

HOUSE BILL 750

N2

11r1060
CF SB 745

By: **Delegate Simmons**

Introduced and read first time: February 10, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Trust Act**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

7 BY repealing

8 Article – Estates and Trusts

9 Section 14–101 through 14–113 and the subtitle “Subtitle 1. General Provisions”

10 Annotated Code of Maryland

11 (2001 Replacement Volume and 2010 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Estates and Trusts

14 Section 11–102(b)(12)

15 Annotated Code of Maryland

16 (2001 Replacement Volume and 2010 Supplement)

17 BY adding to

18 Article – Estates and Trusts

19 Section 14.5–101 through 14.5–1003 to be under the new title “Title 14.5.

20 Maryland Trust Act”

21 Annotated Code of Maryland

22 (2001 Replacement Volume and 2010 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Financial Institutions

25 Section 3–506(b)

26 Annotated Code of Maryland

27 (2003 Replacement Volume and 2010 Supplement)

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

30 **Article – Estates and Trusts**

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

32 **[14–101.**

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

36 **[14–102.**

1 In the absence of express language to the contrary, the rules contained in
2 §§ 1-202, 1-203, 1-204, 1-205, 1-206, 1-207, 1-208, 1-209, and 1-210.1 of this article
3 shall be applied in construing the terms of an inter vivos trust. Whenever any of those
4 statutory sections refer to a “will,” “estate,” or similar terms relevant primarily to wills
5 and estates or the takers under them, the terms shall be modified to mean “trust
6 instrument,” “trust,” or similar terms to reflect the application of the principles of
7 those sections to inter vivos trusts.]

8 [14-103.

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

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

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

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

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

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

29 (1) 6 percent upon all income from real estate, ground rents, and
30 mortgages collected in each year; and

31 (2) 6 1/2 percent upon the first \$10,000 of all other income collected in
32 each year, 5 percent upon the next \$10,000, 4 percent upon the next \$10,000, and 3
33 percent upon any remainder.

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

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

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

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

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

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

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

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

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

28 (f) In determining what is a single trust for the application of the rates
29 provided in this section, all property held undivided under the terms of the will or
30 other instrument creating the trust shall be considered as a single trust. After any
31 shares have been set apart or divided, to be held in separate trust, each separate trust
32 set apart shall be considered as a single trust.

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

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

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

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

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

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

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

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

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

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

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

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

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

7 [14-104.

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

15 [14-105.

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

21 [14-106.

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

24 (1) Possessory or not; and

25 (2) Subject to divestment or not.

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

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

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

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

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

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

5 1. The accomplishment of trust purposes; or

6 2. The interests of the beneficiaries.

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

9 (i) Trustee;

10 (ii) Personal representative;

11 (iii) Beneficiary; or

12 (iv) Party in interest.

13 (c) This section applies to trusts:

14 (1) Whenever created;

15 (2) Whether inter vivos or testamentary;

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

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

18 (5) Regardless of where created or administered.

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

22 [14–107.

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

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

26 (ii) “Beneficiary” includes:

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

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

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

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

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

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

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

20 (2) If a beneficiary or cotrustee delivers a timely written objection in
21 accordance with the provisions of subsection (d) of this section, the trust shall not be
22 terminated unless the objection is withdrawn in writing by the objecting party within
23 90 days after receipt of the notice by the objecting party.

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

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

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

36 (iii) The amount of the trust estate remaining after distribution
37 to beneficiaries having a present interest in the trust estate shall be distributed to any

1 beneficiaries having a future interest in the trust estate in whatever proportions are
2 provided for under the terms of the governing instrument under which the trust was
3 created.

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

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

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

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

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

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

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

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

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

25 (2) The provisions of the governing instrument make the trust qualify,
26 in whole or in part, for a charitable deduction for United States estate tax, United
27 States gift tax, or United States income tax purposes under the Internal Revenue
28 Code, unless all beneficiaries agree that all of the trust estate shall be distributed to
29 one or more beneficiaries that qualify for the charitable deduction under the Internal
30 Revenue Code.]

31 [14–108.

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

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

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

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

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

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

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

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

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

22 [14–109.

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

25 (1) The power to make any discretionary distributions of either
26 principal or income to or for the benefit of the trustee in the trustee's individual
27 capacity, unless limited by an ascertainable standard relating to the trustee's health,
28 education, support and maintenance, as defined in 26 U.S.C. §§ 2041 and 2514 and the
29 Treasury regulations promulgated under those sections;

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

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

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

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

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

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

18 (d) This section does not apply if:

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

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

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

26 (i) Each trustee then serving; and

27 (ii) Each income beneficiary and remainder beneficiary then in
28 existence or, if such beneficiary has not attained majority or is otherwise
29 incapacitated, the beneficiary's legal representative under applicable law or the
30 beneficiary's donee under a durable power of attorney that is sufficient to grant such
31 authority.

