exchange or is committing a breach of the obligation as fiduciary in so doing.

(b) No committee, depositary, or ultimate recipient is liable in any way of any kind to a person for an action taken, suffered, or permitted with respect to securities in accordance with the authorization or instructions given by a fiduciary depositing or exchanging the securities or tendering the securities for deposit or exchange, unless the committee, depositary, or ultimate recipient has actual knowledge that a fiduciary is committing a breach of fiduciary trust in making the deposit or exchange, or has knowledge of facts that the action or conduct of the committee, depositary, or ultimate recipient amounts to bad faith.

§15–104.

(a) (1) Notwithstanding any other provision of law, a fiduciary holding securities in a fiduciary capacity, a bank or trust company holding securities as a custodian or agent, and a bank or trust company holding securities as custodian for a fiduciary, is authorized to deposit or arrange for the deposit of the securities in a securities clearing corporation, regardless of whether the depositor owns capital stock of the clearing corporation.

(2) When securities are deposited in accordance with paragraph (1) of this subsection, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of the clearing corporation with any other securities deposited in the clearing corporation by a

person regardless of the ownership of the securities, and certificates of small denomination may be merged into one or more certificates of larger denomination.

(3) The records of the fiduciary and the records of the bank or trust company acting as custodian, as agent or as custodian for a fiduciary shall show at all times the name of the party for whose account the securities are deposited.

(4) Title to the securities may be transferred by bookkeeping entry on the books of the clearing corporation without physical delivery of certificates representing the securities.

(b) (1) A bank or trust company depositing securities pursuant to this section is subject to the rules and regulations as, in the case of State chartered institutions, the Commissioner of Financial Regulation and, in the case of national banking associations, the Comptroller of the Currency may issue from time to time.

(2) A bank or trust company acting as custodian for a fiduciary, on demand by the fiduciary, shall certify in writing to the fiduciary the securities deposited in accordance with this section by the bank or trust company in the clearing corporation for the account of the fiduciary.

(c) A fiduciary, on demand by any party to a judicial proceeding for the settlement of the account of the fiduciary or on demand by the attorney for the party, shall certify in writing to the party the securities deposited by the fiduciary in the clearing corporation for its account as fiduciary.

(d) This section applies whether the trust be created or the appointment made prior or subsequent to July 1, 1973.

§15–105.

(a) A fiduciary, or party of whom a bond, undertaking or other obligation is required, may agree or arrange with a surety for a general or a special deposit for safekeeping of any money, assets and other property, for which the fiduciary is or may be responsible, with a bank, savings bank, safe deposit or trust company authorized by law to do business and situate in the county in which the fiduciary's bond is filed.

(b) A deposit shall be made in a manner as to prevent the withdrawal or alienation of money, assets, or other property, or any part of it, without the written consent of the surety, or an order of a court, made on notice to the surety as the court directs.

§15–106.

(a) The following investments shall be lawful investments for any person:

(1) Debentures issued by federal intermediate credit banks or by banks for cooperatives;

(2) Bonds issued by federal land banks or by the Federal Home Loan Bank Board;

(3) Mortgages, bonds, or notes secured by a mortgage or deed of trust, or debentures issued by the Federal Housing Administration;

(4) Obligations of national mortgage associations;

(5) Shares, free-share accounts, certificates of deposit, or investment certificates of any insured financial institution, as defined in § 13-301(h) of this article;

(6) Bonds or other obligations issued by a housing authority pursuant to the provisions of Division II of the Housing and Community Development Article, or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States or any agency of the United States;

(7) Obligations issued or guaranteed by the International Bank for Reconstruction and Development;

(8) Obligations issued or guaranteed by the African Development Bank;

(9) Obligations issued or guaranteed by the International Finance Corporation; or

(10) United States government obligations, whether invested in directly, or in the form of securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., if:

(i) The portfolio of the open-end or closed-end management type investment company or investment trust is limited to direct obligations of the United States government and to repurchase agreements fully collateralized by United States government obligations; and

(ii) The open-end or closed-end management type investment company or investment trust takes delivery of that collateral, either directly or through an authorized custodian.

(b) (1) In this subsection, "affiliate" has the meaning stated in 12 U.S.C. § 1841.

(2) A trust company in its fiduciary capacity may deposit in the trust company or in a financial institution that is an affiliate of the trust company funds awaiting investment or distribution unless the agreement or instrument that gives the trust company investment authority provides to the contrary.

(3) A trust company in its fiduciary capacity may purchase bonds of the State or of any political subdivision of the State underwritten in whole or in part by the trust company or a financial institution that is an affiliate of the trust company unless the agreement or instrument that gives the trust company investment authority provides to the contrary.

(c) (1) Subject to the provisions of paragraph (2) of this subsection, a corporate fiduciary may invest and reinvest fiduciary funds and other funds over which the corporate fiduciary has investment discretion in securities of, or other interests in, a no-load open-end or closed-end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940 that does not impose a contingent deferred sales charge or distribution charge on that investment or reinvestment.

(2) The provisions of paragraph (1) of this subsection apply even if the corporate fiduciary or an affiliate of the corporate fiduciary provides services as investment adviser or manager, sponsor, distributor, custodian, transfer agent, registrar, or similar related services to the investment company or investment trust and receives reasonable compensation for those services if:

(i) The investment is authorized by the agreement or instrument that gives the corporate fiduciary investment authority, or by court order; or

(ii) The corporate fiduciary discloses to its principal or, if the assets are held in trust, to any current income beneficiaries of the trust:

1. The services provided by the corporate fiduciary or its affiliate to the investment company or investment trust; and

2. The rate, formula, or other method by which compensation paid to the corporate fiduciary or its affiliate is determined.

(d) Any person holding a mortgage or other lien on property may exchange it, prior or subsequent to maturity, for any other lawful investment.

(e) This section shall not be construed as relieving any person from any duty of exercising reasonable care in selecting securities.

(f) No general, local, or special law which is inconsistent with this section shall have any effect.

(g) This section shall not be construed to make unlawful any investment not listed in this section.

§15–107.

Whenever by will, deed, or other instrument, a power to sell, mortgage, lease or otherwise dispose of or deal with property shall be given to any one or more fiduciaries, the power, whether discretionary or otherwise, shall be construed to be appurtenant to the fiduciary office and shall pass to and be exercisable by any surviving or successor fiduciary, unless an intention to the contrary is expressly declared in the will, deed, or other instrument.

§15–108.

(a) A fiduciary making a distribution or delivery of any property, in conformity to a decree or order of court passed pursuant to the Maryland Rules, shall be protected from a claim in respect to the property by an absent or unknown beneficiary or life tenant proceeded against under the Maryland Rules, or the heirs, personal representatives, or assigns of an absent or unknown beneficiary or life tenant.

(b) Nothing in this section limits a similar protection granted to fiduciaries by applicable laws in effect before the passage of the Maryland Rules.

§15–109.

The receipt and release of a foreign fiduciary to whom property is transferred, pursuant to a court order under the Maryland Rules, is a good and sufficient release to the fiduciary transferring the property.

§15–110.

(a) In addition to any other means of enforcing a court order, the court that has ordered a fiduciary to give countersecurity pursuant to the Maryland Rules may compel compliance with the court order by attachment and sequestration.

(b) If the fiduciary fails to give countersecurity within the time fixed by the court, and is removed:

(1) The register of wills may bring suit on the bond of the fiduciary to recover taxes and costs; and

(2) If the register does not bring suit on the bond, and a new fiduciary is appointed, the new fiduciary may bring suit on the bond of the removed fiduciary.

§15–111.

The discharge of a fiduciary who has resigned the fiduciary's office pursuant to the Maryland Rules does not release the fiduciary, or sureties of the fiduciary, from liability to any of the cestui que trustent, or other persons, for acts, defaults, or omissions of duty occurring while the fiduciary was in office.

§15–112.

(a) (1) A court shall remove a fiduciary who has:

(i) Willfully misrepresented material facts leading to the appointment of the fiduciary or to other action by the court in reference to the fiduciary estate;

(ii) Willfully disregarded an order of court;

(iii) Shown to be incapable, with or without fault to properly perform the duties of the office of fiduciary; or

(iv) Breached the fiduciary duty of good faith or loyalty in the management of property of the fiduciary estate.

(2) A court may remove a fiduciary who has:

(i) Negligently failed to file a bond within the time required by rule or order of court;

(ii) Negligently failed to obey an order of court; or

(iii) Failed to perform any fiduciary duty, or to competently administer the fiduciary estate.

(b) Procedures for the removal of a fiduciary shall be conducted by the court in accordance with the provisions of the Maryland Rules applying to a fiduciary.

(c) The provisions of this section may not apply to personal representatives.

§15–113.

An entity that controls, is controlled by, or is under common control with a trust company shall be jointly and severally liable for claims against the trust company when the trust company is acting as a trustee of bond indentures or similar debt issuances, if the trust company:

(1) May exercise trust or fiduciary powers in the State; and

(2) Meets the qualifications under 12 U.S.C. § 1841(c)(2)(D).

§15–114.

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

(2) "Fiduciary" means:

(i) A trust company;

(ii) An investment advisor that is controlled by or is under common control with a trust company; or

(iii) A person who makes an election under subsection (g) of this section.

(3) "Fiduciary assets" means assets held by a fiduciary as trustee, guardian, conservator, committee, custodian under the Maryland Uniform Transfers to Minors Act, investment manager, or investment advisor.

(4) "Investment advisor" means any company registered under the provisions of the federal Investment Advisers Act of 1940.

(b) A fiduciary shall:

(1) Invest and manage fiduciary assets as a prudent investor would, considering the purposes, terms, distribution requirements, and other circumstances of the governing instrument and the nature of the fiduciary appointment;

(2) Exercise reasonable care, skill, and caution regarding the anticipated effect on the fiduciary assets as a whole under the facts and circumstances prevailing at the time of any action by the fiduciary;

(3) Invest and manage not in isolation but in the context of the fiduciary assets as a whole and as part of an overall investment strategy that incorporates risk and return objectives reasonably suitable under the terms of the governing instrument and the nature of the fiduciary appointment;

(4) Diversify investments unless, under the circumstances, the fiduciary reasonably believes it is in the best interests of the beneficiaries or furthers the purposes for which the fiduciary was appointed not to diversify;

(5) Review fiduciary assets within a reasonable time after acceptance of the fiduciary appointment and make and implement decisions concerning the retention or disposition of investments existing prior to the appointment in order to conform with this section;

(6) Pursue an investment strategy that considers both the reasonable production of income and safety of capital, consistent with the fiduciary's duty of loyalty and impartiality and the purposes for which the fiduciary was appointed;

(7) Act with prudence in deciding whether and how to delegate authority and in the selection and supervision of agents; and

(8) Incur only costs that are reasonable in amount and appropriate to the investment responsibilities of the fiduciary appointment.

(c) A fiduciary's investment decisions shall be judged in accordance with the following guidelines and standards:

(1) No specific investment or course of action is, taken alone, prudent or imprudent;

(2) The fiduciary may exercise reasonable business judgment regarding the anticipated effect on the portfolio of fiduciary assets as a whole under the facts and circumstances prevailing at the time of the decision or action;

(3) The fiduciary shall have no liability for continuing to hold fiduciary assets existing at the time the fiduciary appointment was accepted or

subsequently added pursuant to proper authority if, and as long as, the fiduciary, in the exercise of good faith and reasonable prudence, considers the retention to be in the best interests of the beneficiaries or in the furtherance of the goals of the governing instrument;

(4) Subject to all other provisions of this section, the fiduciary may retain as fiduciary assets an interest in the fiduciary, if the fiduciary is a corporation, or in any corporation controlling, controlled by, or under common control with the fiduciary; and

(5) In making an investment decision, the fiduciary may consider, without limitation:

(i) General economic conditions;

(ii) The possible effect of inflation;

(iii) The expected tax consequences of investment decisions or strategies;

(iv) The role each investment or course of action plays within the investment of the portfolio of fiduciary assets as a whole;

(v) The expected total return of the investment including both income yield and appreciation of capital;

(vi) The reasonableness of any costs associated with the investment; and

(vii) The status of related assets of beneficiaries.

(d) To the extent that any provision of this section is inconsistent with the terms of a governing instrument, the terms of the governing instrument shall control.

(e) If more than one person has investment authority over fiduciary assets, this section shall apply if any of those persons is a fiduciary.

(f) Nothing in this section shall abrogate or restrict the power of a court to:

(1) Direct or permit a fiduciary to deviate from the terms of a governing instrument; or

(2) Direct or permit a fiduciary to take, or to restrain a fiduciary from taking, any action regarding the making or retention of investments.

(g) This section shall apply to any person who:

(1) Is a trustee, guardian, conservator, committee, custodian under the Maryland Uniform Transfers to Minors Act, investment manager, or investment advisor; and

(2) Files with the Commissioner of Financial Regulation a statement that the person elects to have this section apply to all fiduciary assets controlled by the person.

§15–115.

A corporation that under the laws of this State may act as a fiduciary without bond or security other than its own obligation may not incur the liability of a surety upon a bond.

§15–116.

Notwithstanding any other provision of law, and except as otherwise provided in the governing instrument, the duties of a trustee regarding the acquisition, retention, or ownership of a contract of insurance on the life of the grantor of the trust, or on the lives of the grantor and the grantor's spouse, children, or grandchildren, include a duty of loyalty and fair dealing, but do not include a duty to:

(1) Determine whether any contract of life insurance in the trust is or remains a proper investment;

(2) Diversify the investment; or

(3) Exercise any policy options, rights, or privileges available under any contract of life insurance in the trust, including any right to borrow the cash value or reserve of the policy, acquire a paid-up policy, or convert to a different policy.

§15–117.

(a) In this section, "fiduciary" includes an agent, as defined in § 17–101 of this article.

(b) (1) Unless waived by the client, a communication between an attorney and a client that acts as a fiduciary is subject to the attorney–client privilege even if fiduciary funds are used to compensate the attorney for legal services rendered to the client.

(2) The existence of a fiduciary relationship between a fiduciary and a beneficiary does not constitute or give rise to a waiver of the attorney–client privilege for communications between the attorney and the fiduciary.

§15–1A–01.

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

(b) "Bank" has the meaning stated in 12 U.S.C. § 1841(c).

(c) "Bank holding company" has the meaning stated in 12 U.S.C. § 1841(a).

(d) (1) "Beneficiary" means a person who receives or is entitled as a matter of right to receive a current distribution of principal or income from a trust, estate, or fund with respect to which a substitution of a corporate fiduciary is made under this subtitle.

(2) "Beneficiary" includes:

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

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

(e) "Capital requirement" means a provision in any court order, statute, regulation, or writing, including a will, trust, or similar document or instrument, that requires a fiduciary to have a specified minimum amount of capital or capital and surplus.

(f) "Corporate fiduciary" means:

(1) A bank;

(2) A trust company; or

(3) Any other corporate entity that is authorized to act as a fiduciary under the laws of this State.

(g) "Fiduciary" includes:

(1) A trustee;

(2) An executor or executrix;

(3) A personal representative;

(4) A receiver;

(5) A special administrator;

(6) A guardian;

(7) A conservator;

(8) A committee;

(9) A custodian under the Maryland Uniform Transfers to Minors Act; and

(10) Any other person who has a fiduciary relationship the responsibilities of which are customarily performed by a corporate fiduciary.

(h) "Successor fiduciary" means a corporate fiduciary that is substituted for another corporate fiduciary under the provisions of § 15-1A-02 of this subtitle, by reason of:

(1) A merger or consolidation of corporate fiduciaries;

(2) The acquisition of the stock or assets of a corporate fiduciary by another corporate fiduciary;

(3) The transfer by a corporate fiduciary of its trust and fiduciary business to another corporate fiduciary; or

(4) The acquisition or formation by a corporate fiduciary of a subsidiary, which is itself a corporate fiduciary, in order to undertake the trust and fiduciary business of the subsidiary's parent entity.

(i) "Trust company" has the meaning stated in § 1-101 of this article.

§15–1A–02.

(a) Subject to the provisions of § 15-1A-04(d)(2) of this subtitle, a successor fiduciary shall be substituted as a fiduciary for its predecessor corporate fiduciary, immediately upon the adoption of a corporate resolution by both the successor fiduciary and the predecessor corporate fiduciary providing for the substitution.

(b) A successor fiduciary shall have all the rights, powers, duties, and obligations of the predecessor corporate fiduciary.

(c) The successor fiduciary shall be deemed named as fiduciary in any writing, including a will, trust, court order, or similar document or instrument that names the predecessor corporate fiduciary as fiduciary, whether executed before or after the successor fiduciary is substituted, unless the writing expressly provides otherwise.

§15–1A–03.

(a) For purposes of qualifying as a fiduciary with respect to a capital requirement, a corporate fiduciary may attribute to its capital and surplus the capital and surplus of any:

(1) Bank, trust company, or bank holding company of which it is a direct or indirect subsidiary or affiliate; or

(2) Corporation with its principal office in this State if the corporate fiduciary is:

(i) A trust company as defined under § 1-101 of this article; and

(ii) A wholly owned subsidiary of the corporation.