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

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

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

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

8 [14–110.

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

11 (1) An individual;

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

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

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

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

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

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

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

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

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

1 (iii) A resident agent; and

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

4 [14–111.

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

7 (2) “Beneficiary” includes:

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

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

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

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

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

22 [14–112.

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

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

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

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

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

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

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

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

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

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

16 [14–113.

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

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

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

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

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

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

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

1 (b) Any property of a husband and wife that is held by them as tenants by
2 the entirety and subsequently conveyed to a trustee, and the proceeds of that property,
3 shall have the same immunity from the claims of their separate creditors as would
4 exist if the husband and wife had continued to hold the property or its proceeds as
5 tenants by the entirety, as long as:

6 (1) The husband and wife remain married;

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

9 (3) Both the husband and the wife are beneficiaries of the trust.

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

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

20 (d) The immunity from the claims of separate creditors under subsections (b)
21 and (c) of this section may be waived as to any specific creditor or any specifically
22 described trust property by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 11-102.

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

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

28 TITLE 14.5. MARYLAND TRUST ACT.

29 SUBTITLE 1. IN GENERAL.

30 14.5-101.

31 THIS TITLE MAY BE CITED AS THE MARYLAND TRUST ACT.

1 **14.5-102.**

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

7 **14.5-103.**

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

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

12 **(C) "ASCERTAINABLE STANDARD" MEANS A STANDARD RELATING TO**
13 **AN INDIVIDUAL'S HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE WITHIN**
14 **THE MEANING OF § 2041(B)(1)(A) OR § 2514(C)(1) OF THE INTERNAL REVENUE**
15 **CODE OF 1986, AS IN EFFECT ON OCTOBER 1, 2011.**

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

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

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

24 **(1) WHETHER TO DISTRIBUTE TO OR FOR THE BENEFIT OF AN**
25 **INDIVIDUAL OR A CLASS OF BENEFICIARIES THE INCOME OR PRINCIPAL OR**
26 **BOTH OF THE TRUST;**

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

30 **(3) WHO, IF ANY, AMONG A CLASS OF BENEFICIARIES WILL**
31 **RECEIVE INCOME OR PRINCIPAL OR BOTH OF THE TRUST;**

1 (4) **WHETHER THE DISTRIBUTION OF TRUST ASSETS IS FROM**
2 **INCOME OR PRINCIPAL OR BOTH OF THE TRUST; OR**

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

8 **(II) A PROVISION IS A DISCRETIONARY DISTRIBUTION**
9 **PROVISION REGARDLESS OF WHETHER THE TRUST INSTRUMENT PROVIDES ONE**
10 **OR MORE STANDARDS OR OTHER GUIDANCE FOR THE EXERCISE OF THE**
11 **DISCRETION OF THE TRUSTEE, AND REGARDLESS OF WHETHER THE TRUST**
12 **CONTAINS A SPENDTHRIFT PROVISION.**

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

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

18 **(H) “GENERAL POWER OF APPOINTMENT” MEANS A POWER OF**
19 **APPOINTMENT THAT:**

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

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

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

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

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

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

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

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

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

7 **(M) (1) “MANDATORY DISTRIBUTION PROVISION” MEANS A**
8 **DISTRIBUTION OF INCOME OR PRINCIPAL THAT THE TRUSTEE IS REQUIRED TO**
9 **MAKE TO A BENEFICIARY UNDER THE TERMS OF THE TRUST, INCLUDING A**
10 **DISTRIBUTION ON TERMINATION OF THE TRUST.**

11 **(2) “MANDATORY DISTRIBUTION PROVISION” DOES NOT INCLUDE**
12 **A DISTRIBUTION SUBJECT TO THE EXERCISE OF THE DISCRETION OF THE**
13 **TRUSTEE EVEN IF:**

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

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

19 **(N) “PERSON” MEANS AN INDIVIDUAL, A CORPORATION, A BUSINESS**
20 **TRUST, AN ESTATE, A TRUST, A PARTNERSHIP, A LIMITED LIABILITY COMPANY,**
21 **AN ASSOCIATION, A JOINT VENTURE, A GOVERNMENT, A GOVERNMENTAL**
22 **SUBDIVISION, AN AGENCY, OR AN INSTRUMENTALITY, A PUBLIC CORPORATION,**
23 **OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.**

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

26 **(P) “POWER OF WITHDRAWAL” MEANS A PRESENTLY EXERCISABLE**
27 **POWER TO WITHDRAW TRUST PROPERTY FROM A TRUST FOR THE USE OR**
28 **BENEFIT OF THE POWER HOLDER, OTHER THAN A POWER:**