(b) When a successor fiduciary qualifies under this section, the following entities shall be jointly and severally liable with the successor fiduciary for claims against the successor fiduciary when acting in its fiduciary capacity:

(1) Any bank, trust company, or bank holding company of which a successor fiduciary is a direct or indirect subsidiary or affiliate; or

(2) Any corporation described in subsection (a) of this section with respect to a corporate fiduciary acting as a successor fiduciary.

§15–1A–04.

(a) When a successor fiduciary is substituted under this subtitle, the successor fiduciary shall send notice to the following persons at the person's last known address:

(1) Each cofiduciary of the successor fiduciary;

(2) Each surviving settlor of a trust;

(3) Each person who, alone or in conjunction with others, has the power to remove any corporate fiduciary; and

(4) (i) Except as provided in subparagraph (ii) of this paragraph, each beneficiary of a trust, estate, or fund with respect to which a substitution of corporate fiduciary under this subtitle is made.

(ii) In the case of a trust described in 26 U.S.C. § 401(a), notice shall be given to the employer or employee organization responsible for the maintenance of the trust.

(b) The notice required under subsection (a) of this section shall be:

(1) Personally delivered or mailed by registered mail, postage prepaid, return receipt requested, within 30 days before or after substitution of the successor fiduciary; and

(2) Published once a week in 3 successive weeks in one or more newspapers of general circulation published in the county in which the principal place of business of the successor fiduciary is located.

(c) The notice required under subsection (a) of this section shall contain:

(1) The name of the predecessor corporate fiduciary;

(2) The name of the successor fiduciary;

(3) The effective date of substitution of the successor fiduciary; and

(4) A summary of the provisions of this subtitle, including a statement of the rights and procedures available under subsection (d) of this section.

(d) (1) In this subsection, "interested party" means a person who:

(i) Is entitled to notice under subsection (a) of this section; and

(ii) Has an interest in the trust, estate, or fund that is the subject of a complaint filed under this subsection.

(2) A person entitled to notice under subsection (a) of this section who objects to the appointment of the successor fiduciary may, within 60 days after

substitution of the successor fiduciary, file a complaint for removal of the successor fiduciary in the circuit court for the county in which the principal place of business of the successor fiduciary is located.

(3) After notice to all interested parties and a hearing, the court:

(i) May appoint a new fiduciary to replace the successor fiduciary if it finds that substitution of the successor fiduciary under § 15-1A-02 of this subtitle will adversely affect administration of the trust, estate, or fund and that appointment of a new fiduciary will be in the best interests of the plaintiff and all other interested parties; and

(ii) Shall appoint a new fiduciary to replace the successor fiduciary if the complaint for removal includes an objection to the qualifications of the successor fiduciary and the successor fiduciary's qualification is dependent on the provisions of § 15-1A-03(a) of this subtitle.

§15–1A–05.

In addition to the provisions for removal under § 15-1A-04(d) of this subtitle, removal of a corporate fiduciary is subject to all other laws of this State affecting removal of fiduciaries and to any agreement that designates the predecessor corporate fiduciary as the corporate fiduciary of the trust, estate, or fund.

§15–201.

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

(b) "Bank" includes any person or association of persons, whether incorporated or not, carrying on the business of banking.

(c) "Fiduciary" includes a trustee under any trust expressed, implied, resulting or constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust, or estate.

(d) "Person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, statutory trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(e) "Principal" includes any person to whom a fiduciary as such owes an obligation.

§15–202.

(a) A person who in good faith pays or transfers to a fiduciary any money or other property which the fiduciary is authorized to receive, is not responsible for the proper application of the money or property by the fiduciary.

(b) A right or title to money or other property acquired from a fiduciary in consideration of payment or transfer is not invalid in consequence of a misapplication by the fiduciary.

§15–203.

(a) Except as provided in subsection (b) of this section, if any negotiable instrument payable or indorsed to a fiduciary is indorsed by the fiduciary, or if any negotiable instrument payable or indorsed to the fiduciary's principal is indorsed by a fiduciary empowered to indorse the instrument on behalf of the principal, the indorsee is not bound to inquire whether the fiduciary is committing a breach of the obligation as fiduciary in indorsing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of the obligation as fiduciary unless the indorsee takes the instrument with actual knowledge of the breach or with knowledge of the facts that the action of the indorsee in taking the instrument amounts to bad faith.

(b) If an instrument is transferred by the fiduciary in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, or is transferred in any transaction known by the transferee to be for the personal benefit of the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary in fact commits a breach of the obligation as fiduciary in transferring the instrument.

§15–204.

(a) Except as provided in subsection (b) of this section, if a check or other bill of exchange is drawn by a fiduciary or in the name of the fiduciary's principal by a fiduciary empowered to draw the instrument in the name of the principal, the payee is not bound to inquire whether the fiduciary is committing a breach of the obligation as fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of the obligation as fiduciary unless the payee takes the instrument with actual knowledge of the breach or with knowledge of the facts that the action of the payee in taking the instrument amounts to bad faith.

(b) If an instrument is payable to a personal creditor of the fiduciary and delivered to the creditor in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, for the personal benefit of the fiduciary, the creditor or other payee is liable to the principal if the fiduciary in fact commits a breach of the obligation as fiduciary in drawing or delivering the instrument.

§15–205.

If a check or other bill of exchange is drawn by a fiduciary or in the name of the fiduciary's principal by a fiduciary empowered to draw the instrument in the name of the principal, payable to the fiduciary personally, or payable to a third person and transferred by the third person to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of the obligation as fiduciary in transferring the instrument, and is not chargeable with notice that the fiduciary is committing a breach of the obligation as fiduciary unless the transferee takes the instrument with actual knowledge of the breach or with knowledge of the facts that the action of the transferee in taking the instrument amounts to bad faith.

§15–206.

(a) Except as provided in subsection (b) of this section, if a deposit is made in a bank to the credit of a fiduciary, the bank is authorized to pay the amount of the deposit or any part of it on the check of the fiduciary, signed with the name in which the deposit is entered, without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of the obligation as fiduciary in drawing the check or with knowledge of the facts that the action of the bank in paying the check amounts to bad faith.

(b) If a check is payable to the drawee bank and is delivered to the bank in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of the obligation as fiduciary in drawing or delivering the check.

§15–207.

(a) Except as provided in subsection (b) of this section, if a check is drawn on the bank account of the principal of a fiduciary by a fiduciary who is empowered to draw checks on the account of the principal, the bank is authorized to pay the check without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of the obligation as fiduciary in

drawing the check, or with knowledge of the facts that the action of the bank in paying the check amounts to bad faith.

(b) If a check is payable to the drawee bank and is delivered to the bank in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of the obligation as fiduciary in drawing or delivering the check.

§15–208.

(a) This section applies if a fiduciary makes a deposit in a bank to the fiduciary's personal credit of:

(1) Checks drawn by the fiduciary on an account in the name of the fiduciary as fiduciary;

(2) Checks payable to the fiduciary as fiduciary;

(3) Checks drawn by the fiduciary on an account in the name of the fiduciary's principal, if the fiduciary is empowered to draw checks on the account;

(4) Checks payable to the principal of a fiduciary and indorsed by the fiduciary, if the fiduciary is empowered to indorse the checks; or

(5) Other funds held by the fiduciary as fiduciary.

(b) A bank receiving a deposit in accordance with subsection (a) of this section may not be bound to inquire whether the fiduciary is committing a breach of the obligation as fiduciary and is authorized to pay the amount of the deposit or any part of the deposit on the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of the obligation as fiduciary in making the deposit or in drawing the check, or with knowledge of the facts that the action of the bank in receiving the deposit or paying the check amounts to bad faith.

§15–209.

In any case not provided for in this subtitle the rules of law and equity, including the law merchant and those rules of law and equity relating to trusts, agency, negotiable instruments, and banking, shall continue to apply.

§15–210.

The Maryland Uniform Fiduciaries Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which adopt it.

§15–211.

This subtitle may be cited as the Maryland Uniform Fiduciaries Act.

§15–301.

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

(b) "Assignment" includes any written stock power, bond power, bill of sale, deed, declaration of trust, or other instrument of transfer.

(c) "Claims" includes a claim of any interest by a legatee of a decedent, distributee, heir, or creditor, a beneficiary under a trust, a ward, a beneficial owner of a security registered in the name of a nominee, or a minor owner of a security registered in the name of a custodian, or a claim of any similar interest, whether the claim is asserted by the claimant or by a fiduciary or by any other authorized person on behalf of the claimant, and includes a claim that the transfer would be in breach of fiduciary duties.

(d) "Corporation" means a private or public corporation, association or trust issuing a security.

(e) "Fiduciary" means an executor, administrator, trustee, guardian, committee, conservator, curator, tutor, custodian, or nominee.

(f) "Person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, statutory trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(g) "Security" includes any share of stock, bond, debenture, note, or other security issued by a corporation which is registered as to ownership on the books of the corporation.

(h) "Transfer" means a change on the books of a corporation in the registered ownership of a security.

(i) "Transfer agent" means a person employed or authorized by a corporation to transfer securities issued by the corporation.

§15–302.

A corporation or transfer agent registering a security in the name of a person who is a fiduciary or who is described as a fiduciary:

(1) Is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship; and

(2) May assume without inquiry that the newly registered owner continues to be the fiduciary until the corporation or transfer agent receives written notice that the fiduciary is no longer acting as the fiduciary with respect to the particular security.

§15–303.

Except as otherwise provided in this subtitle, a corporation or transfer agent making a transfer of a security pursuant to an assignment by a fiduciary:

(1) May assume without inquiry that the assignment, even though to the fiduciary or to a nominee of the fiduciary, is within the authority and capacity of the fiduciary and is not in breach of the duties of the fiduciary;

(2) May assume without inquiry that the fiduciary has complied with any controlling instrument and with the law of the jurisdiction governing the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(3) Is not charged with notice of and is not bound to obtain or examine any court record or any recorded or unrecorded document relating to the fiduciary relationship or the assignment, even though the record or document is in its possession.

§15–304.

(a) A corporation or transfer agent making a transfer pursuant to an assignment by a fiduciary who is not the registered owner shall obtain the following evidence of appointment or incumbency:

(1) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within 60 days before the transfer; or

(2) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the

corporation or transfer agent to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the corporation or transfer agent to be appropriate.

(b) A corporation or transfer agent may adopt standards with respect to evidence of appointment or incumbency under subsection (a) of this section if the standards are not manifestly unreasonable.

(c) Neither the corporation nor transfer agent is charged with notice of the contents of a document obtained pursuant to this section except to the extent that the contents relate directly to the appointment or incumbency.

§15–305.

(a) (1) A person asserting a claim of beneficial interest adverse to the transfer of a security pursuant to an assignment by a fiduciary may give the corporation or transfer agent written notice of the claim.

(2) A corporation or transfer agent is not put on notice unless the written notice identifies the claimant, the registered owner, and the issue of which the security is a part, provides an address for communications directed to the claimant and is received before the transfer.

(3) Nothing in this subtitle relieves the corporation or transfer agent of any liability for making or refusing to make the transfer after it is so put on notice, unless it proceeds in the manner authorized in subsection (b) of this section.

(b) (1) As soon as practicable after the presentation of a security for transfer pursuant to an assignment by a fiduciary, a corporation or transfer agent which has received notice of a claim of beneficial interest adverse to the transfer may send notice of the presentation by registered or certified mail to the claimant at the address given by the claimant.

(2) If a corporation or transfer agent mails a notice as authorized under paragraph (1) of this subsection, the corporation or transfer agent shall withhold the transfer for 30 days after the mailing and shall then make the transfer unless restrained by a court order.

§15–306.

A corporation or transfer agent incurs no liability to any person by making a transfer or otherwise acting in a manner authorized by this subtitle.

§15–307.

(a) A person who participates in the acquisition, disposition, assignment or transfer of a security by or to a fiduciary, including a person who guarantees the signature of the fiduciary, shall have the immunity from liability described under § 5-421(b) of the Courts and Judicial Proceedings Article.

(b) If a corporation or transfer agent makes a transfer pursuant to an assignment by a fiduciary, a person who guaranteed the signature of the fiduciary shall have the immunity from liability described under § 5-421(c) of the Courts and Judicial Proceedings Article.

(c) This section and § 5-421 of the Courts and Judicial Proceedings Article do not impose any liability upon the corporation or its transfer agent.

§15–308.

(a) The rights and duties of a corporation and its transfer agents in registering a security in the name of a fiduciary or in making a transfer of a security pursuant to an assignment by a fiduciary are governed by the law of the jurisdiction under whose laws the corporation is organized.

(b) This subtitle applies to the rights and duties of a person other than the corporation and its transfer agents with regard to acts and omissions in this State in connection with the acquisition, disposition, assignment, or transfer of a security by or to a fiduciary and of a person who guarantees in this State the signature of a fiduciary in connection with such a transaction.

§15–309.

This subtitle does not affect any obligation of a corporation or transfer agent with respect to estate, inheritance, succession, generation-skipping transfer, or other taxes imposed by the laws of this State.

§15–310.

This subtitle shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§15–311.

This subtitle may be cited as the Maryland Uniform Act for the Simplification of Fiduciary Security Transfers.

§15–401.

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

(b) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.

(c) (1) "Endowment fund" means an institutional fund or part of an institutional fund that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis.

(2) "Endowment fund" does not include assets that an institution designates as an endowment fund for the use of the institution.

(d) "Gift instrument" means a record, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(e) "Institution" means:

(1) A person, other than an individual, organized and operated exclusively for charitable purposes;

(2) A government or governmental subdivision, agency, or instrumentality, to the extent that the subdivision, agency, or instrumentality holds funds exclusively for a charitable purpose; or

(3) A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(f) (1) "Institutional fund" means a fund held by an institution exclusively for charitable purposes.

(2) "Institutional fund" does not include:

(i) Program–related assets;

(ii) A fund held for an institution by a trustee that is not an institution; or

(iii) A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise on violation or failure of the purposes of the fund.

(g) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(h) "Program–related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(i) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

§15–402.

(a) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(b) In addition to complying with the duty of loyalty imposed by law other than this subtitle, each person responsible for managing and investing an institutional fund shall manage and invest the fund exercising ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision.

(c) In managing and investing an institutional fund, an institution:

(1) May incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and

(2) Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(d) An institution may pool two or more institutional funds for purposes of management and investment.

(e) (1) The provisions of this subsection apply except as otherwise provided by a gift instrument.

(2) In managing and investing an institutional fund, the following factors, if relevant, shall be considered:

(i) General economic conditions;

(ii) The possible effect of inflation or deflation;

(iii) The expected tax consequences, if any, of investment decisions or strategies;

(iv) The role that each investment or course of action plays within the overall investment portfolio of the fund;

(v) The expected total return from income and the appreciation of investments;

(vi) Other resources of the institution;

(vii) The needs of the institution and the fund to make distributions and to preserve capital; and

(viii) The special relationship or special value of the asset, if any, to the charitable purposes of the institution.

(3) Management and investment decisions about an individual asset shall be made not in isolation but in the context of the portfolio of investments of the institutional fund as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

(4) Except as otherwise provided by law other than this subtitle, an institution may invest in any kind of property or type of investment consistent with this section.

(5) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

(6) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this subtitle.

(7) A person that has special skills or expertise, or is selected in reliance on the representation by the person that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

§15–403.

(a) (1) Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established.

(2) Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor–restricted assets until appropriated for expenditure by the institution.

(3) In making a determination to appropriate for expenditure or accumulate under paragraph (1) of this subsection, the institution shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision, and shall consider, if relevant, the following factors:

(i) The duration and preservation of the endowment fund;

(ii) The purposes of the institution and the endowment fund;

(iii) General economic conditions;

(iv) The possible effect of inflation or deflation;

(v) The expected total return from income and the appreciation of investments;

(vi) Other resources of the institution; and

(vii) The investment policy of the institution.

(b) To limit the authority to appropriate for expenditure or accumulate under subsection (a) of this section, a gift instrument must specifically state the limitation.

(c) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income", "interest", "dividends", or "rents, issues, or profits", or "to preserve the principal intact", or words of similar import:

(1) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(2) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection (a) of this section.

(d) (1) In this subsection, fair market value shall be calculated:

(i) If an endowment fund has existed at least 3 years, on the basis of the market value determined at least quarterly and averaged over a period of not less than 3 years immediately preceding the year in which the appropriation for expenditure is made; or

(ii) If an endowment fund has existed for fewer than 3 years, for the period the endowment fund has existed.

(2) The appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund creates a rebuttable presumption of imprudence.

(3) The institution shall notify the Attorney General of the appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund.

(4) This subsection does not:

(i) Apply to an appropriation for expenditure permitted under law other than this subtitle or by the gift instrument; or

(ii) Create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to 7 percent of the fair market value of the endowment fund.

§15–404.

(a) (1) Subject to any specific limitation set forth in a gift instrument or in law other than this subtitle, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances.