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

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

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

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

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

10 **(III) TWICE THE AMOUNT SPECIFIED IN § 2503(B) OF THE**
11 **INTERNAL REVENUE CODE OF 1986, AS AMENDED, IF THE DONOR OF THE**
12 **PROPERTY SUBJECT TO THE POWER OF WITHDRAWAL OF THE BENEFICIARY IS**
13 **MARRIED AT THE TIME OF THE TRANSFER OF THE PROPERTY TO THE TRUST.**

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

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

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

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

25 **(III) WOULD BE A DISTRIBUTEE OR PERMISSIBLE**
26 **DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON**
27 **THAT DATE.**

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

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

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

3 **(U) “SPENDTHRIFT PROVISION” MEANS A TERM OF A TRUST WHICH**
4 **RESTRAINS BOTH VOLUNTARY AND INVOLUNTARY TRANSFER OF THE INTEREST**
5 **OF A BENEFICIARY OR WHICH RESTRAINS INVOLUNTARY TRANSFER OF THE**
6 **INTEREST OF A BENEFICIARY AND PERMITS VOLUNTARY TRANSFER OF THE**
7 **INTEREST OF A BENEFICIARY ONLY WITH THE CONSENT OF A PERSON WHO IS**
8 **NOT A BENEFICIARY.**

9 **(V) (1) “STATE” MEANS A STATE OF THE UNITED STATES, THE**
10 **DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS,**
11 **OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION**
12 **OF THE UNITED STATES.**

13 **(2) “STATE” INCLUDES AN INDIAN TRIBE OR BAND RECOGNIZED**
14 **BY FEDERAL LAW OR FORMALLY ACKNOWLEDGED BY A STATE.**

15 **(W) “SUPPORT PROVISION” MEANS A MANDATORY DISTRIBUTION**
16 **PROVISION IN A TRUST THAT PROVIDES THAT THE TRUSTEE SHALL DISTRIBUTE**
17 **INCOME OR PRINCIPAL OR BOTH FOR THE HEALTH, EDUCATION, MAINTENANCE,**
18 **OR SUPPORT OF A BENEFICIARY, OR LANGUAGE OF SIMILAR IMPORT.**

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

23 **(Y) “TRUST INSTRUMENT” MEANS AN INSTRUMENT EXECUTED BY THE**
24 **SETTLOR THAT CONTAINS TERMS OF THE TRUST, INCLUDING AMENDMENTS TO**
25 **THE TRUST.**

26 **(Z) “TRUSTEE” INCLUDES AN ORIGINAL, ADDITIONAL, AND SUCCESSOR**
27 **TRUSTEE, AND A COTRUSTEE.**

28 **14.5–104.**

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

31 **(B) IF MORE THAN ONE PERSON CREATES OR CONTRIBUTES PROPERTY**
32 **TO A TRUST, EACH PERSON IS A SETTLOR OF THE PORTION OF THE TRUST**
33 **PROPERTY ATTRIBUTABLE TO THE CONTRIBUTION OF THAT PERSON EXCEPT TO**

1 THE EXTENT ANOTHER PERSON HAS THE POWER TO REVOKE OR WITHDRAW
2 THAT PORTION.

3 (C) A PROVISION IN A TRUST THAT PROVIDES THAT A TRUSTEE HAS
4 DISCRETION WHETHER TO DISTRIBUTE INCOME OR PRINCIPAL OR BOTH FOR
5 THESE PURPOSES OR TO SELECT FROM AMONG A CLASS OF BENEFICIARIES TO
6 RECEIVE DISTRIBUTIONS PURSUANT TO THE TRUST PROVISION IS NOT A
7 MANDATORY SUPPORT PROVISION AND IS INSTEAD A DISCRETIONARY
8 DISTRIBUTION PROVISION.

9 14.5–105.

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

12 (1) HAS ACTUAL KNOWLEDGE OF THE FACT;

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

14 (3) FROM ALL THE FACTS AND CIRCUMSTANCES KNOWN TO THE
15 PERSON AT THE TIME IN QUESTION, HAS REASON TO KNOW THE FACT.

16 (B) (1) AN ORGANIZATION THAT CONDUCTS ACTIVITIES THROUGH
17 EMPLOYEES HAS NOTICE OR KNOWLEDGE OF A FACT INVOLVING A TRUST ONLY
18 FROM THE TIME THE INFORMATION WAS RECEIVED BY AN EMPLOYEE HAVING
19 RESPONSIBILITY TO ACT FOR THE TRUST OR WOULD HAVE BEEN BROUGHT TO
20 THE ATTENTION OF THE EMPLOYEE IF THE ORGANIZATION HAD EXERCISED
21 REASONABLE DILIGENCE.

22 (2) AN ORGANIZATION EXERCISES REASONABLE DILIGENCE
23 UNDER THIS SUBSECTION IF THE ORGANIZATION MAINTAINS REASONABLE
24 ROUTINES FOR COMMUNICATING SIGNIFICANT INFORMATION TO THE
25 EMPLOYEE HAVING RESPONSIBILITY TO ACT FOR THE TRUST AND THERE IS
26 REASONABLE COMPLIANCE WITH THE ROUTINES.

27 (3) REASONABLE DILIGENCE DOES NOT REQUIRE AN EMPLOYEE
28 OF THE ORGANIZATION TO COMMUNICATE INFORMATION UNLESS THE
29 COMMUNICATION IS PART OF THE REGULAR DUTIES OF THE EMPLOYEE OR THE
30 EMPLOYEE KNOWS A MATTER INVOLVING THE TRUST WOULD BE MATERIALLY
31 AFFECTED BY THE INFORMATION.

32 14.5–106.

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

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

4 **(2) THE DUTY OF A TRUSTEE TO ACT IN GOOD FAITH AND IN**
5 **ACCORDANCE WITH THE TERMS AND PURPOSES OF THE TRUST AND THE**
6 **INTERESTS OF THE BENEFICIARIES;**

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

10 **(4) THE POWER OF THE COURT TO MODIFY OR TERMINATE A**
11 **TRUST UNDER §§ 14.5-409, 14.5-410, 14.5-411, 14.5-413, AND 14.5-414 OF**
12 **THIS TITLE;**

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

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

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

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

23 **(9) THE EFFECT OF AN EXCULPATORY TERM UNDER § 14.5-908**
24 **OF THIS TITLE;**

25 **(10) THE RIGHTS UNDER §§ 14.5-910 THROUGH 14.5-913 OF THIS**
26 **TITLE OF A PERSON OTHER THAN A TRUSTEE OR BENEFICIARY;**

27 **(11) PERIODS OF LIMITATION FOR COMMENCING A JUDICIAL**
28 **PROCEEDING; AND**

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

31 **14.5-107.**

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

4 **14.5–108.**

5 **THE MEANING AND EFFECT OF THE TERMS OF A TRUST ARE DETERMINED**
6 **BY:**

7 **(1) THE LAW OF THE JURISDICTION DESIGNATED IN THE TERMS**
8 **UNLESS THE DESIGNATION OF THE LAW OF THAT JURISDICTION IS CONTRARY**
9 **TO A STRONG PUBLIC POLICY OF THE JURISDICTION HAVING THE MOST**
10 **SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE; OR**

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

14 **14.5–109.**

15 **(A) WITHOUT PRECLUDING OTHER MEANS FOR ESTABLISHING A**
16 **SUFFICIENT CONNECTION WITH THE DESIGNATED JURISDICTION, TERMS OF A**
17 **TRUST DESIGNATING THE PRINCIPAL PLACE OF ADMINISTRATION ARE VALID**
18 **AND CONTROLLING IF:**

19 **(1) THE PRINCIPAL PLACE OF BUSINESS OF A TRUSTEE IS**
20 **LOCATED IN OR A TRUSTEE IS A RESIDENT OF THE DESIGNATED JURISDICTION;**
21 **OR**

22 **(2) ALL OR PART OF THE ADMINISTRATION OF THE TRUST**
23 **OCCURS IN THE DESIGNATED JURISDICTION.**

24 **(B) WITHOUT PRECLUDING THE RIGHT OF THE COURT TO ORDER,**
25 **APPROVE, OR DISAPPROVE A TRANSFER, THE TRUSTEE MAY TRANSFER THE**
26 **PRINCIPAL PLACE OF ADMINISTRATION OF THE TRUST TO ANOTHER STATE OR**
27 **TO A JURISDICTION OUTSIDE OF THE UNITED STATES.**

28 **(C) IN CONNECTION WITH A TRANSFER OF THE PRINCIPAL PLACE OF**
29 **ADMINISTRATION OF A TRUST, THE TRUSTEE MAY TRANSFER SOME OR ALL OF**
30 **THE TRUST PROPERTY TO A SUCCESSOR TRUSTEE DESIGNATED IN THE TERMS**
31 **OF THE TRUST OR APPOINTED IN ACCORDANCE WITH § 14.5–704 OF THIS TITLE.**

32 **14.5–110.**

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

5 **(2) PERMISSIBLE METHODS OF NOTICE TO A PERSON OR FOR**
6 **SENDING A DOCUMENT TO A PERSON UNDER THIS TITLE INCLUDE FIRST-CLASS**
7 **MAIL, PERSONAL DELIVERY, DELIVERY TO THE LAST KNOWN PLACE OF**
8 **RESIDENCE OR PLACE OF BUSINESS OF THE PERSON, OR A PROPERLY DIRECTED**
9 **ELECTRONIC MESSAGE.**