(2) An institution shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision, in:

(i) Selecting an agent;

(ii) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and

(iii) Periodically reviewing the actions of the agent in order to monitor the performance and compliance of the agent with the scope and terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(c) The standard established by § 15–402(b) of this subtitle is not limited or extinguished by the appointment of an external agent.

(d) By accepting delegation of a management or investment function from an institution that is subject to the laws of the State, an agent submits to the jurisdiction of the courts of the State in all proceedings arising from or related to the delegation or the performance of the delegated function.

(e) An institution may delegate management and investment functions to the committees, officers, or employees of the institution as authorized by law other than this subtitle.

§15–405.

(a) (1) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund.

(2) A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(b) (1) If written consent of the donor cannot be obtained by reason of the death, disability, unavailability, or impossibility of identification of the donor, a court of competent jurisdiction, on application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become obsolete, inappropriate, or impracticable, or if, because of circumstances not anticipated by the donor, a modification of a restriction will clearly further the purposes of the fund.

(2) (i) The institution shall notify the Attorney General of the institution's application under paragraph (1) of this subsection, and the Attorney General shall be given an opportunity to be heard.

(ii) To the extent practicable, any modification made under paragraph (1) of this subsection must be made in accordance with the donor's probable intention.

(c) (1) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, or impossible to achieve and written consent of the donor cannot be obtained by reason of the death, disability, unavailability, or impossibility of identification of the donor, a court of competent jurisdiction, on application of an institution, may modify the purpose of the fund or the restriction on the use of the fund if the donor manifested a general charitable intent.

(2) The institution shall notify the Attorney General of the institution's application under paragraph (1) of this subsection, and the Attorney General shall be given an opportunity to be heard.

(d) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, or impossible to achieve, the institution, 60 days after notification to the Attorney General, may release or modify the restriction, in whole or in part, if:

(1) The institutional fund subject to the restriction has a total value of less than $50,000;

(2) More than 20 years have elapsed since the fund was established; and

(3) The institution uses the property in a manner clearly consistent with the charitable purposes expressed in the gift instrument.

§15–406.

Compliance with this subtitle shall be determined in light of the facts and circumstances existing at the time a decision is made or action is taken.

§15–407.

(a) Except as provided in subsection (b) of this section, this subtitle applies to institutional funds existing on or established after the effective date of Chapter 134 of the Acts of the General Assembly of 2009.

(b) As applied to institutional funds existing on the effective date of Chapter 134 of the Acts of the General Assembly of 2009, this subtitle governs only decisions made or actions taken on or after that date.

§15–408.

This subtitle modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede § 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of the notices described in § 103(b) of that act, 15 U.S.C. § 7003(b).

§15–409.

In applying and construing this subtitle, which is a uniform act, consideration shall be given to the need to promote uniformity of the law with respect to the subject matter of the law among the states that enact the law.

§15–410.

This subtitle may be cited as the "Maryland Uniform Prudent Management of Institutional Funds Act".

§15–501.

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

(b) (1) "Accounting period" means a calendar year unless another 12-month period is selected by a fiduciary.

(2) "Accounting period" includes a portion of a calendar year or other 12-month period that begins when an income interest begins or ends when an income interest ends.

(c) "Beneficiary" includes, in the case of a decedent's estate, an heir and legatee and, in the case of a trust, an income beneficiary and a remainder beneficiary.

(d) (1) "Fiduciary" means a personal representative or a trustee.

(2) "Fiduciary" includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function.

(e) (1) "Income" means money or property that a fiduciary receives as current return from a principal asset.

(2) "Income" includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in Part IV of this subtitle.

(f) "Income beneficiary" means a person to whom net income of a trust is or may be payable.

(g) "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion.

(h) "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(i) "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under this subtitle to or from income during the period.

(j) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(k) "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates.

(l) "Remainder beneficiary" means a person entitled to receive principal when an income interest ends.

(m) "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.

(n) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

(o) "Unitrust" means a trust from which the income beneficiary is entitled to receive annually a fixed percentage of the fair market value of the trust's assets.

§15–502.

(a) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of Parts II and III of this subtitle, a fiduciary:

(1) Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this subtitle;

(2) May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this subtitle;

(3) Shall administer a trust or estate in accordance with this subtitle if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and

(4) Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this subtitle do not provide a rule for allocating the receipt or disbursement to or between principal and income.

(b) (1) In exercising a discretionary power of administration regarding a matter within the scope of this subtitle, whether granted by the terms of a trust, a will, or this subtitle, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries.

(2) A determination in accordance with this subtitle is presumed to be fair and reasonable to all of the beneficiaries.

§15–502.1.

(a) A trustee may convert a trust into a unitrust as described in this section if:

(1) The trustee receives a written request from a beneficiary to exercise the power conferred by this subsection to convert to a unitrust;

(2) The trustee invests and manages the trust assets in the manner set forth in § 15–114(b) and (c) of this title;

(3) The trustee determines that the conversion will enable the trustee to better carry out the intent of the person who created the trust and the purposes of the trust; and

(4) (i) The trustee complies with the notice requirements of § 15–502.3 of this subtitle and all qualified beneficiaries consent; or

(ii) A court reviews a petition filed under § 15–502.3 of this subtitle and approves the proposed decision to convert to a unitrust.

(b) In deciding whether to exercise the power conferred by subsection (a) of this section, a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

(1) The nature, purpose, and expected duration of the trust;

(2) The intent of the creator of the trust;

(3) The identity and circumstances of the beneficiaries;

(4) The needs for liquidity, regularity of income, and preservation and appreciation of capital;

(5) The assets held in the trust and:

(i) The extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property;

(ii) The extent to which an asset is used by a beneficiary; and

(iii) Whether an asset was acquired by the trustee or received from the creator of the trust;

(6) Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;

(7) The actual and anticipated effect of economic conditions on principal and income and the effects of inflation and deflation; and

(8) The anticipated tax consequences of a unitrust conversion.

(c) After a trust is converted to a unitrust, all of the following apply:

(1) The income of the trust that the income beneficiary is entitled to receive under the governing instrument shall be an annual unitrust distribution equal to a payout percentage of 4% of the net fair market value of the trust's assets,

whether those assets would be considered income or principal under any other provision of this subtitle, averaged over the lesser of:

(i) The 3 preceding years; or

(ii) The period during which the trust has been in existence;

(2) Expenses that would be deducted from income if the trust were not a unitrust may not be deducted from the unitrust distribution;

(3) Any provision in the governing instrument directing or authorizing the trustee to distribute principal or authorizing a beneficiary to withdraw a portion or all of the principal may not be affected by the conversion to a unitrust;

(4) Unless otherwise provided by the governing instrument, the unitrust distribution shall be paid first from net income of the trust, as net income would be determined if the trust were not a unitrust, and then from principal; and

(5) The trustee may determine to account for the unitrust distribution in accordance with the following rules:

(i) To the extent net income is insufficient, the unitrust distribution shall be paid from net realized short–term capital gains;

(ii) To the extent income and net realized short–term capital gains are insufficient, the unitrust distribution shall be paid from net realized long–term capital gains; and

(iii) To the extent income and net realized short–term and long–term capital gains are insufficient, the unitrust distribution shall be paid from the principal of the trust.

(d) The trustee shall determine:

(1) The effect of other payments from or contributions to the trust on the trust's valuation;

(2) How frequently to value nonliquid assets and whether to estimate their value; and

(3) Whether to omit from the calculations trust property occupied or possessed by a beneficiary.

(e) If authorized by a court order, in accordance with a petition filed under § 15–502.3 of this subtitle, the converted unitrust may provide that:

(1) The payout percentage is different than 4%;

(2) A distribution of net income, as would be determined if the trust were not a unitrust, shall be made if in excess of the unitrust distribution and if that distribution is necessary to preserve a tax benefit; or

(3) Valuation of the trust's net assets shall be averaged over a period other than 3 years.

(f) A trustee may not convert a trust into a unitrust under subsection (a) of this section if:

(1) The conversion would result in the disallowance of an estate tax or gift tax marital deduction that would be allowed, in whole or in part, if the trustee did not have the power to convert;

(2) Payment of the unitrust distribution would change the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;

(3) The unitrust distribution would be made from any amount that is permanently set aside for charitable purposes under the governing instrument and for which a federal estate or gift tax deduction has been taken, unless both income and principal are so set aside;

(4) Possessing or exercising the power to convert would cause an individual to be treated as the owner of all or part of the trust for federal income tax purposes and the individual would not be treated as the owner if the trustee did not possess the power to convert;

(5) Possessing or exercising the power to convert would cause all or part of the trust assets to be subject to estate or gift tax with respect to an individual and the assets would not be subject to estate or gift tax with respect to the individual if the trustee did not possess the power to convert; or

(6) The trustee is a beneficiary of the trust.

(g) (1) If subsection (f)(4), (5), or (6) of this section applies to a trustee and there is more than one trustee, a cotrustee to whom the provision does not apply may convert the trust to a unitrust under subsection (a) of this section, unless exercise

of the power by the remaining trustee or trustees is prohibited by the governing instrument.

(2) If subsection (f)(4), (5), or (6) of this section applies to all the trustees, the trustees may petition a court under § 15–502.3 of this subtitle to direct a conversion under subsection (a) of this section.

(h) (1) A trustee may release the power conferred by subsection (a) of this section to convert to a unitrust if:

(i) The trustee is uncertain about whether possessing or exercising the power will cause a result described in subsection (f)(4), (5), or (6) of this section; or

(ii) The trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (f) of this section.

(2) A release described in paragraph (1) of this subsection may be permanent or for a specified period, including a period measured by the life of an individual.

(i) If the trustee receives a written request from a beneficiary to reconvert a trust from a unitrust, the trustee may reconvert a trust from a unitrust if:

(1) The trustee complies with the notice requirements of § 15–502.3 of this subtitle and all qualified beneficiaries consent to reconvert from a unitrust; or

(2) A court reviews a petition filed under § 15–502.3 of this subtitle and approves the proposed decision to reconvert from a unitrust.

(j) Unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power conferred by subsection (a) of this section, the terms of a trust that limit the power of a trustee to convert to a unitrust do not affect the application of this section.

§15–502.2.

(a) A trustee may adjust between principal and income to the extent the trustee considers necessary if:

(1) The trustee receives a written request from a beneficiary to exercise the power conferred by this subsection to make an adjustment;

(2) The trustee invests and manages the trust assets in the manner set forth in § 15-114(b) and (c) of this title;

(3) The terms of the trust describe the amount that may or must be distributed to a beneficiary by referring to the trust's income;

(4) The trustee determines, after applying the rules in § 15-502(a) of this subtitle, that the trustee is unable to comply with § 15-502(b) of this subtitle;

(5) The trustee determines that conversion of the trust to a unitrust in accordance with § 15-502.1(a) of this subtitle is an inappropriate method to comply with § 15-502(b) of this subtitle based on a review of all factors relevant to the trust and its beneficiaries; and

(6) (i) The trustee complies with the notice requirements of § 15-502.3 of this subtitle and all qualified beneficiaries consent; or

(ii) A court reviews a petition filed under § 15-502.3 of this subtitle and approves the adjustment.

(b) In deciding whether and to what extent to exercise the power conferred by subsection (a) of this section, a trustee shall consider all the factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

(1) The nature, purpose, and expected duration of the trust;

(2) The intent of the creator of the trust;

(3) The identity and circumstances of the beneficiaries;

(4) The needs for liquidity, regularity of income, and preservation and appreciation of capital;

(5) The assets held in the trust and:

(i) The extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property;

(ii) The extent to which an asset is used by a beneficiary; and

(iii) Whether an asset was acquired by the trustee or received from the creator of the trust;

(6) The net amount allocated to income under other provisions of this subtitle and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;

(7) Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;

(8) The actual and anticipated effect of economic conditions on principal and income and the effects of inflation and deflation; and

(9) The anticipated tax consequences of an adjustment.

(c) Unless authorized by a court order in accordance with a petition filed under § 15-502.3 of this subtitle, a trustee may not make an adjustment under subsection (a) of this section in any accounting period if the adjustment results in a distribution of net income to the income beneficiary:

(1) That is greater than 4% of the net fair market value of the trust assets on the first business day of that accounting period, if the net income for that accounting period is less than 4% as determined under this subtitle before application of the provisions of subsection (a) of this section; or

(2) That is less than 4% of the net fair market value of the trust assets on the first business day of that accounting period, if the net income for that accounting period is greater than 4% as determined under this subtitle before application of the provisions of subsection (a) of this section.

(d) A trustee may not make an adjustment under subsection (a) of this section:

(1) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;

(2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;

(3) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;

(4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;

(5) If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;

(6) If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be subject to estate or gift tax with respect to the individual and the assets would not be subject to estate or gift tax with respect to the individual if the trustee did not possess the power to make an adjustment;

(7) If the trustee is a beneficiary of the trust; or

(8) If the trust has been converted to a unitrust in accordance with § 15-502.1 of this subtitle.

(e) If subsection (d)(5), (6), or (7) of this section applies to a trustee and there is more than one trustee, a cotrustee to whom the provision does not apply may make the adjustment under subsection (a) of this section unless the exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust.

(f) (1) A trustee may release the entire power conferred by subsection (a) of this section or may release only the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in subsection (d)(1), (2), (3), (4), (5), or (6) of this section or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (d) of this section.

(2) The release authorized under paragraph (1) of this subsection may be permanent or for a specified period, including a period measured by the life of an individual.

(g) The terms of a trust that limit the power of a trustee to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power of adjustment conferred by subsection (a) of this section.

§15–502.3.

(a) In this section, "qualified beneficiary" means:

(1) A person who, on the date that notice is given by the trustee in accordance with subsection (b) of this section:

(i) Is a distributee or permissible distributee of the income or principal of the trust estate;

(ii) Would be a distributee or permissible distributee of the income or principal of the trust estate if the interests of the distributees described in item (i) of this paragraph terminated on the date that notice is given by the trustee; or

(iii) Would be a distributee or permissible distributee of the income or principal of the trust estate if the trust were to terminate on the date that notice is given by the trustee and no powers of appointment were exercised;

(2) If an individual described in paragraph (1) of this subsection is a minor, the individual's natural or legal guardian; or

(3) If an individual described in paragraph (1) of this subsection is a disabled person, as defined in § 13-101 of this article, any person acting on behalf of the individual under a guardianship, conservatorship, or committee.

(b) A trustee shall give notice of a proposed decision regarding the exercise or nonexercise of the discretionary power conferred under:

(1) Section 15-502.1(a) of this subtitle to convert a trust to a unitrust;

(2) Section 15-502.1(i) of this subtitle to reconvert from a unitrust; or

(3) Section 15-502.2(a) of this subtitle to adjust between principal and income.

(c) The trustee shall mail the notice required under subsection (b) of this section to:

(1) All qualified beneficiaries, except that notice of the proposed decision need not be given to any qualified beneficiary who consents in writing to the proposed decision at any time before the notice is mailed; and

(2) The creator of the trust, if living.

(d) The notice of proposed decision shall state that it is given in accordance with this section and shall state the following:

(1) The name and mailing address of the trustee, together with the name and telephone number of a person who may be contacted for additional information;

(2) A description of the decision proposed to be taken and, if the proposed decision also includes an action that requires an order of a court in accordance with § 15-502.1 or § 15-502.2 of this subtitle, a description of that action;

(3) The time within which written consents to the proposed decision may be given to the trustee, which shall be at least 30 days after the mailing of the notice of proposed decision; and

(4) The date on or after which the proposed decision may be taken or is effective, which shall be after the end of the time within which consents to the proposed decision may be given to the trustee.

(e) If the trustee receives the written consent of all qualified beneficiaries, then the trustee shall undertake the proposed decision unless the proposed decision also includes an action that requires an order of a court in accordance with § 15-502.1 or § 15-502.2 of this subtitle.

(f) If any qualified beneficiary does not consent to the proposed decision, or if the proposed decision includes an action that requires an order of a court under § 15-502.1 or § 15-502.2 of this subtitle, then the trustee or any qualified beneficiary may file a petition to review the proposed decision in the circuit court for the county in which the trustee resides in this State, if the trustee is an individual, or in which the principal place of business of the trustee is located in this State.

(g) (1) In a proceeding under subsection (f) of this section:

(i) With respect to the power to convert to a unitrust under § 15-502.1(a) of this subtitle or to reconvert from a unitrust under § 15-502.1(i) of this subtitle, the sole remedy in the proceeding is to direct, deny, or revise the conversion to a unitrust or reconversion from a unitrust; and

(ii) With respect to the power to adjust between principal and income under § 15-502.2(a) of this subtitle, the sole remedy in the proceeding is to direct, deny, or revise the adjustment between principal and income.

(2) Notice of the proceeding shall be given by the petitioner to the trustee and to all qualified beneficiaries.

(h) Any action taken or not taken in accordance with the provisions of this section shall be binding on the trustee, all qualified beneficiaries, and any other person who has a present or future interest in the trust, vested or contingent, including any unborn or unascertained beneficiary, and the trustee is not liable to any person for that action taken or not taken.

§15–503.

(a) The rules in subsections (b) through (e) of this section apply:

(1) In the case of an estate, after a decedent dies; or

(2) After an income interest in a trust ends.

(b) (1) A fiduciary of an estate or of a terminating income interest shall:

(i) Determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in Parts III through V of this subtitle which apply to trustees and the rules in subsection (e) of this section; and

(ii) Distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(2) If the income and principal receipts from the specific property are not sufficient to pay the taxes, ordinary repairs, and other expenses of management and operation relating to the property, or if there are no income or principal receipts, then expenses in excess of income and principal receipts shall be charged to and paid by the beneficiary who is to receive the specific property immediately on written demand of the personal representative, or at the option of the beneficiary, charged against a share of the estate to which the beneficiary may be entitled.

(3) (i) If the beneficiary who is to receive the specific property fails to make payment to the personal representative within 15 days from the date of written demand, the personal representative may sell at either public or private sale the specific property to satisfy the excess charges, taxes, and expenses accrued.

(ii) Proceeds of the sale in excess of the charges, taxes, and expenses, including the expenses of the sale, shall subsequently be distributed to the beneficiary in full satisfaction of the right to receive the specific property.

(iii) If the proceeds of the sale are insufficient to satisfy charges, taxes, and expenses incident to the specific property, then the personal

representative may pay the excess expenses, taxes, and other charges out of the residuary estate.

(c) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Parts III through V of this subtitle which apply to trustees and by:

(1) Including in net income all income from property used to discharge liabilities;

(2) Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

(3) Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

(d) A fiduciary shall distribute the remaining net income in the manner described in § 15–504 of this subtitle to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust, but excluding a beneficiary other than a surviving spouse who receives a pecuniary amount that is not in trust.

(e) (1) A fiduciary may not reduce principal or income receipts from property described in subsection (b) of this section because of a payment described in § 15–523 or § 15–524 of this subtitle to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party.

(2) The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due on or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

§15–504.

(a) (1) Each beneficiary described in § 15–503(d) of this subtitle is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date.

(2) If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

(b) In determining a beneficiary's share of net income:

(1) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations;

(2) The beneficiary's fractional interest in the undistributed principal assets shall be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust;

(3) The beneficiary's fractional interest in the undistributed principal assets shall be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation; and

(4) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

(c) If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

(d) A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

§15–505.

(a) (1) An income beneficiary is entitled to net income from the date on which the income interest begins.

(2) An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

(b) An asset becomes subject to a trust:

(1) On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;

(2) On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or

(3) On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

(c) An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection (d) of this section, even if there is an intervening period of administration to wind up the preceding income interest.

(d) An income interest ends on the day before an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

§15–506.

(a) A trustee shall allocate an income receipt or disbursement other than one to which § 15–503(b) of this subtitle applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

(b) (1) A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date.

(2) An income receipt or disbursement shall be treated as accruing from day to day if its due date is not periodic or it has no due date.

(3) The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins shall be allocated to principal and the balance shall be allocated to income.

(c) (1) An item of income or an obligation is due on the date the payer is required to make a payment.

(2) If a payment date is not stated, there is no due date for the purposes of this subtitle.

(3) Distributions to shareholders or other owners from an entity to which § 15–508 of this subtitle applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution.

(4) A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

§15–507.

(a) (1) In this section, "undistributed income" means net income received before the date on which an income interest ends.

(2) "Undistributed income" does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

(b) (1) Except as provided in paragraph (2) of this subsection, when a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust.

(2) If a beneficiary has an unqualified power to revoke more than 5% of the trust immediately before the income interest ends, the undistributed income from the portion of the trust that may be revoked shall be added to principal.

(c) When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate, or other tax requirements.

§15–508.

(a) In this section, "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest other than a trust or estate to which § 15–509 of this subtitle applies, a business or activity to which § 15–510 of this subtitle applies, or an asset–backed security to which § 15–522 of this subtitle applies.

(b) Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

(c) Except as provided in subsection (f) of this section, a trustee shall allocate the following receipts from an entity to principal:

(1) Property other than money;

(2) Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

(3) Money received in total or partial liquidation of the entity; and

(4) Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

(d) Money is received in partial liquidation:

(1) To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or

(2) If the total amount of money and property received in a distribution or series of related distributions is greater than 20 percent of the entity's gross assets, as shown by the entity's year–end financial statements immediately preceding the initial receipt.

(e) Money is not received in partial liquidation, nor may it be taken into account under subsection (d)(2) of this section, to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the money.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Investment fund" means an entity that is exempt from registration under the Investment Company Act of 1940 based on the authority in 15 U.S.C. § 80a–3(c)(1), is treated as a partnership for federal income tax purposes, has 50 or more investors, and more than half the assets of which consist of cash and marketable securities, including its proportionate share of these assets owned by any entity in which it owns an interest.

(iii) "Unit" means an equity interest in an investment fund.

(2) If the trustee makes an irrevocable written election to have this subsection apply, distributions per share or unit made in any calendar year by a regulated investment company or an investment fund from realized or unrealized capital gains occurring in the calendar year shall be allocated by the trustee to income to the extent required in order for the sum of the distributions per share or unit from ordinary income and from realized or unrealized capital gains to equal an amount determined by multiplying the net asset value of a share or unit of the regulated investment company or investment fund on January 1 of such calendar year (or on such later date of acquisition by a trustee during such calendar year) by the annual federal mid–term rate applicable to January 1 of such calendar year (or to such later date of acquisition) established by the Secretary of the Treasury under § 1274(d)(1) of the Internal Revenue Code of 1986, adjusted to reflect the proportion of the calendar year in which the share has been held by a trustee.

(g) A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

§15–509.

(a) A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate.

(b) If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, § 15–508 or § 15–522 of this subtitle applies to a receipt from the trust.

§15–510.

(a) If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or

activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

(b) (1) A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records.

(2) If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

(c) Activities for which a trustee may maintain separate accounting records include:

(1) Retail, manufacturing, service, and other traditional business activities;

(2) Farming;

(3) Raising and selling livestock and other animals;

(4) Management of rental properties;

(5) Extraction of minerals and other natural resources;

(6) Timber operations; and

(7) Activities to which § 15-521 of this subtitle applies.

§15–511.

A trustee shall allocate to principal:

(1) To the extent not allocated to income under this subtitle, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest, or a payer under a contract naming the trust or its trustee as beneficiary;

(2) Money or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this subtitle;

(3) Amounts recovered from third parties to reimburse the trust because of disbursements described in § 15–524(a)(7) of this subtitle or for other reasons to the extent not based on the loss of income;

(4) Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;

(5) Net income received in an accounting period during which there is no beneficiary to whom a trustee may or must distribute income; and

(6) Other receipts as provided in Part III of this subtitle.

§15–512.

(a) To the extent that a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease.

(b) An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, shall be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

§15–513.

(a) An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, must be allocated to income without any provision for amortization of premium.

(b) (1) A trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than 1 year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity.

(2) If the obligation matures within 1 year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust shall be allocated to income.

(c) This section does not apply to an obligation to which § 15-516, § 15-517, § 15-518, § 15-519, § 15-521, or § 15-522 of this subtitle applies.

§15–514.

(a) Except as provided in subsection (b) of this section, a trustee shall:

(1) Allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset; and

(2) Allocate dividends on an insurance policy:

(i) If the premiums on the insurance policy are paid from income, to income; and

(ii) If the premiums on the insurance policy are paid from principal, to principal.

(b) A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or, subject to § 15-510 of this subtitle, loss of profits from a business.

(c) This section does not apply to a contract to which § 15-516 of this subtitle applies.

(d) (1) This subsection applies to any obligation for the payment of money at a future time, provided the obligation was held as an asset of a trust that was irrevocable on October 1, 2000 (regardless of whether the asset was acquired before or after October 1, 2000), and provided the trustee makes an irrevocable election on the first year–end accounting of the trust's principal and income stated after September 30, 2000 to allocate distributions in accordance with this subsection, including:

(i) A bond;

(ii) A zero coupon bond;

(iii) An annuity contract before unitization;

(iv) A life insurance contract before the death of the insured; and

(v) An interest in a common trust fund as defined under § 584 of the Internal Revenue Code with respect to charitable remainder trusts as defined under § 664 of the Internal Revenue Code and pooled income funds as defined under § 642(c)(5) of the Internal Revenue Code.

(2) Unless otherwise provided in the trust instrument or in this subtitle, the increment in value of an obligation for the payment of money payable at a future time in accordance with a fixed, variable, or discretionary schedule of appreciation in excess of the price at which it was issued shall be distributable as income.

(3) (i) The increment in value is distributable to the beneficiary who was the income beneficiary at the time of the increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition.

(ii) Whenever unrealized increment is distributed as income, but out of principal, the principal shall be reimbursed for the increment when realized.

(4) For purposes of this subsection, the increment in value of an obligation for the payment of money shall be available for distribution only when the trustee receives cash on account of the obligation.

§15–515.

(a) (1) If a trustee determines that an allocation between principal and income required by § 15-516, § 15-517, § 15-518, § 15-519, or § 15-522 of this subtitle is insubstantial, the trustee may allocate the entire amount to principal unless one of the circumstances described in § 15-502.2(d) of this subtitle applies to the allocation.

(2) This power may be exercised by a cotrustee in the circumstances described in § 15-502.2(e) of this subtitle, and may be released for the reasons and in the manner described in § 15-502.2(f) of this subtitle.

(b) An allocation is presumed to be insubstantial if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than 10 percent; or

(2) The value of the asset producing the receipt for which the allocation would be made is less than 10 percent of the total value of the trust's assets at the beginning of the accounting period.

§15–516.

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

(2) (i) "Payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments.

(ii) "Payment" includes:

1. A payment made in money or property from the payer's general assets or from a separate fund created by the payer; or

2. For the purposes of subsection (d), (e), (f), or (g) of this section, any payment from a separate fund, regardless of the reason for the payment.

(3) "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit–sharing, stock–bonus, or stock–ownership plan.

(b) (1) To the extent that a payment is characterized as interest, a dividend, or a payment made in lieu of interest or a dividend, a trustee shall allocate the payment to income.

(2) The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) (1) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income 10% of the part that is required to be made during the accounting period and the balance to principal.

(2) If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal.

(3) For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(d) Except as otherwise provided in subsection (e) of this section, subsections (f) and (g) of this section apply, and subsections (b) and (c) of this section do not apply, in determining the allocation of a payment made from a separate fund to:

(1) A trust to which an election to qualify for a marital deduction under § 2056(b)(7) of the Internal Revenue Code of 1986 has been made; or

(2) A trust that qualifies for the marital deduction under § 2056(b)(5) of the Internal Revenue Code of 1986.

(e) Subsections (d), (f), and (g) of this section do not apply if, and to the extent that, the series of payments would, without the application of subsection (d) of this section, qualify for the marital deduction under § 2056(b)(7)(C) of the Internal Revenue Code of 1986.

(f) (1) A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this subtitle.

(2) On request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute the internal income to the trust.

(3) The trustee shall allocate:

(i) A payment from the separate fund to income to the extent of the amount of the internal income of the separate fund and distribute that amount to the surviving spouse; and

(ii) The balance of the payment to principal.

(4) On request of the surviving spouse, the trustee shall allocate principal to income to the extent the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period.

(g) (1) If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal 4% of the fund's value, according to the most recent statement of value before the beginning of the accounting period.

(2) If the trustee cannot determine both the internal income of the separate fund and the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments, as determined under § 7520 of the Internal Revenue Code of 1986 for the month preceding the accounting period for which the computation is made.

(h) This section does not apply to payments to which § 15–517 of this subtitle applies.

§15–517.

(a) (1) In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration.

(2) "Liquidating asset" includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than 1 year under an arrangement that does not provide for the payment of interest on the unpaid balance.

(3) "Liquidating asset" does not include a payment subject to § 15-516 of this subtitle, resources subject to § 15-518 of this subtitle, timber subject to § 15-519 of this subtitle, an activity subject to § 15-521 of this subtitle, an asset subject to § 15-522 of this subtitle, or any asset for which the trustee establishes a reserve for depreciation under § 15-525 of this subtitle.

(b) A trustee shall allocate to income 10 percent of the receipts from a liquidating asset and the balance to principal.

§15–518.

(a) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt shall be allocated to income;

(2) If received from a production payment, a receipt shall be allocated:

(i) If and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent, to income; and

(ii) The balance shall be allocated to principal;

(3) If an amount received as a royalty, shut–in–well payment, take–or–pay payment, bonus, or delay rental is more than nominal, 90% shall be allocated to principal and the balance to income; and

(4) If an amount is received from a working interest or any other interest not provided for in paragraph (1), (2), or (3) of this subsection, 90% of the net amount received shall be allocated to principal and the balance to income.

(b) (1) An amount received on account of an interest in water that is renewable shall be allocated to income.

(2) If the water is not renewable, 90% of the amount shall be allocated to principal and the balance to income.

(c) This subtitle applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

(d) (1) If a trust owns an interest in minerals, water, or other natural resources on October 1, 2000, the trustee may allocate receipts from the interest as provided in this subtitle or in the manner used by the trustee before October 1, 2000.

(2) If the trust acquires an interest in minerals, water, or other natural resources after October 1, 2000, the trustee shall allocate receipts from the interest as provided in this subtitle.

§15–519.

(a) To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

(1) To income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;

(2) To principal to the extent that the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(3) To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs (1) and (2) of this subsection; or

(4) To principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to paragraph (1), (2), or (3) of this subsection.

(b) In determining net receipts to be allocated pursuant to subsection (a) of this section, a trustee shall deduct and transfer to principal a reasonable amount for depletion.

(c) This subtitle applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

(d) (1) If a trust owns an interest in timberland on October 1, 2001, the trustee may allocate net receipts from the sale of timber and related products as provided in this subtitle or in the manner used by the trustee before October 1, 2000.

(2) If the trust acquires an interest in timberland after October 1, 2000, the trustee shall allocate net receipts from the sale of timber and related products as provided in this subtitle.

§15–520.

(a) (1) If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under § 15-502.2(a) of this subtitle and distributes to the spouse from principal in accordance with the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or may request the trustee exercise the power conferred by § 15-502.2(a) of this subtitle.

(2) The trustee may decide which action or combination of actions to take.

(b) In cases not governed by subsection (a) of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

§15–521.

(a) In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments which gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

(b) To the extent that a trustee does not account under § 15-510 of this subtitle for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

(c) (1) If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option shall be allocated to principal.

(2) An amount paid to acquire the option shall be paid from principal.

(3) A gain or loss realized on the exercise of an option, including an option granted to a settlor of the trust for services rendered, shall be allocated to principal.

§15–522.

(a) (1) In this section, "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security.

(2) "Asset-backed security" includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return.

(3) "Asset-backed security" does not include an asset to which § 15-508 or § 15-516 of this subtitle applies.

(b) If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to

income the portion of the payment which the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

(c) (1) If a trust receives one or more payments in exchange for the trust's entire interest in an asset–backed security in one accounting period, the trustee shall allocate the payments to principal.

(2) If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate 10% of the payment to income and the balance to principal.

§15–523.

A trustee shall make the following disbursements from income to the extent that they are not disbursements to which § 15–503(c)(2) or (3) of this subtitle apply:

(1) One–half of the regular compensation of the trustee and any person providing investment advisory or custodial services to the trustee;

(2) One–half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

(3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

(4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

§15–524.

(a) A trustee shall make the following disbursements from principal:

(1) The remaining one–half of the disbursements described under § 15–523(1) and (2) of this subtitle;

(2) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution, or termination, and disbursements made to prepare property for sale;

(3) Payments on the principal of a trust debt;

(4) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(5) Premiums paid on a policy of insurance not described in § 15–523(4) of this subtitle of which the trust is the owner and beneficiary;

(6) Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust; and

(7) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

(b) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

§15–525.

(a) In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more than 1 year.

(b) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(1) Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary;

(2) During the administration of a decedent's estate; or

(3) Under this section if the trustee is accounting under § 15-510 of this subtitle for the business or activity in which the asset is used.

(c) An amount transferred to principal need not be held as a separate fund.

§15–526.

(a) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

(b) Principal disbursements to which subsection (a) applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

(1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;

(2) A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments;

(3) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;

(4) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and

(5) Disbursements described in § 15–524(a)(7) of this subtitle.

(c) If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection (a) of this section.

§15–527.

(a) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid:

(1) From income to the extent that receipts from the entity are allocated only to income;

(2) From principal to the extent that receipts from the entity are allocated only to principal;

(3) Proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and

(4) From principal to the extent that the tax exceeds the total receipts from the entity.

(d) After applying subsections (a) through (c) of this section, the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payments made to a beneficiary.

§15–528.

(a) A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

(1) Elections and decisions, other than those described in subsection (b) of this section, that the fiduciary makes from time to time regarding tax matters;

(2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or

(3) Subject to subsection (b) of this section, the ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or a beneficiary.