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

14 **(C) NOTICE UNDER THIS TITLE OR THE SENDING OF A DOCUMENT**
15 **UNDER THIS TITLE MAY BE WAIVED BY THE PERSON TO BE NOTIFIED OR SENT**
16 **THE DOCUMENT.**

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

19 **14.5-111.**

20 **(A) A CHARITABLE ORGANIZATION EXPRESSLY DESIGNATED TO**
21 **RECEIVE DISTRIBUTIONS UNDER THE TERMS OF A CHARITABLE TRUST HAS THE**
22 **RIGHTS OF A QUALIFIED BENEFICIARY UNDER THIS TITLE IF THE CHARITABLE**
23 **ORGANIZATION, ON THE DATE THE QUALIFICATION OF THE CHARITABLE**
24 **ORGANIZATION IS BEING DETERMINED:**

25 **(1) IS A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF TRUST**
26 **INCOME OR PRINCIPAL;**

27 **(2) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF**
28 **TRUST INCOME OR PRINCIPAL ON THE TERMINATION OF THE INTERESTS OF**
29 **OTHER DISTRIBUTE OR PERMISSIBLE DISTRIBUTE THEN RECEIVING OR**
30 **ELIGIBLE TO RECEIVE DISTRIBUTIONS; OR**

31 **(3) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF**
32 **TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON THAT DATE.**

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

5 **(C) THE STATE’S ATTORNEY GENERAL HAS THE RIGHTS OF A**
6 **QUALIFIED BENEFICIARY WITH RESPECT TO A CHARITABLE TRUST HAVING THE**
7 **PRINCIPAL PLACE OF ADMINISTRATION OF THE CHARITABLE TRUST IN THIS**
8 **STATE.**

9 **14.5–112.**

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

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

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

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

22 **(1) THE INTERPRETATION OR CONSTRUCTION OF THE TERMS OF**
23 **THE TRUST;**

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

25 **(3) DIRECTION TO A TRUSTEE TO REFRAIN FROM PERFORMING A**
26 **PARTICULAR ACT OR THE GRANT TO A TRUSTEE OF A NECESSARY OR DESIRABLE**
27 **POWER;**

28 **(4) THE RESIGNATION OR APPOINTMENT OF A TRUSTEE AND THE**
29 **DETERMINATION OF THE COMPENSATION OF A TRUSTEE;**

30 **(5) TRANSFER OF THE PRINCIPAL PLACE OF ADMINISTRATION OF**
31 **A TRUST; AND**

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

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

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

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

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

9 **14.5-113.**

10 **(A) IN THE ABSENCE OF EXPRESS LANGUAGE TO THE CONTRARY, THE**
11 **RULES CONTAINED IN TITLE 1, SUBTITLE 2 OF THIS ARTICLE SHALL BE**
12 **APPLIED IN CONSTRUING THE TERMS OF AN INTER VIVOS TRUST.**

13 **(B) WHENEVER A PROVISION IN TITLE 1, SUBTITLE 2 OF THIS ARTICLE**
14 **REFERS TO A “WILL”, “ESTATE”, OR A SIMILAR TERM RELEVANT PRIMARILY TO**
15 **WILLS AND ESTATES OR A TAKER UNDER A WILL OR AN ESTATE, THE TERM**
16 **SHALL BE MODIFIED TO MEAN “TRUST INSTRUMENT”, “TRUST”, OR A SIMILAR**
17 **TERM TO REFLECT THE APPLICATION OF THE PRINCIPLES OF TITLE 1,**
18 **SUBTITLE 2 OF THIS ARTICLE TO AN INTER VIVOS TRUST.**

19 **SUBTITLE 2. JUDICIAL PROCEEDINGS.**

20 **14.5-201.**

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

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

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

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

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

4 **14.5-202.**

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

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

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

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

22 **14.5-203.**

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

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

33 **(3) NOTWITHSTANDING THE BREADTH OF DISCRETION GRANTED**
34 **TO A TRUSTEE BY THE TERMS OF A TRUST, INCLUDING THE USE OF THE TERMS**
35 **"ABSOLUTE", "SOLE", OR "UNCONTROLLED", A TRUSTEE ABUSES THE**

1 DISCRETION OF THE TRUSTEE IN EXERCISING OR FAILING TO EXERCISE A
2 DISCRETIONARY POWER IF THE TRUSTEE:

3 (I) ACTS DISHONESTLY;

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

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

8 (IV) ACTS BEYOND THE BOUNDS OF REASONABLE
9 JUDGMENT.

10 (B) A COURT MAY REVIEW AN ACTION BY A TRUSTEE UNDER A SUPPORT
11 PROVISION OR A MANDATORY DISTRIBUTION PROVISION IN THE TRUST IF THE
12 TRUSTEE ACTED DISHONESTLY, ACTED WITH AN IMPROPER MOTIVE, FAILED TO
13 USE THE JUDGMENT OF THE TRUSTEE, OR ACTED UNREASONABLY.

14 SUBTITLE 3. REPRESENTATION.

15 14.5-301.

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

23 (B) THE CONSENT OF A PERSON WHO MAY REPRESENT AND BIND
24 ANOTHER PERSON UNDER THIS SUBTITLE IS BINDING ON THE PERSON
25 REPRESENTED UNLESS THE PERSON REPRESENTED OBJECTS TO THE
26 REPRESENTATION BY NOTIFYING THE TRUSTEE AND THE REPRESENTATIVE
27 BEFORE THE NOTICE WOULD OTHERWISE HAVE BECOME EFFECTIVE.

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

32 14.5-302.

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

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

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

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

10 **14.5-303.**

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

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

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

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

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

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

26 **(6) A PARENT MAY REPRESENT AND BIND THE MINOR, UNBORN,**
27 **OR UNKNOWN CHILD OF THE PARENT IF A GUARDIAN OF THE PROPERTY OR**
28 **GUARDIAN OF THE PERSON FOR THE CHILD HAS NOT BEEN APPOINTED; AND**

29 **(7) IF A MINOR, UNBORN OR UNKNOWN PERSON IS NOT**
30 **OTHERWISE REPRESENTED UNDER THIS SECTION, A GRANDPARENT OR MORE**
31 **REMOTE RELATIVE MAY REPRESENT AND BIND THAT MINOR, UNBORN, OR**
32 **UNKNOWN PERSON.**

1 **14.5-304.**

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

10 **14.5-305.**

11 **(A) (1) IF THE COURT DETERMINES THAT AN INTEREST IS NOT**
12 **REPRESENTED UNDER THIS SUBTITLE, OR THAT THE OTHERWISE AVAILABLE**
13 **REPRESENTATION MIGHT BE INADEQUATE, THE COURT MAY APPOINT A**
14 **REPRESENTATIVE TO RECEIVE NOTICE, GIVE CONSENT, AND OTHERWISE**
15 **REPRESENT, BIND, AND ACT ON BEHALF OF A MINOR, INCAPACITATED, OR**
16 **UNBORN INDIVIDUAL, OR A PERSON WHOSE IDENTITY OR LOCATION IS**
17 **UNKNOWN.**

18 **(2) A REPRESENTATIVE MAY BE APPOINTED TO REPRESENT**
19 **SEVERAL PERSONS OR INTERESTS UNDER THIS TITLE.**

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

24 **(C) IN MAKING DECISIONS AS A REPRESENTATIVE OF AN INDIVIDUAL,**
25 **THE REPRESENTATIVE MAY CONSIDER THE GENERAL BENEFIT ACCRUING TO**
26 **THE LIVING MEMBERS OF THE FAMILY OF THE INDIVIDUAL.**

27 **SUBTITLE 4. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF**
28 **TRUST.**

29 **14.5-401.**

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

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

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

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

5 **14.5-402.**

6 **(A) A TRUST IS CREATED ONLY IF:**

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

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

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

11 **(I) A CHARITABLE TRUST;**

12 **(II) A TRUST FOR THE CARE OF AN ANIMAL, AS PROVIDED IN**
13 **§ 14.5-407 OF THIS SUBTITLE; OR**

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

16 **(4) THE TRUSTEE HAS DUTIES TO PERFORM.**

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

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

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

28 **14.5-403.**

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

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

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

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

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

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

11 **14.5-404.**

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

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

16 **14.5-405.**

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

19 **14.5-406.**

20 **EXCEPT AS OTHERWISE PROVIDED BY LAW, A TRUST NEED NOT BE**
21 **EVIDENCED BY A TRUST INSTRUMENT, BUT THE CREATION OF AN ORAL TRUST**
22 **AND THE TERMS OF THE ORAL TRUST MAY BE ESTABLISHED ONLY BY CLEAR**
23 **AND CONVINCING EVIDENCE.**

24 **14.5-407.**

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

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

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

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

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

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

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

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

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

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

24 **14.5-408.**

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

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

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

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

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

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

13 **14.5-409.**

14 **(A) IN ADDITION TO THE METHODS OF TERMINATION PRESCRIBED BY §§**
15 **14.5-410 THROUGH 14.5-412 OF THIS SUBTITLE, A TRUST TERMINATES TO THE**
16 **EXTENT THE TRUST IS REVOKED OR EXPIRES IN ACCORDANCE WITH THE TERMS**
17 **OF THE TRUST, OR THE PURPOSES OF THE TRUST HAVE BECOME UNLAWFUL OR**
18 **IMPOSSIBLE TO ACHIEVE.**

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

23 **(2) THE SETTLOR OF A CHARITABLE TRUST MAY MAINTAIN A**
24 **PROCEEDING TO MODIFY THE TRUST UNDER § 14.5-302 OF THIS TITLE.**