(b) A trustee shall make an adjustment from principal to income to compensate an income beneficiary for taxes paid or payable by the income beneficiary in respect of the taxable income of an entity that is taxable to the income beneficiary but that is distributed to the trustee and allocated to principal.

(c) (1) If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that

benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid.

(2) The total reimbursement must equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment.

(3) The proportionate share of the reimbursement for each estate, trust, or beneficiary whose income taxes are reduced must be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

§15–529.

This subtitle shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject matter of this subtitle among those states which enact it.

§15–530.

This subtitle may be cited as the "Maryland Uniform Principal and Income Act".

§15–601.

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

(b) "Account" means an arrangement under a terms–of–service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of a user or provides goods or services to the user.

(c) "Agent" has the meaning stated in § 17–101 of this article.

(d) "Carries" means engages in the transmission of electronic communications.

(e) "Catalogue of electronic communications" means information that identifies:

(1) Each person with whom a user has had an electronic communication;

(2) The time and date of the communication; and

(3) The electronic address of the person.

(f) "Content of an electronic communication" means information concerning the substance or meaning of a communication that:

(1) Has been sent or received by a user;

(2) (i) Is in electronic storage by a custodian providing an electronic communication service to the public; or

(ii) Is carried or maintained by a custodian providing a remote computing service to the public; and

(3) Is not readily accessible to the public.

(g) "Custodian" means a person who carries, maintains, processes, receives, or stores a digital asset of an account holder.

(h) "Designated recipient" means a person chosen by a user using an online tool to administer the digital assets of the user.

(i) (1) "Digital asset" means an electronic record in which an individual has a right or interest.

(2) "Digital asset" does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(j) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(k) "Electronic communication" has the meaning stated in 18 U.S.C. § 2510(12).

(l) "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

(m) "Fiduciary" means an original, additional, or successor personal representative, guardian, agent, or trustee.

(n) (1) "Guardian" means a guardian of the property appointed by a court under Title 13, Subtitle 2 of this article to manage the property of a disabled person or minor or a guardian of the person appointed by a court under Title 13, Subtitle 7 of this article, according to the context in which it is used.

(2) "Guardian" includes a limited guardian.

(o) "Information" means data, text, images, videos, sounds, codes, computer programs, software, or databases.

(p) "Online tool" means an electronic service provided by a custodian that allows a user, in an agreement distinct from the terms–of–service agreement between the custodian and the user, to provide directions for disclosure or nondisclosure of digital assets to a third party.

(q) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.

(r) "Personal representative" means an executor, administrator, special administrator, or person that performs substantially the same function under a law of this State other than this subtitle.

(s) "Power of attorney" has the meaning stated in § 17–101 of this article.

(t) "Principal" has the meaning stated in § 17–101 of this article.

(u) (1) "Protected person" means an individual for whom a guardian has been appointed.

(2) "Protected person" includes an individual for whom an application for the appointment of a guardian is pending.

(v) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(w) "Remote computing service" means a custodian who provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. § 2510(14).

(x) "Terms–of–service agreement" means an agreement that controls the relationship between a user and a custodian.

(y) (1) "Trustee" means a fiduciary with legal title to property under an agreement or a declaration that creates a beneficial interest in another.

(2) "Trustee" includes an original, additional, or successor trustee or cotrustee, whether or not appointed or confirmed by a court.

(z) "User" means a person who has an account with a custodian.

(aa) "Will" includes a codicil, a testamentary instrument that only appoints a personal representative, or an instrument that revokes or revises a testamentary instrument if the codicil or instrument satisfies the requirements of § 4–102, § 4–103, or § 4–104 of this article.

§15–602.

This subtitle does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

§15–603.

(a) (1) A user may use an online tool to direct a custodian to disclose to a designated recipient or not disclose some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(2) If the online tool allows the user to modify or delete a direction at any time, a direction under paragraph (1) of this subsection overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(b) If the user does not use an online tool to give direction under subsection (a) of this section or if the custodian fails to provide an online tool, the user may, in a will, trust, power of attorney, or other record, allow or prohibit disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(c) A direction by a user under subsection (a) or (b) of this section shall override a contrary provision in a terms–of–service agreement, if the terms–of–service agreement does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

§15–604.

(a) This subtitle does not change or impair the right of a custodian or a user under a terms–of–service agreement to access or use the digital assets of the user.

(b) This subtitle does not grant a fiduciary or designated recipient new or expanded rights other than those held by the user for whom or for whose estate or trust the fiduciary or designated recipient acts or represents.

(c) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by:

(1) A user;

(2) Federal law; or

(3) A terms–of–service agreement if the user has not provided direction under § 15–603 of this subtitle.

§15–605.

(a) When disclosing the digital assets of a user under this subtitle, a custodian may in its sole discretion:

(1) Grant a fiduciary or designated recipient full access to the user's account;

(2) Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(3) Provide a fiduciary or designated recipient a copy in a record of a digital asset that, on the date that the custodian received the request for disclosure, the user could have accessed if the user were alive or had full capacity and had access to the account.

(b) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this subtitle.

(c) A custodian need not disclose under this subtitle a digital asset deleted by a user.

(d) (1) If a user directs or a fiduciary requests a custodian to disclose only a portion of the user's digital assets under this subtitle, the custodian need not disclose the assets if segregation of the digital assets would impose an undue burden on the custodian.

(2) If the custodian believes under paragraph (1) of this subsection that the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from a court to disclose:

(i) A subset, limited by date, of the user's digital assets;

(ii) All of the user's digital assets to the fiduciary or designated recipient;

(iii) None of the user's digital assets; or

(iv) All of the user's digital assets to the court for review in camera.

§15–606.

If a deceased user consented to or a court directs the disclosure of the contents of electronic communications of the user, a custodian shall disclose to the personal representative of the user's estate the content of an electronic communication sent or received by the user if the personal representative provides the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A copy of the certificate of the user's death;

(3) A copy of the letters of administration of the personal representative or court order appointing a special administrator;

(4) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(5) If requested by the custodian:

(i) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(ii) Evidence linking the account to the user; or

(iii) A finding by the court that:

1. The user had a specific account with the custodian, identifiable by the information specified in item (i) of this item;

2. Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. § 2701, et seq., 47 U.S.C. § 222, or other applicable law;

3. Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

4. Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

§15–607.

Unless a user prohibited disclosure of digital assets or a court directs otherwise, a custodian shall disclose to the personal representative of the estate of the user a catalogue of electronic communications sent or received by the user and the digital assets of the user, other than the content of the electronic communications, if the personal representative provides the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A copy of the certificate of the user's death;

(3) A copy of the letters of administration of the personal representative or court order appointing a special administrator; and

(4) If requested by the custodian:

(i) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(ii) Evidence linking the account to the user;

(iii) An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(iv) A finding by the court that:

1. The user had a specific account with the custodian, identifiable by the information specified in item (i) of this item; or

2. Disclosure of the catalogue of electronic communications of the user is reasonably necessary for administration of the estate.

§15–608.

To the extent that a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or a court, a custodian shall disclose to the agent the content if the agent provides the custodian:

(1) A written request for disclosure in a physical or electronic form;

(2) An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(3) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) If requested by the custodian:

(i) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(ii) Evidence linking the account to the principal.

§15–609.

Unless otherwise ordered by a court, directed by a principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent provides the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) An original or copy of the power of attorney that grants the agent specific authority over digital assets or general authority to act on behalf of the principal;

(3) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) If requested by the custodian:

(i) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(ii) Evidence linking the account to the principal.

§15–610.

Unless otherwise ordered by a court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account the digital assets of the

account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

§15–611.

Unless otherwise ordered by a court, directed by a user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee provides the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A copy of the trust instrument or certification of the trust under § 14.5–910 of this article that includes consent to disclosure of the content of electronic communications to the trustee;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian:

(i) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(ii) Evidence linking the account to the trust.

§15–612.

Unless otherwise ordered by a court, directed by a user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account a catalogue of electronic communications sent or received by an original or successor user or stored, carried, or maintained by the custodian in an account of the trust and the digital assets, other than electronic communications, in which the trust has a right or interest if the trustee provides the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A copy of the trust instrument or certification of the trust under § 14.5–910 of this article;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian:

(i) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(ii) Evidence linking the account to the trust.

§15–613.

(a) After an opportunity for hearing under Title 13, Subtitle 2 or Title 13, Subtitle 7 of this article, a court may grant a guardian access to the digital assets of the protected person for whom the guardian has been appointed.

(b) Unless otherwise ordered by a court or directed by a user, a custodian shall disclose to a guardian the catalogue of electronic communications sent or received by the protected person and the digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the guardian provides the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A copy of the court order that gives the guardian authority over the digital assets of the protected person; and

(3) If requested by the custodian:

(i) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the protected person's account; or

(ii) Evidence linking the account to the protected person.

(c) (1) A guardian with general authority to manage the assets of a protected person may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause.

(2) A request made under this subsection shall be accompanied by a copy of the court order granting the guardian authority over the protected person's property.

§15–614.

(a) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

(1) The duty of care;

(2) The duty of loyalty; and

(3) The duty of confidentiality.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(1) Except as otherwise provided in § 15–603 of this subtitle, is subject to the applicable terms of service;

(2) Is subject to other applicable law, including copyright law;

(3) In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(4) May not be used to impersonate the user.

(c) A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access a digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms–of–service agreement.

(d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer–fraud and unauthorized–computer–access laws, including § 7–302 of the Criminal Law Article.

(e) A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor:

(1) Has the right to access the property and the digital assets stored in it; and

(2) Is an authorized user for the purpose of computer–fraud and unauthorized–computer–access laws, including § 7–302 of the Criminal Law Article.

(f) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(g) (1) A fiduciary of a user may request a custodian to terminate the user's account.

(2) The fiduciary shall submit the request for termination to the custodian in writing, in either physical or electronic form, accompanied by:

(i) If the user is deceased, a copy of the death certificate of the user;

(ii) A copy of the letters of administration of the personal representative or court order appointing a special administrator, power of attorney, or trust granting the fiduciary authority over the account; and

(iii) If requested by the custodian:

1. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

2. Evidence linking the account to the user; or

3. A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in item 1 of this item.

§15–615.

(a) (1) No later than 60 days after receipt of the information required under §§ 15–606 through 15–613 of this subtitle, a custodian shall comply with a request under this subtitle from a fiduciary or designated recipient to disclose digital assets or terminate an account.

(2) If the custodian fails to comply with the request, the fiduciary or designated recipient may apply to a court for an order directing compliance.

(b) An order under subsection (a) of this section directing compliance shall contain a finding that compliance is not in violation of 18 U.S.C. § 2702.

(c) A custodian may notify the user that a request for disclosure or termination of an account was made under this subtitle.

(d) A custodian may deny a request under this subtitle from a fiduciary or designated recipient for disclosure of digital assets or termination of an account if the

custodian is aware of any lawful access to the account following receipt of the fiduciary's request.

(e) This subtitle does not limit a custodian's ability to obtain or to require a fiduciary or designated recipient requesting disclosure or termination under this subtitle to obtain a court order that:

(1) Specifies that an account belongs to the protected person or principal;

(2) Specifies that there is sufficient consent from the protected person or principal to support the requested disclosure or termination; and

(3) Contains a finding required by law other than this subtitle.

(f) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this subtitle.

§15–616.

In applying and construing this subtitle, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Revised Uniform Fiduciary Access to Digital Assets Act.

§15–617.

This subtitle modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b).

§15–618.

This subtitle applies to:

(1) A fiduciary acting under a will or power of attorney executed before, on, or after October 1, 2016;

(2) A personal representative acting for a decedent who died before, on, or after October 1, 2016;

(3) A guardianship proceeding, whether pending in a court or commenced before, on, or after October 1, 2016;

(4) A trustee acting under a trust created before, on, or after October 1, 2016; and

(5) A custodian if the user resides in this State or resided in this State at the time of the user's death.

§15–619.

If a provision of this subtitle or its application to a person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this subtitle that can be given effect without the invalid provision or application, and to this end the provisions of this subtitle are severable.

§15–620.

This subtitle may be cited as the Maryland Fiduciary Access to Digital Assets Act.

§16–101.

(a) In this title the following terms have the meanings indicated unless the context otherwise requires.

(b) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security on the death of the owner.

(c) "Devisee" means any person designated in a will to receive a disposition of real or personal property.

(d) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(e) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(f) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(g) "Register", including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(h) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker or trust company maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(i) (1) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer.

(2) "Security" includes a certificated security, an uncertificated security, and a security account.

(j) (1) "Security account" means:

(i) A reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death;

(ii) A cash balance or other property held for or due to the owner of security as a replacement for or product of an account security, whether or not credited to the account before the owner's death; or

(iii) A securities account maintained by a trust company for one or more customers.

(2) "Security account" does not include:

(i) An account as defined in § 1–204(b)(2) of the Financial Institutions Article; or

(ii) A securities account held by a trust company as a fiduciary as defined in § 15–101 of this article.

(k) "Trust company" has the meaning stated in § 1-101 of this article.

§16–102.

(a) Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form.

(b) Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.

§16–103.

(a) A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration.

(b) A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

§16–104.

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

§16–105.

Registration in beneficiary form may be shown by the words "transfer-on-death" or the abbreviation "TOD", or by the words "pay on death" or the abbreviation "POD", after the name of the registered owner and before the name of a beneficiary.

§16–106.

(a) The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death.

(b) A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

§16–107.

(a) On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners.

(b) On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners.

(c) Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common.

(d) If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

§16–108.

(a) (1) A registering entity is not required to offer or to accept a request for security registration in beneficiary form.

(2) If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this title.

(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this title.

(c) (1) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with § 16–107 of this title and does so in good faith reliance on:

(i) The registration;

(ii) This title; and

(iii) Information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity.

(2) The protections of this title do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form.

(3) No other notice or other information available to the registering entity affects its right to protection under this title.

(d) The protection provided by this title to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

§16–109.

(a) A transfer-on-death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this title and is not testamentary.

(b) This title does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this State.

§16–110.

(a) (1) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests for:

(i) Registrations in beneficiary form; and

(ii) Implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary.

(2) The terms and conditions established under this subsection may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death.

(3) (i) Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes".

(ii) This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate.

(4) Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(b) The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(1) Sole owner-sole beneficiary: John S. Brown TOD (or POD) John S. Brown, Jr.

(2) Multiple owners-sole beneficiary: John S. Brown, Mary B. Brown Jt. Ten. TOD John S. Brown, Jr.

(3) Multiple owners-primary and secondary (substituted) beneficiaries: John S. Brown, Mary B. Brown Jt. Ten. TOD, John S. Brown, Jr. Sub Bene Peter Q. Brown or John S. Brown, Mary B. Brown Jt. Ten. TOD, John S. Brown, Jr. LDPS.

§16–111.

(a) This title may be cited as the Maryland Uniform TOD Security Registration Act.

(b) This title shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this title among states enacting it.

(c) Unless displaced by the particular provisions of this title, the principles of law and equity supplement its provisions.

§16–112.

This title applies to registrations of securities in beneficiary form made before or after October 1, 1994, by decedents dying on or after October 1, 1994.

§17–101.

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

(b) (1) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney–in–fact, or otherwise.

(2) "Agent" includes an original agent, coagent, successor agent, and a person to which an agent's authority is delegated.

(c) "Electronic" has the meaning stated in § 4–101 of this article.

(d) "Electronic power of attorney" means a power of attorney containing one or more electronic signatures and executed in compliance with this title.

(e) "Electronic presence" has the meaning stated in § 4–101 of this article.

(f) "Electronic signature" has the meaning stated in § 4–101 of this article.

(g) "Incapacity" means the inability of an individual to manage property or business affairs because the individual:

(1) Meets the grounds required for the appointment of a guardian of the property of a disabled person described in § 13–201 of this article; or

(2) Is:

(i) Missing;

(ii) Detained, including incarcerated in a penal system; or

(iii) Outside the United States and unable to return.

(h) "Physical presence" has the meaning stated in § 4–101 of this article.

(i) "Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term "power of attorney" is used.

(j) "Principal" means an individual who grants authority to an agent in a power of attorney.

(k) "Property" includes both real and personal property and any right or title in real or personal property, whether held individually or jointly and whether indivisible, beneficial, contingent, or of any other nature.

(l) "Real estate transaction" means any activity involving the transfer or creation of an estate, interest, lien, or encumbrance in real property, including rights or interests appurtenant to, and the disposition of proceeds derived from, the property.

(m) "Record" has the meaning stated in § 4–101 of this article.

(n) "Remotely witnessed power of attorney" means a power of attorney signed by the principal under circumstances where any witness is in the electronic presence of the principal or other witness when the witness attests and signs the power of attorney.

(o) "Sign" has the meaning stated in § 4–101 of this article.

(p) (1) "Statutory form power of attorney" means a power of attorney that is substantially in the same form as one of the powers of attorney set forth in Subtitle 2 of this title.