25 **14.5-410.**

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

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

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

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

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

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

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

15 **14.5-411.**

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

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

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

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

31 **14.5-412.**

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

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

4 **(3) “NET ANNUAL INCOME” MEANS THE GROSS INCOME OF A**
5 **TRUST ESTATE DURING A FISCAL YEAR MINUS TRUST COMMISSIONS AND**
6 **EXPENSES ATTRIBUTABLE TO INCOME FOR THAT FISCAL YEAR.**

7 **(B) SUBJECT TO THE PROVISIONS OF THIS SECTION, A TRUSTEE MAY**
8 **TERMINATE A TRUST WITHOUT AN ORDER OF COURT IF THE FAIR MARKET**
9 **VALUE OF THE TRUST AS OF THE LAST ANNIVERSARY DATE OF THE TRUST IS**
10 **\$100,000 OR LESS.**

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

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

- 17 1. **PERSONALLY DELIVERED; OR**
- 18 2. **MAILED BY CERTIFIED MAIL, POSTAGE PREPAID,**
19 **RETURN RECEIPT REQUESTED.**

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

- 22 **(I) THE NAME OF THE TRUST;**
- 23 **(II) THE NAME OF THE PERSON WHO CREATED THE TRUST;**
- 24 **(III) THE DATE ON WHICH THE TRUST WAS ESTABLISHED;**
- 25 **(IV) THE NAME AND ADDRESS OF THE TRUSTEE SEEKING TO**
26 **TERMINATE THE TRUST;**
- 27 **(V) THE NAME OF ANY COTRUSTEE;**
- 28 **(VI) A STATEMENT THAT THE EFFECTIVE DATE OF THE**
29 **TERMINATION SHALL BE AT LEAST 90 DAYS AFTER THE DATE ON WHICH NOTICE**

1 UNDER PARAGRAPH (1) OF THIS SUBSECTION HAS BEEN RECEIVED BY EACH
2 COTRUSTEE AND EACH QUALIFIED BENEFICIARY;

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

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

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

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

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

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

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

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

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

1 **(II) A QUALIFIED BENEFICIARY WHO HAS A PRESENT**
2 **INTEREST IN THE TRUST ESTATE SHALL RECEIVE AN AMOUNT EQUAL TO THE**
3 **PRESENT VALUE OF AN ANNUITY EQUAL TO THE PROPORTIONATE SHARE OF**
4 **THE AVERAGE NET ANNUAL INCOME OF THE TRUST OF THE QUALIFIED**
5 **BENEFICIARY AS OF THE LAST 3 ANNIVERSARY DATES OF THE TRUST FOR A**
6 **TERM EQUAL TO THE LIFE EXPECTANCY OF THE QUALIFIED BENEFICIARY, AT**
7 **THE INTEREST RATE FOR VALUING VESTED BENEFITS PROVIDED BY THE**
8 **PENSION BENEFIT GUARANTEE CORPORATION FOR THE MONTH IMMEDIATELY**
9 **PRECEDING THE DATE ON WHICH THE NOTICE UNDER SUBSECTION (C)(1) OF**
10 **THIS SECTION IS SENT.**

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

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

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

23 **(I) A DISTRIBUTION TO A MINOR QUALIFIED BENEFICIARY SHALL BE**
24 **MADE TO THE CUSTODIAN OF THE MINOR UNDER THE MARYLAND UNIFORM**
25 **GIFTS TO MINORS ACT OR THE MARYLAND UNIFORM TRANSFERS TO MINORS**
26 **ACT.**

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

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

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

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

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

2 **(1) THE PROVISIONS OF THE GOVERNING INSTRUMENT MAKE**
3 **THE TRUST ELIGIBLE TO QUALIFY FOR THE MARITAL DEDUCTION FOR UNITED**
4 **STATES ESTATE TAX OR FOR UNITED STATES GIFT TAX PURPOSES UNDER THE**
5 **INTERNAL REVENUE CODE OF 1986, AS AMENDED, UNLESS ALL QUALIFIED**
6 **BENEFICIARIES AGREE THAT ALL OF THE TRUST ESTATE SHALL BE**
7 **DISTRIBUTED TO THE SPOUSE OF THE CREATOR OF THE TRUST; OR**

8 **(2) THE PROVISIONS OF THE GOVERNING INSTRUMENT MAKE**
9 **THE TRUST QUALIFY, IN WHOLE OR IN PART, FOR A CHARITABLE DEDUCTION**
10 **FOR UNITED STATES ESTATE TAX, UNITED STATES GIFT TAX, OR UNITED**
11 **STATES INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE OF**
12 **1986, AS AMENDED, UNLESS ALL QUALIFIED BENEFICIARIES AGREE THAT ALL**
13 **OF THE TRUST ESTATE SHALL BE DISTRIBUTED TO ONE OR MORE QUALIFIED**
14 **BENEFICIARIES THAT QUALIFY FOR THE CHARITABLE DEDUCTION UNDER THE**
15 **INTERNAL REVENUE CODE OF 1986, AS AMENDED.**