(2) "Statutory form power of attorney" does not include a power of attorney set forth in Subtitle 2 of this title in which a principal incorporates by reference one or more provisions of another writing into the section of the power of attorney entitled "Special Instructions (Optional)".

(q) (1) "Stocks and bonds" means evidence of ownership in or debt issued by a corporation, partnership, limited liability company, firm, association, or similar entity.

(2) "Stocks and bonds" includes stocks, bonds, debentures, notes, membership interests, mutual fund interests, money market account interests, voting trust certificates, equipment trust certificates, certificates of deposit, certificates of participation, certificates of beneficial interest, stock rights, stock warrants, and any other instruments evidencing rights of a similar character issued by or in connection with any corporation, partnership, limited liability company, firm, association, or similar entity.

(r) "Supervising attorney" has the meaning stated in § 4–101 of this article.

§17–102.

(a) Except as otherwise provided in a power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, on the death of the principal, by the personal representative or successor in interest of the principal's estate.

(b) (1) If a request as described in subsection (a) of this section is made, within 30 days after the request is made, the agent shall comply with the request or

provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.

(2) A principal or an interested person may file a petition under Title 15, Chapter 500 of the Maryland Rules in the circuit court for the county in which the power of attorney is recorded to enjoin an agent to comply with this section.

§17–103.

(a) The following persons may petition a court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:

(1) The principal or the agent;

(2) A guardian, conservator, or other fiduciary acting for the principal;

(3) A person authorized to make health care decisions for the principal;

(4) The principal's spouse, parent, or descendant;

(5) An individual who would qualify as a presumptive heir of the principal;

(6) A person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

(7) A governmental agency having regulatory authority to protect the welfare of the principal;

(8) The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

(9) A person asked to accept the power of attorney.

(b) On motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

§17–104.

(a) A person may not require an additional or different form of power of attorney for any authority granted in a statutory form power of attorney.

(b) A person that refuses in violation of this section to accept an acknowledged statutory form power of attorney is subject to:

(1) A court order mandating acceptance of the power of attorney; and

(2) Liability for reasonable attorney's fees and costs incurred in an action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

§17–105.

(a) In this section, "durable power of attorney" means a power of attorney by which a principal designates another as an attorney in fact or agent and the authority is exercisable notwithstanding the principal's subsequent disability or incapacity.

(b) This section applies to all powers of attorney.

(c) When a principal designates another as an attorney in fact or agent by a power of attorney in writing, it is a durable power of attorney unless otherwise provided by its terms.

(d) Any act done by the attorney in fact or agent in accordance with the power of attorney during any period of disability or incompetence of the principal or during any period of uncertainty as to whether the principal is dead or alive has the same effect and inures to the benefit of and binds the principal as if the principal were alive, competent, and not disabled.

(e) (1) If a guardian is appointed for the principal, the attorney in fact or agent shall account to the guardian rather than the principal.

(2) The guardian has the same power the principal would have but for the principal's disability or incompetence to revoke, suspend, or terminate all or any part of the power of attorney or agency.

§17–106.

(a) (1) The death, disability, or incompetence of a principal who has executed a power of attorney in writing does not revoke or terminate the agency as to the attorney in fact, agent, or other person who, without actual knowledge of the

death, disability, or incompetence of the principal, acts in good faith under the power of attorney or agency.

(2) Unless otherwise invalid or unenforceable, any action taken by the attorney in fact, agent, or other person who acts in good faith under the power of attorney or agency binds the principal and the principal's heirs, legatees, and personal representatives.

(b) (1) In the absence of fraud, an affidavit executed by the attorney in fact or agent and stating that the attorney in fact or agent did not have, at the time of doing an act in accordance with the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death, disability, or incompetence, is conclusive proof of the nonrevocation or nontermination of the power at that time.

(2) If the exercise of the power requires execution and delivery of any instrument that is recordable, the affidavit when authenticated for record is likewise recordable.

(c) This section may not be construed to alter or affect any provision for revocation or termination contained in the power of attorney.

§17–107.

If any member of the armed services of the United States has executed a power of attorney, the fact that that person has been reported or listed, officially or otherwise, as "missing in action", as that phrase is used to describe a casualty category applicable to members of the armed services, does not operate to revoke the power of attorney, unless the instrument otherwise provides.

§17–108.

(a) A power of attorney executed in this State is valid and enforceable as to persons dealing with the agent.

(b) A power of attorney executed other than in this State is valid and enforceable in this State as to persons dealing with the agent if, when the power of attorney was executed, the execution complied with:

(1) The law of the jurisdiction that determines the meaning and effect of the power of attorney; or

(2) The requirements for a military power of attorney in accordance with 10 U.S.C. § 1044b.

(c) (1) Except as otherwise provided by law other than this title and subject to paragraph (2) of this subsection, a photocopy or electronically transmitted copy of an original power of attorney is as valid and binding as the original power of attorney.

(2) A clerk of court may refuse to record a photocopy or electronically transmitted copy of an original power of attorney.

(d) (1) A principal may delegate to one or more agents the authority to do any act specified in the statutory forms in Subtitle 2 of this title.

(2) Notwithstanding paragraph (1) of this subsection, if a principal designates one or more coagents, all coagents shall act together unanimously unless the power of attorney otherwise provides.

(3) The acts specified in the statutory forms may not, notwithstanding paragraph (1) of this subsection, be deemed to invalidate or limit the validity of other authorized acts that a principal may delegate to an agent.

§17–109.

(a) Except as provided in subsection (b) of this section, this title applies to all powers of attorney.

(b) Except as provided in § 17–105 of this subtitle, this title does not apply to:

(1) A power that is coupled with an interest in the subject of the power, is given as security, or is given for consideration, regardless of whether the power is held for the benefit of the agent or another person, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) An advance directive appointing a health care agent under Title 5, Subtitle 6 of the Health – General Article or any other power to make health care decisions;

(3) A proxy or other delegation to exercise any right with respect to an entity, including voting rights or management rights or both, or a delegation of authority to execute, become a party to, or amend a document or agreement governing an entity or entity ownership interest;

(4) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose;

(5) A power created as part of, or in connection with, an agreement establishing an attorney and client relationship;

(6) A power of attorney that states that it is not subject to this title;

(7) A power authorizing another to prepare, execute, deliver, submit, or file, on behalf of an entity or the governing body or management of an entity, a document or instrument with a government or governmental subdivision, agency, or instrumentality or with a third party;

(8) A power or other delegation of authority contained in a document or agreement governing or binding on an entity that authorizes a person to take action with respect to the entity; and

(9) A power with respect to an entity created in accordance with authorization provided by a federal or State statute that specifically contemplates creation of the power.

§17–110.

(a) Except as provided in subsection (e) of this section, a power of attorney executed on or after October 1, 2010, shall be:

(1) In writing;

(2) Signed by the principal or by some other person for the principal, in the physical presence of the principal, and at the express direction of the principal;

(3) Acknowledged by the principal in the physical or electronic presence of a notary public; and

(4) Attested and signed by two or more adult witnesses who sign in:

(i) The physical presence of the principal and each other; or

(ii) The electronic presence of the principal and each other or any combination of physical or electronic presence.

(b) The notary public before whom the principal acknowledges the power of attorney may also serve as one of the two or more adult witnesses and may use communication technology under § 18–214 of the State Government Article for that purpose.

(c) Except for an electronic power of attorney used in connection with a real estate transaction, an electronic power of attorney or a remotely witnessed power of attorney executed under this subsection shall satisfy the following additional requirements:

(1) At the time the principal and witnesses sign the power of attorney, the principal and all witnesses shall be in the physical presence or electronic presence of one another and a supervising attorney, who may be one of the witnesses;

(2) At the time the principal signs the power of attorney, the principal shall be a resident of, or physically located in, the State;

(3) Each witness who is in the electronic presence of the principal when the witness attests and signs the power of attorney, or provides an electronic signature on the power of attorney, shall be a resident of the United States and physically located in the United States at the time the witness attests and signs the power of attorney;

(4) The principal and witnesses shall sign the same power of attorney or any counterpart thereof; and

(5) The supervising attorney shall create a certified power of attorney that shall include:

(i) A true, complete, and accurate paper version of all pages of the power of attorney, including the original signatures and electronic signatures of the principal and all witnesses; and

(ii) A signed original paper certification by the supervising attorney stating the date that the supervising attorney observed the principal and witnesses sign the power of attorney and that the supervising attorney took reasonable steps to verify:

1. That the certified power of attorney includes a true, complete, and accurate paper version of all pages of the power of attorney;

2. That the signatures contained in the certified power of attorney are the original signatures of each party signing the same paper power of attorney, or any counterpart thereof, and the electronic signatures of each party signing the same electronic power of attorney, or any counterpart thereof;

3. That the principal and each of the witnesses signed the same power of attorney or any counterparts thereof;

4. The identity of the principal, and that the principal was a resident of, or was physically located in, the State at the time the principal signed the power of attorney; and

5. The identity of each witness, and that each witness who was not in the physical presence of the principal when the witness attested and signed the power of attorney, or provided an electronic signature on the power of attorney, was a resident of the United States and physically located in the United States at the time the witness attested and signed the power of attorney.

(d) (1) Once the supervising attorney creates a certified power of attorney if required under subsection (c) of this section, the certified power of attorney shall be deemed to be the original power of attorney of the principal for all purposes under this article.

(2) The date of execution for the power of attorney described under paragraph (1) of this subsection shall be the date of execution as stated in the certified power of attorney.

(e) (1) A power of attorney executed in conformance with the provisions of Executive Order 20.04.10.01, authorizing remote witnessing and electronic signing of certain documents, shall be deemed to have been signed and witnessed in conformity with this section if the power of attorney was signed and witnessed during the time that the executive order was in effect.

(2) The notarization of a power of attorney in conformance with the provisions of Executive Order 20.03.30.04, authorizing remote notarizations, shall be deemed to have been signed and witnessed in conformity with this section if the power of attorney was signed and witnessed during the time that the executive order was in effect and the notary public acting under the order may have served as one of the witnesses.

§17–111.

(a) A power of attorney is effective when executed, unless the principal provides in the power of attorney that it becomes effective at a future date or on the occurrence of a future event or contingency.

(b) If a power of attorney becomes effective on the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(c) If a power of attorney becomes effective on the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective on a determination in a writing or other record by:

(1) A physician or licensed psychologist that the principal is incapacitated as defined in § 17–101 of this subtitle; or

(2) An attorney at law, a judge, or an appropriate governmental official that the principal is incapacitated as defined in § 17–101 of this subtitle.

(d) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative to obtain access to the principal's health–care information and communicate with the principal's health–care provider in accordance with:

(1) The Health Insurance Portability and Accountability Act;

(2) Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. § 1320d, as amended; and

(3) Applicable regulations.

§17–112.

(a) A power of attorney terminates when:

(1) The principal dies;

(2) The principal becomes incapacitated, if the power of attorney is not durable;

(3) The principal revokes the power of attorney;

(4) The power of attorney provides that it terminates;

(5) The purpose of the power of attorney is accomplished; or

(6) The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(b) An agent's authority terminates when:

(1) The principal revokes the authority;

(2) The agent dies, becomes incapacitated, or resigns;

(3) An action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or

(4) The power of attorney terminates.

(c) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection (b) of this section, even if there has been a lapse of time since the execution of the power of attorney.

§17–113.

(a) Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:

(1) Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest;

(2) Act with care, competence, and diligence for the best interest of the principal; and

(3) Act only within the scope of authority granted in the power of attorney.

(b) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

(1) Act loyally for the principal's benefit;

(2) Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

(3) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(4) Cooperate with a person that has authority to make health–care decisions for the principal to carry out the principal's reasonable expectations to the

extent actually known by the agent and, otherwise, act in the principal's best interest; and

(5) Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

(i) The value and nature of the principal's property;

(ii) The principal's foreseeable obligations and need for maintenance;

(iii) The extent to which the principal's liability for taxes, including income, estate, inheritance, generation–skipping transfer, and gift taxes, can be minimized; and

(iv) The principal's eligibility for a benefit, a program, or assistance under a statute or regulation.

(c) An agent that acts as provided in this section is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(d) An agent that acts with care, competence, and diligence for the best interest of the principal is not liable solely because the agent also benefits from an act taken by the agent or has an individual or conflicting interest in relation to the property or affairs of the principal.

(e) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

(f) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(g) An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

(h) This section may not be construed to reduce any duty of an agent to the principal under existing State law.

§17–114.

(a) Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal but the agent is not entitled to compensation.

(b) If the principal indicates in the power of attorney that the agent is entitled to compensation, the agent may receive compensation based on what is reasonable under the circumstances or on another basis as set forth in the power of attorney.

§17–115.

This title does not supersede other laws applicable to financial institutions or other entities, and to the extent those other laws are inconsistent with the title, the other laws prevail.

§17–116.

This title may be cited as the Maryland General and Limited Power of Attorney Act.

§17–201.

(a) A document substantially in one of the forms set forth in this subtitle may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this title.

(b) A document substantially in one of the forms set forth in this subtitle in effect on the date the document is executed shall continue to have the meaning and effect prescribed by this title, notwithstanding enactment of legislation altering that statutory form after the date the document is executed.

§17–202.

"MARYLAND STATUTORY FORM

PERSONAL FINANCIAL POWER OF ATTORNEY

IMPORTANT INFORMATION AND WARNING

You should be very careful in deciding whether or not to sign this document. The powers granted by you (the principal) in this document are broad and sweeping. This

power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

You need not grant all of the powers listed below. If you choose to grant less than all of the listed powers, you may instead use a Maryland Statutory Form Limited Power of Attorney and mark on that Maryland Statutory Form Limited Power of Attorney which powers you intend to delegate to your attorney–in–fact (the Agent) and which you do not want the Agent to exercise.

You should understand that granting your agent the authority to take actions under this power of attorney may:

(1) Significantly reduce your property and limit your access to your assets;

(2) Change how your property is distributed under your existing estate plans to your heirs or others on your death; or

(3) Result in tax consequences to yourself or others.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

You should obtain competent legal advice before you sign this power of attorney if you have any questions about the document or the authority you are granting to your agent.

IMPORTANT INFORMATION FOR AGENT

Simply because you are granted a power of attorney does not mean you should exercise it. You are bound by an utmost duty of loyalty to the interests of the principal. You may not act in your own self–interest. You are further limited by legal duties to the principal that govern your actions.

When exercising the authority granted in this power of attorney, you shall consider the stated intentions of the principal regarding the principal's self–interest, family, estate, and taxes.

DESIGNATION OF AGENT

This section of the form provides for designation of one agent.

If you wish to name coagents, skip this section and use the next section ("Designation of Coagents").

I, _____,

(Name of Principal)

Name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF COAGENTS (OPTIONAL)

This section of the form provides for designation of two or more coagents. Coagents are required to act together unanimously unless you otherwise provide in this form.

I, _____,

(Name of Principal)

Name the following persons as coagents:

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Special Instructions Regarding Coagents: _____
_____

_____

_____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's
Address: _____

Successor Agent's
Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second
Successor Agent: _____

Second Successor
Agent's Address: _____

Second Successor Agent's
Telephone Number: _____

POWER TO APPOINT SUCCESSOR AGENT(S) IF NO AGENT OR SUCCESSOR AGENT IS ABLE TO SERVE (OPTIONAL)

ONLY IF I have INITIALED below, my agent(s) may appoint a successor agent(s).

(___) Each agent, while serving in that capacity, may appoint an individual to succeed to the agent's office on the agent's death, resignation, or incapacity; provided, however, that an appointment under this section becomes effective only when no other agent or successor agent designated by me is willing or able to act.

COMPENSATION (OPTIONAL)

Your agent is entitled to reimbursement for their expenses. Your agent is entitled to compensation ONLY IF you have INITIALED one of the options listed below:

(___) My agent(s) is entitled to reasonable compensation.

(___) My agent(s) is entitled to the following compensation:

GRANT OF GENERAL AUTHORITY

I ("the principal") grant my agent and any successor agent, with respect to each subject listed below, the authority to do all acts that I could do to:

(1) Contract with another person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(2) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction;

(3) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(6) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation and communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal; and

(7) Do lawful acts with respect to the subject and all property related to the subject.

SUBJECTS AND AUTHORITY

My agent's authority shall include the authority to act as stated below with regard to each of the following subjects:

Real property – With respect to this subject, I authorize my agent to: demand, buy, sell, convey, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property; pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of

a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage; release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted; and manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including: (1) insuring against liability or casualty or other loss; (2) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise; (3) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and (4) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property.

Tangible personal property, including motor vehicles, boats, planes, and other titled and untitled tangible personal property – With respect to this subject, I authorize my agent to: demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property; sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, create a security interest in, grant options concerning, lease, sublease, or otherwise dispose of tangible personal property or an interest in tangible personal property; grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal; release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property; manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including: (1) insuring against liability or casualty or other loss; (2) obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise; (3) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments; (4) moving the property from place to place; (5) storing the property for hire or on a gratuitous bailment; and (6) using and making repairs, alterations, or improvements to the property; and change the form of title of an interest in tangible personal property.

Stocks and bonds – With respect to this subject, I authorize my agent to: buy, sell, and exchange stocks and bonds; establish, continue, modify, or terminate an account with respect to stocks and bonds; pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal; receive certificates and other evidences of ownership with respect to stocks and bonds; exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

Banks and other financial institutions – With respect to this subject, I authorize my agent to: continue, modify, transact all business in connection with, and terminate an account or other banking arrangement made by or on behalf of the principal; establish, modify, transact all business in connection with, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent; contract for services available from a financial institution, including renting a safe deposit box or space in a vault; deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal; withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution; receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them; enter a safe deposit box or vault and withdraw or add to the contents; borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal; make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions; and apply for, receive, and use credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution.

Insurance and annuities – With respect to this subject, I authorize my agent to: continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract; procure new, different, and additional contracts of insurance and annuities for the principal and select the amount, type of insurance or annuity, and mode of payment; pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent; apply for and receive a loan secured by a contract of insurance or annuity; surrender and receive the cash surrender value on a contract of insurance or annuity; exercise an election; exercise investment powers available under a contract of insurance or annuity; change the manner of paying premiums on a contract of insurance or annuity; change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section; apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal; collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity; select the form and timing of the payment of proceeds from a contract of insurance or annuity; pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or

annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of the tax or assessment.

Claims and litigation – With respect to this subject, I authorize my agent to: assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief; act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value; pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

Benefits from governmental programs or civil or military service (including any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to: execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal; perform the acts necessary to enable the principal to qualify for a governmental benefit or program, including obtaining personal and financial records; enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a governmental benefit or program; prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation; initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or assistance the principal may be entitled to receive under a statute or regulation; and receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received.

Retirement plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code: (1) an individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408; (2) a Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A; (3) a deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q); (4) an annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b); (5) a pension, profit–sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a); (6) a plan under Internal

Revenue Code Section 457(b), 26 U.S.C. § 457(b); and (7) a nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A) – With respect to this subject, I authorize my agent to: select the form and timing of payments under a retirement plan and withdraw benefits from a plan; make a rollover, including a direct trustee–to–trustee rollover, of benefits from one retirement plan to another; establish a retirement plan in the principal's name; make contributions to a retirement plan; exercise investment powers available under a retirement plan; borrow from, sell assets to, or purchase assets from a retirement plan. I recognize that granting my agent the authority to create or change a beneficiary designation for a retirement plan may affect the benefits that I may receive if that authority is exercised. If I grant my agent the authority to designate the agent, the agent's spouse, or a dependent of the agent as a beneficiary of a retirement plan, the grant may constitute a taxable gift by me and may make the property subject to that authority taxable as a part of the agent's estate. Therefore, if I wish to authorize my agent to create or change a beneficiary designation for any retirement plan, and in particular if I wish to authorize the agent to designate as my beneficiary the agent, the agent's spouse, or a dependent of the agent, I will explicitly state this authority in the Special Instructions section that follows or in a separate power of attorney.

Taxes – With respect to this subject, I authorize my agent to: prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, federal insurance contributions act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax–related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032A, 26 U.S.C. § 2032A, closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the following 25 tax years; pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority; exercise elections available to the principal under federal, state, local, or foreign tax law; and act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

Digital assets – With respect to this subject, in accordance with the Maryland Fiduciary Access to Digital Assets Act, my agent shall have authority over and the right to access: (1) the content of any of my electronic communications; (2) any catalogue of electronic communications sent or received by me; and (3) any other digital asset in which I have a right or interest.

Trust and estate matters – With respect to this subject:

(1) My agent may act for me in all matters that affect a trust, probate estate, escrow, custodianship, or other fund to which I am now, claim to be, or later

become entitled as a beneficiary, to a share or payment, including petitions, objections, waivers, consents, receipts, settlements, and other related agreements;

(2) To the extent permitted in the trust agreement, my agent may consent to the amendment, revocation, or termination of a trust of which I am a beneficiary, or to the transfer of the assets of the trust into another trust for my benefit, and to enter into transactions with any trust created by me, for me, on my behalf, or in connection with gifts from me to others as provided in the paragraph below authorizing gifts; and to participate in either judicial or nonjudicial modification of a trust as permitted under § 14.5–111 of the Estates and Trusts Article; and

(3) My agent may create and transfer property to an intervivos revocable or irrevocable trust for my sole benefit that on my death distributes the property in a manner consistent with my existing estate plan, if any, and in accordance with Maryland law.

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

(Caution: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death.)

A. Gifts or transfers – ONLY IF I have INITIALED below, my agent may make gifts or transfer ownership of my assets outright or in trust to or for the benefit of one or more of the following persons and only in the amounts specifically authorized in the next section:

(___) My agent, subject to the following conditions, if any:
_____
_____

(___) My spouse

(___) My parents

(___) My grandparents

(___) My children and their descendants

(___) A nonprofit or charitable organization in a manner consistent with my previous giving history

(___) The people and charitable organizations, if any, named in my estate plan and in accordance with the terms of my estate plan that are in existence at the time the gift is made

(___) My intestate heirs who would receive my estate under Maryland law if I died a resident of Maryland without a will

(___) One or more of the following persons:

_____

_____

My agent is authorized to make gifts under this section in the following amounts ONLY IF I have INITIALED below:

(___) In an amount not to exceed $_____ per person each calendar year to the persons, nonprofits, or charitable organizations that I have specified in the section above;

(___) In an amount for each person I have specified in the section above not to exceed the annual dollar limits of the federal gift tax exclusion under § 2503(b) of the Internal Revenue Code, or if my spouse agrees to consent to a split gift, in an amount not to exceed the aggregate annual gift tax exclusion for both spouses;

(___) In an unlimited amount, for the purpose of estate planning or qualifying me for a governmental benefit or program, with such gifts to be made in a manner consistent with my existing estate plan, if any, and in accordance with State law.

Special instructions for gifting desires – You may give special instructions for gifting desires on the following lines:

_____

_____

_____

B. Joint accounts and beneficiary designations – I authorize my agent to do one or more of the following ONLY IF I have INITIALED below:

(____) Open a joint account with me and one or more other persons as account owners. Each owner of a joint account has full legal authority to use the account for their own benefit and on my death will become the property of the other owner(s).

(____) Create or change rights of survivorship in accounts or other assets in which I have an interest, including for the benefit of my agent, to change a beneficiary designation for any accounts or financial instruments, including life insurance

policies, annuities, or retirement accounts of any nature; and to waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan of any nature. In determining such rights or beneficiary interests, my agent shall consider taxes, preservation of governmental benefits or programs, or stated intentions regarding my estate.

DISCLAIMERS

For the purposes of tax planning or effectuating stated intentions regarding my estate, I authorize my agent to disclaim any interest in property I might otherwise receive, either outright or in trust, including for the benefit of my agent; any powers I have over property or as a beneficiary of any trusts (excluding any powers I possess in a fiduciary capacity); and any powers of appointment I have or may acquire excluding any testamentary power of appointment that I currently exercise in my last will and testament.

SPECIAL INSTRUCTIONS (OPTIONAL)

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

_____
_____
_____
_____
_____
_____
_____
_____

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE

UNLESS I have specified a termination date below, this power of attorney IS DURABLE, meaning it shall continue in full force and effect for an indefinite period of time until my revocation of this power of attorney or my death, whichever occurs first. I reserve the right to revoke this power of attorney. This power of attorney shall not terminate upon my disability. All authority of my agent(s) shall continue even if I become disabled, incompetent, or incapacitated.

This power of attorney shall terminate on _____, 20____.

(Use a specific calendar date)

COPIES

A copy of this document shall have the same force and effect as the original unless provided otherwise in special instructions.

REVOCATION

I hereby revoke all other powers of attorney that I have previously executed. This section does not apply to powers of attorney executed on the same date as this power of attorney or to limited powers of attorney that apply to specific accounts or to specific property.

RELIANCE BY THIRD PARTIES

Anyone relying or acting upon this power of attorney shall be entitled to presume conclusively that it is in full force and effect unless I have given written notice to that person or entity that this power has been revoked. No one relying or acting upon this power of attorney shall be required to see to the application and disposition of any funds or other property paid to or delivered to my agent or any persons appointed by my agent. I authorize my agent to seek damages against anyone who refused to honor this power of attorney without having received notice that it has been revoked.

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my property or guardian of my person, I nominate the following person(s) for appointment:

Name of nominee for guardian of my property: _____
Nominee's address: _____
Nominee's telephone number: _____
Name of nominee for guardian of my person: _____
Nominee's address: _____
Nominee's telephone number: _____

DESIGNATION OF AGENT TO MAKE ELECTION TO TAKE ELECTIVE SHARE (OPTIONAL)

If I am incapacitated within the meaning of § 17–101 of the Estates and Trusts Article, I designate the following person as my agent for purposes of making the election to take an elective share of an estate subject to election under § 3–403 of the Estates and Trusts Article:

Name of designated agent: _____
Designated agent's address: _____
Designated agent's telephone number: _____

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
Your Signature Date

_____
Your Name Printed

_____
_____
Your Address

_____
Your Telephone Number

STATE OF MARYLAND
(COUNTY) OF _____

This document was acknowledged before me on

_____
(Date)

By _____ to be his/her act.
(Name of Principal)

_____ (SEAL, IF ANY)
Signature of Notary

My commission expires: _____

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by

_____
(Name of Principal)

in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

_____

Witness #1 Signature

_____

Witness #1 Name Printed

_____

_____

Witness #1 Address

_____

Witness #1 Telephone Number

_____

Witness #2 Signature

_____

Witness #2 Name Printed

_____

_____

Witness #2 Address

_____

Witness #2 Telephone Number"

§17–203.

"MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY

PLEASE READ CAREFULLY

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). You need not give to your agent all the authorities listed below and may give the agent only those limited powers that you specifically indicate. This power of attorney gives your agent the right to make limited decisions for you. You should very carefully weigh your decision as to what powers you give your agent. Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

If you choose to make a grant of limited authority, you should check the boxes that identify the specific authorization you choose to give your agent.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is not entitled to compensation unless you indicate otherwise in the special instructions of this power of attorney. If you indicate that your agent is to receive compensation, your agent is entitled to reasonable compensation or compensation as specified in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are required to act together unanimously unless you specify otherwise in the Special Instructions.

If your agent is unavailable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

This section of the form provides for designation of one agent.

If you wish to name coagents, skip this section and use the next section ("Designation of Coagents").

I, _____, name the following person
(Name of Principal)
as my agent:

Name of
Agent: _____
Agent's
Address: _____
Agent's Telephone
Number: _____

DESIGNATION OF COAGENTS (OPTIONAL)

This section of the form provides for designation of two or more coagents. Coagents are required to act together unanimously unless you otherwise provide in this form.

I, _____,

(Name of Principal)

Name the following persons as coagents:

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Special Instructions Regarding Coagents: _____
_____
_____
_____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____
Successor Agent's
Address: _____
Successor Agent's Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor
Agent: _____
Second Successor Agent's
Address: _____
Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I ("the principal") grant my agent and any successor agent, with respect to each subject that I choose below, the authority to do all acts that I could do to:

(1) Demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) Contract with another person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating a schedule contemporaneously or at a later time listing some or all of the principal's property and attaching the schedule to this power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(6) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) Communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(9) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) Do lawful acts with respect to the subject and all property related to the subject.

(INITIAL each authority in any subject you want to include in the agent's general authority. Cross through each authority in any subject that you want to exclude. If you wish to grant general authority over an entire subject, you may initial "All of the above" instead of initialing each authority.)

SUBJECTS AND AUTHORITY

A. Real Property – With respect to this category, I authorize my agent to:

(___) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property

(___) Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, retain title for security, encumber, partition, consent to partitioning, subject to an easement or covenant, subdivide, apply for zoning or other governmental permits, plat or consent to platting, develop, grant an option concerning, lease, sublease, contribute to an entity in exchange for an interest in that entity, or otherwise grant or dispose of an interest in real property or a right incident to real property

(___) Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage

(___) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted

(___) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(4) Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property

(___) Use, develop, alter, replace, remove, erect, or install structures or other improvements on real property in or incident to which the principal has, or claims to have, an interest or right

(___) Participate in a reorganization with respect to real property or an entity that owns an interest in or a right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(1) Selling or otherwise disposing of the stocks and bonds or other property;

(2) Exercising or selling an option, a right of conversion, or a similar right with respect to the stocks and bonds or other property; and

(3) Exercising voting rights in person or by proxy

(___) Change the form of title of an interest in or a right incident to real property

(___) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest

(___) All of the above

B. Tangible Personal Property – With respect to this subject, I authorize my agent to:

(___) Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property

(___) Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, create a security interest in, grant options concerning, lease, sublease, or otherwise dispose of tangible personal property or an interest in tangible personal property

(___) Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

(___) Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property

(___) Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(4) Moving the property from place to place;

(5) Storing the property for hire or on a gratuitous bailment; and

(6) Using and making repairs, alterations, or improvements to the property

(___) Change the form of title of an interest in tangible personal property

(___) All of the above

C. Stocks and Bonds – With respect to this subject, I authorize my agent to:

(___) Buy, sell, and exchange stocks and bonds

(___) Establish, continue, modify, or terminate an account with respect to stocks and bonds

(___) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal

(___) Receive certificates and other evidences of ownership with respect to stocks and bonds

(___) Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote

(___) All of the above

D. Commodities – With respect to this subject, I authorize my agent to:

(___) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange

(___) Establish, continue, modify, and terminate option accounts

(___) All of the above

E. Banks and Other Financial Institutions – With respect to this subject, I authorize my agent to:

(___) Continue, modify, transact all business in connection with, and terminate an account or other banking arrangement made by or on behalf of the principal

(___) Establish, modify, transact all business in connection with, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent

(___) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault

(___) Deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal

(___) Withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution

(___) Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them

(___) Enter a safe deposit box or vault and withdraw or add to the contents

(___) Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

(___) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person on the principal and pay the draft when due

(___) Receive for the principal and act on a sight draft, warehouse receipt, other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument

(___) Apply for, receive, and use letters of credit, credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit

(___) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution

(___) All of the above

F. Operation of an Entity or a Business – With respect to this subject, I authorize my agent to:

(___) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest

(___) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or an option that the principal has, may have, or claims to have

(___) Enforce the terms of an ownership agreement

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest

(___) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or an option the principal has or claims to have as the holder of stocks and bonds

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds

(___) With respect to an entity or business owned solely by the principal:

(1) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of this power of attorney;

(2) Determine:

(i) The location of the operation of the entity or business;

(ii) The nature and extent of the business of the entity or business;

(iii) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in the operation of the entity or business;

(iv) The amount and types of insurance carried by the entity or business; and

(v) The mode of engaging, compensating, and dealing with the employees and accountants, attorneys, or other advisors of the entity or business;

(3) Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(4) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business

(___) Put additional capital into an entity or a business in which the principal has an interest

(___) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business

(___) Sell or liquidate all or part of an entity or business

(___) Establish the value of an entity or a business under a buyout agreement to which the principal is a party

(___) Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments

(___) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform other acts to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or a business, including attempts to recover, as permitted by law, money paid before or after the execution of this power of attorney

(___) All of the above

G. Insurance and Annuities – With respect to this subject, I authorize my agent to:

(___) Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract

(___) Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment

(___) Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent

(___) Apply for and receive a loan secured by a contract of insurance or annuity

(___) Surrender and receive the cash surrender value on a contract of insurance or annuity

(___) Exercise an election

(___) Exercise investment powers available under a contract of insurance or annuity

(___) Change the manner of paying premiums on a contract of insurance or annuity

(___) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section

(___) Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal

(___) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity

(___) Select the form and timing of the payment of proceeds from a contract of insurance or annuity

(___) Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of the tax or assessment

(___) All of the above

H. Estates, Trusts, and Other Beneficial Interests (including trusts, probate estates, guardianships, conservatorships, escrows, or custodianships or funds from which the principal is, may become, or claims to be entitled to a share or payment) – With respect to this subject, I authorize my agent to:

(___) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from the fund described above

(___) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of the fund described above, by litigation or otherwise

(___) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary

(___) Conserve, invest, disburse, or use anything received for an authorized purpose

(___) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor

(___) Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from the fund described above

(___) Elect to take an elective share of an estate subject to election under § 3–403 of the Estates and Trusts Article

(___) All of the above

I. Claims and Litigation – With respect to this subject, I authorize my agent to:

(___) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief

(___) Bring an action to determine adverse claims or intervene or otherwise participate in litigation

(___) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree

(___) Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation

(___) Submit to alternative dispute resolution, settle, and propose or accept a compromise

(___) Waive the issuance and service of process on the principal, accept service of process, appear for the principal, designate persons on which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation

(___) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value

(___) Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation

(___) Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation

(___) All of the above

J. Personal and Family Maintenance – With respect to this subject, I authorize my agent to:

(___) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when this power of attorney is executed or later born:

(1) The principal's children;

(2) Other individuals legally entitled to be supported by the principal; and

(3) The individuals whom the principal has customarily supported or indicated the intent to support;

(___) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party

(___) Provide living quarters for the individuals described above by:

(1) Purchase, lease, or other contract; or

(2) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals

(___) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described above

(___) Pay expenses for necessary health care and custodial care on behalf of the individuals described above

(___) Act as the principal's personal representative in accordance with the Health Insurance Portability and Accountability Act, §§ 1171 through 1179 of the Social Security Act, 42 U.S.C. § 1320d, and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal

(___) Continue provisions made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing the means of transportation, for the individuals described above

(___) Maintain credit and debit accounts for the convenience of the individuals described above and open new accounts

(___) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations

(NOTE: Authority with respect to personal and family maintenance is neither dependent on, nor limited by, authority that an agent may or may not have with respect to gifts under this power of attorney.)

(___) All of the above

K. Benefits from Governmental Programs or Civil or Military Service (including any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to:

(___) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in "J. Personal and Family Maintenance" above, and for shipment of the household effects of those individuals

(___) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose

(___) Perform the acts necessary to enable the principal to qualify for a governmental benefit or program, including obtaining personal and financial records and, to the extent specifically authorized below, to transfer or gift the principal's property

(___) Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a governmental benefit or program

(___) Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or assistance the principal may be entitled to receive under a statute or regulation

(___) Receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received

(___) All of the above

L. Retirement Plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) An individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408;

(2) A Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A;

(3) A deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q);

(4) An annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b);

(5) A pension, profit–sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a);

(6) A plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b); and

(7) A nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A) – With respect to this subject, I authorize my agent to:

(___) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan

(___) Make a rollover, including a direct trustee–to–trustee rollover, of benefits from one retirement plan to another

(___) Establish a retirement plan in the principal's name

(___) Make contributions to a retirement plan

(___) Exercise investment powers available under a retirement plan

(___) Borrow from, sell assets to, or purchase assets from a retirement plan

(___) All of the above

M. Taxes – With respect to this subject, I authorize my agent to:

(___) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax–related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032A, 26 U.S.C. § 2032A, closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the following 25 tax years

(___) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority

(___) Exercise elections available to the principal under federal, state, local, or foreign tax law

(___) Act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority

(___) All of the above

N. Gifts and Transfers – With respect to this subject, I authorize my agent to:

(___) Make a gift or transfer to a person, or create and fund for the benefit of a person, including the principal, a trust, an account under the Uniform Transfers to Minors Act, a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code Section 529, 26 U.S.C. § 529, an ABLE account as defined under Internal Revenue Code Section 529A, 26 U.S.C. § 529A, or a special needs trust or any trust authorized under § 1917 of the federal Social Security Act, of part or all of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount for each donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), 26 U.S.C. § 2503(b), without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, in an amount for each donee not to exceed twice the annual federal gift tax exclusion limit

(___) Consent, pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, to the splitting of a gift made by the principal's spouse in an amount for each donee not to exceed the aggregate annual gift tax exclusions for both spouses

(NOTE: An agent may only make a gift of the principal's property as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

(1) The value and nature of the principal's property;

(2) The principal's foreseeable obligations and need for maintenance;

(3) Minimization of taxes, including income, estate, inheritance, generation–skipping transfer, and gift taxes;

(4) Eligibility for a benefit, a program, or assistance under a statute or regulation; and

(5) The principal's personal history of making or joining in making gifts.)

(___) All of the above

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

In addition, my agent MAY do any of the following specific acts for me ONLY IF I have INITIALED the specific authority listed below:

(Caution: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. In addition, granting your agent the authority to make gifts to, or to designate as the beneficiary of any retirement plan, the agent, the agent's spouse, or a dependent of the agent may constitute a taxable gift by you and may make the property subject to that authority taxable as part of the agent's estate. INITIAL ONLY the specific authority you WANT to give your agent.)

(___) Take any of the actions I have authorized in section N of this power of attorney without restriction on the amount of the gift or transfer

(___) Take any of the actions I have authorized in section N of this power of attorney in favor of my agent

(___) Create and fund an inter vivos trust, including a special needs trust, any trust authorized under § 1917 of the federal Social Security Act, or a third–party special needs trust, or establish and fund an ABLE account as defined under § 529A of the Internal Revenue Code, for the benefit of the principal or the principal's family, heirs at law, or descendants, or any other person designated by the principal as a beneficiary under an existing will, trust, or other instrument

(___) Amend, revoke, or terminate an existing inter vivos trust if the trust expressly authorizes that action by the agent

(___) Make a gift, subject to any special instructions in this power of attorney, including a gift of the principal's assets to assist the principal in meeting the eligibility requirements and qualifying for a governmental benefit or program, including gifts to or in favor of my agent who is my spouse or descendant

(___) Create or change rights of survivorship

(___) Create or change a beneficiary designation, subject to any special instructions in this power of attorney; and, if I wish to authorize my agent to designate the agent, the agent's spouse, or a dependent of the agent as a beneficiary, I will explicitly state this authority within the special instructions of this power of attorney or in a separate power of attorney

(___) Authorize another person to exercise the authority granted under this power of attorney

(___) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

(___) Exercise fiduciary powers that the principal has authority to delegate

(___) Disclaim or refuse an interest in property, including a power of appointment

(___) In accordance with the Maryland Fiduciary Access to Digital Assets Act, access and take control of (1) the content of any of my electronic communications, (2) any catalogue of electronic communications sent or received by me, and (3) any other digital asset in which I have a right or interest

(___) Demand the delivery of the principal's will from the custodian of the will and, on delivery of the principal's will, take custody of the will subject to the requirements of Title 4, Subtitle 2 of the Estates and Trusts Article

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

_____

_____

_____

_____

_____

_____

_____

_____

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE (OPTIONAL)

This power of attorney shall terminate on _____, 20_____. (Use a specific calendar date)

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my property or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for guardian of my property:

_____

Nominee's Address: _____

Nominee's Telephone Number: _____

Name of Nominee for guardian of my person:

_____

Nominee's Address: _____

Nominee's Telephone Number: _____

SIGNATURE AND ACKNOWLEDGMENT

_____ _____

Your Signature Date

_____

Your Name Printed

_____

_____

Your Address

_____

Your Telephone Number

STATE OF MARYLAND
(COUNTY) OF _____

This document was acknowledged before me on
_____,
(Date)

by
_____.
(Name of Principal)

_____ (Seal, if any)
Signature of Notary
My commission expires: _____

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by

_____
(Name of Principal)

in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

_____
Witness #1 Signature
_____
Witness #1 Name Printed
_____
_____
Witness #1 Address
_____
Witness #1 Telephone Number

_____
Witness #2 Signature
_____
Witness #2 Name Printed
_____
_____
Witness #2 Address
_____

Witness #2 Telephone Number

This document prepared by:

_____

_____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(2) Act with care, competence, and diligence for the best interest of the principal;

(3) Do nothing beyond the authority granted in this power of attorney; and

(4) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

_____ _____

(Principal's Name) by (Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal's benefit;

(2) Avoid conflicts that would impair your ability to act in the principal's best interest;

(3) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(4) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and

(5) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;

(2) The principal's revocation of the power of attorney or your authority;

(3) The occurrence of a termination event stated in the power of attorney;

(4) The purpose of the power of attorney is fully accomplished; or

(5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article. If you violate the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice."

§17–204.

The following optional form may be used by an agent to certify facts concerning a power of attorney:

"AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of Maryland
(County) of_____

I, _____ (Name of Agent), certify under penalty of perjury that _____ (Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

I further certify that to my knowledge:

(1) The principal is alive and has not revoked the power of attorney or my authority to act under the power of attorney and the power of attorney and my authority to act under the power of attorney have not terminated;

(2) If the power of attorney was drafted to become effective on the happening of an event or contingency, the event or contingency has occurred;

(3) If I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4) _____
_____
_____
_____
(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
Agent's Signature Date

_____
Agent's Name Printed

_____
_____
Agent's Address

_____
Agent's Telephone Number

This document was acknowledged before me on _____,
(Date)

by_____.
(Name of Agent)

_____ (Seal, if any)
Signature of Notary

My commission expires: _____

This document prepared by:

_____
."

§18–101.

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

(b) "Supported decision making" means a process by which an adult, with or without having entered a supported decision–making agreement, utilizes support from a series of relationships in order to make, communicate, or effectuate the adult's own life decisions.

(c) "Supported decision–making agreement" means an arrangement between an adult and a supporter or supporters that describes:

(1) How the adult uses supported decision making to make decisions;

(2) The rights of the adult; and

(3) The responsibilities of the supporter or supporters.

(d) "Supporter" means an individual selected by an adult to provide support in making, communicating, or effectuating the adult's own life decisions.

§18–102.

(a) The purpose of this title is to assist adults by:

(1) Obtaining support for the adult in making, communicating, or effectuating decisions that correspond to the will, preferences, and choices of the adult; and

(2) Preventing the need for the appointment of a substitute decision maker for the adult, including a guardian of the person or property.

(b) This title shall be liberally construed and applied to promote its underlying purposes and policies.

§18–103.

(a) An adult may utilize supported decision making to:

(1) Increase the adult's self–determination;

(2) Prevent the need for the appointment of a substitute decision maker; or

(3) Limit or terminate the use of a substitute decision maker.

(b) All adults are presumed capable of making a supported decision–making agreement.

(c) The manner in which an adult communicates with others is not grounds for determining that the adult is incapable of making, changing, or revoking a supported decision–making agreement.

(d) Execution of a supported decision–making agreement by an adult may not:

(1) Be used as evidence of incapacity; or

(2) Preclude the ability of the adult to:

(i) Act independently of a supported decision–making agreement; or

(ii) Access the adult's personal information without a supporter.

§18–104.

(a) Except as provided in subsection (b) of this section, an adult may voluntarily, without undue influence or coercion, enter into a supported decision–making agreement with a supporter or supporters.

(b) (1) (i) If a person under guardianship enters into a supported decision–making agreement under this title, the agreement does not supplant the authority of a guardian of the adult, unless the court authorizes the limitation or removal of guardianship due to the existence of a supported decision–making agreement.

(ii) A guardian may not prevent an adult from entering into a valid supported decision–making agreement that does not supplant the authority of the guardian without good cause.

(2) A supported decision–making agreement or any provision of the agreement does not:

(i) Supplant the authority of an agent under a power of attorney executed in accordance with Title 17 of this article or an advance directive executed in accordance with Title 5, Subtitle 6 of the Health – General Article; or

(ii) Supplant or grant authority or agency powers contemplated by a power of attorney or an advance directive.

(c) If an adult voluntarily enters into a supported decision–making agreement with one or more supporters, the adult may authorize a supporter to provide support to the adult in making decisions in areas of the adult's choosing, including:

(1) Gathering information;

(2) Understanding and interpreting information;

(3) Weighing options and alternatives to a decision;

(4) Understanding the consequences of making or not making a decision;

(5) Participating in conversations with third parties with the adult's explicit authorization; and

(6) Providing the adult with support and advocacy in implementing a decision.

(d) Nothing in this title or the existence of a supported decision–making agreement may preclude the adult from acting independently of a supported decision–making agreement.

(e) The availability of a supported decision–making agreement is not intended to limit the informal use of supported decision making or to preclude judicial consideration of informal supported decision–making arrangements as a less restrictive alternative to guardianship.

(f) Execution of a supported decision–making agreement may not be a condition of participating in any activity, service, or program.

§18–105.

(a) A supporter shall:

(1) Support the will and preference of the adult and not the supporter's opinion of the reasonableness of the adult's wishes, preferences, or choices;

(2) Act honestly, diligently, and in good faith;

(3) Act within the authority given in the supported decision–making agreement;

(4) Avoid conflicts of interest;

(5) Maintain records, which the supporter shall make available to the adult on request, concerning:

(i) The supporter's actions under the supported decision–making agreement; and

(ii) How the adult communicates and expresses opinions to the supporter;

(6) Keep any records and information obtained under a supported decision–making agreement:

(i) Subject to the limitations under Title 9, Subtitle 1 of the Courts Article, confidential and privileged; and

(ii) Secure from unauthorized access, use, or disclosure; and

(7) (i) Deliver a copy of the supported decision–making agreement to any duly appointed guardian of the person or property of the adult; and

(ii) 1. Make a good faith effort to determine if the adult has a fully executed power of attorney, advance directive, or revocable trust agreement; and

2. Unless the adult expressly objects, deliver a copy of the supported decision–making agreement to any agent designated under a power of attorney or an advance directive or any trustee under a revocable trust agreement.

(b) The relationship between the adult and the supporter shall be one of trust and confidence that preserves the decision–making authority of the adult.

(c) A supporter may not:

(1) Make decisions on behalf of the adult;

(2) Exert undue influence on the adult;

(3) Coerce the adult;

(4) Obtain information about the adult without the adult's consent;

(5) Enforce decisions made by the adult; or

(6) Act outside of the authority granted in the supported decision–making agreement.

§18–106.

(a) Except as provided in subsection (b) of this section, a supporter may be any person chosen by the adult.

(b) The following individuals are disqualified from acting as a supporter:

(1) A minor;

(2) An individual against whom the adult has obtained a peace order or a protective order;

(3) An individual who has been convicted of financial exploitation under Title 13, Subtitle 6 of this article; and

(4) An individual who is the subject of a civil or criminal order prohibiting contact with the adult.

(c) A supporter may resign as a supporter by written or oral notice to the adult, any remaining supporters of the adult named in the agreement, and any third parties who have the agreement on file.

(d) If a supporter resigns, dies, becomes incapable, or becomes for any other reason unable to act as a supporter and there is no alternate supporter, the authority given to the supporter is suspended.

§18–107.

(a) A supported decision–making agreement may be in any form consistent with the requirements under this section.

(b) A supported decision–making agreement shall:

(1) Be documented in writing;

(2) Be dated;

(3) Name at least one supporter;

(4) Describe the decision–making assistance that each supporter may provide the adult;

(5) Describe how the supporters may work together if there is more than one supporter;

(6) Describe how any perceived or actual conflict of interest between the supporter or supporters and the adult shall be mitigated;

(7) Document how the adult selected the supporter or supporters;

(8) Be approved by the court if the adult has been appointed a guardian of the person or property and the supported decision–making agreement affects the authority of the guardian;

(9) State that:

(i) The supporter or supporters may not make decisions or effectuate transactions for the adult; and

(ii) The supported decision–making agreement or any provision of the agreement does not:

1. Authorize the supporter or supporters to act on behalf of the adult;

2. Supplant the authority of an agent under a power of attorney executed in accordance with Title 17 of this article or an advance directive executed in accordance with Title 5, Subtitle 6 of the Health – General Article; or

3. Supplant or grant authority or agency powers contemplated by a power of attorney or an advance directive;

(10) Contain an attestation that the supporter or supporters agree to honor the right of the adult to make decisions and that the supporter or supporters will not make decisions for the adult;

(11) Be signed by the adult and the supporter or supporters, with each signature witnessed by two adults who are not:

(i) A supporter for the adult; or

(ii) An employee or agent of a supporter named in the supported decision–making agreement; and

(12) If the adult has a fully executed power of attorney, advance directive, or revocable trust agreement and the adult does not expressly object, deliver a copy of the supported decision–making agreement to the agent designated under the power of attorney or advance directive or any trustee under the revocable trust agreement.

(c) A supported decision–making agreement may:

(1) Appoint more than one supporter; and

(2) Appoint an alternate to act in the place of a supporter in circumstances specified in the agreement.

§18–108.

An adult utilizing a supported decision–making agreement may:

(1) Revoke the supported decision–making agreement at any time orally, in writing, or otherwise by expressing the adult's specific intent to revoke the agreement; and

(2) Receive any support needed from an individual of the adult's choosing to revoke the agreement.

§18–109.

(a) A third party is not subject to civil or criminal liability or discipline for unprofessional conduct for:

(1) If the third party acted in good faith reliance on a decision made by an adult utilizing a supported decision–making agreement, complying with an adult's decision in accordance with a supported decision–making agreement or otherwise complying with a supported decision–making agreement based on a good faith assumption that the supported decision–making agreement was valid when made and not revoked or abrogated; or

(2) Declining to honor a decision made by an adult utilizing a supported decision–making agreement or failing to comply with a supported decision–making agreement based on a reasonable good faith belief that:

(i) The agreement was invalid, revoked, or abrogated; or

(ii) A supporter was coercing or unduly influencing the adult or otherwise acting outside the scope of the agreement.

(b) This section may not be construed to provide immunity from actions alleging that a third party has:

(1) Caused personal injury as a result of a negligent, reckless, or intentional act;

(2) Failed to give effect to an adult's decision made in accordance with a valid decision–making agreement;

(3) Failed to provide information either to the adult or a supporter of the adult that would be necessary for informed consent; or

(4) Otherwise acted inconsistently with applicable law.