16 **14.5-413.**

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

22 **14.5-414.**

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

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

28 **14.5-415.**

29 **AFTER NOTICE TO THE QUALIFIED BENEFICIARIES, A TRUSTEE MAY**
30 **COMBINE TWO OR MORE TRUSTS INTO A SINGLE TRUST, OR DIVIDE A TRUST**
31 **INTO TWO OR MORE SEPARATE TRUSTS, IF THE RESULT:**

32 **(1) HAS SUBSTANTIALLY SIMILAR, EVEN THOUGH NOT**
33 **IDENTICAL, DISPOSITIVE PROVISIONS FOR THE BENEFIT AT THAT TIME OF THE**

1 SAME QUALIFIED BENEFICIARIES, EVEN THOUGH THE IDENTITY OF THE
2 BENEFICIARIES WHO ARE NOT QUALIFIED BENEFICIARIES IS NOT IDENTICAL;
3 OR

4 (2) DOES NOT ADVERSELY AFFECT ACHIEVEMENT OF THE
5 PURPOSES OF THE TRUST.

6 SUBTITLE 5. CREDITOR'S CLAIMS, SPENDTHRIFT AND DISCRETIONARY
7 TRUSTS.

8 14.5-501.

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

15 (B) THE COURT MAY LIMIT THE AMOUNT, TIMING, OR OTHER TERMS
16 AND CONDITIONS OF AN AWARD UNDER THIS SECTION TO RELIEF AS IS
17 APPROPRIATE UNDER THE CIRCUMSTANCES CONSIDERING, AMONG OTHER
18 FACTORS:

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

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

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

29 14.5-502.

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

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

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

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

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

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

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

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

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

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

1 (F) IF A BENEFICIARY AND ONE OR MORE OTHERS HAVE MADE
2 CONTRIBUTIONS TO A TRUST SUBJECT TO A DISCRETIONARY DISTRIBUTION
3 PROVISION, THE PORTION OF THE TRUST ATTRIBUTABLE TO THE
4 CONTRIBUTIONS OF THE BENEFICIARY SHALL NOT BE DEEMED TO BE SUBJECT
5 TO THAT DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT
6 BENEFICIARY, BUT THE PORTION OF THE TRUST ATTRIBUTABLE TO THE
7 CONTRIBUTIONS OF OTHERS SHALL BE DEEMED TO BE SUBJECT TO THE
8 DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT
9 BENEFICIARY.

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

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

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

20 **14.5-503.**

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

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

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

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

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

4 **14.5-504.**

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

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

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

13 **(D) (1) A BENEFICIARY MAY NOT TRANSFER AN INTEREST IN A TRUST**
14 **IN VIOLATION OF A VALID SPENDTHRIFT PROVISION AND, EXCEPT AS**
15 **OTHERWISE PROVIDED IN THIS SUBTITLE, A CREDITOR OR ASSIGNEE OF THE**
16 **BENEFICIARY MAY NOT REACH THE INTEREST OR A DISTRIBUTION BY THE**
17 **TRUSTEE BEFORE THE RECEIPT BY THE BENEFICIARY OF THE INTEREST OR**
18 **DISTRIBUTION.**

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

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

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

29 **14.5-505.**

30 **(A) IN THIS SECTION, “CHILD” INCLUDES ANY PERSON FOR WHOM AN**
31 **ORDER OR JUDGMENT FOR CHILD SUPPORT HAS BEEN ENTERED IN THIS OR**
32 **ANOTHER STATE.**

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

6 **(1) A CHILD, SPOUSE, OR FORMER SPOUSE OF THE BENEFICIARY**
7 **WHO HAS A JUDGMENT OR COURT ORDER AGAINST THE BENEFICIARY FOR**
8 **SUPPORT OR MAINTENANCE;**

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

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

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

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

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

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

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

25 **(III) WITH RESPECT TO A BENEFICIARY WHO IS THE**
26 **RECIPIENT OF PUBLIC BENEFITS, THE SUPPLEMENTAL NEEDS OF THE**
27 **BENEFICIARY IF THE TRUST WAS NOT INTENDED TO PROVIDE FOR THE BASIC**
28 **SUPPORT OF THE BENEFICIARY.**

29 **14.5-506.**

30 **(A) TO THE EXTENT THAT THE INTEREST OF A BENEFICIARY SUBJECT**
31 **TO A MANDATORY DISTRIBUTION PROVISION, OTHER THAN A SUPPORT**
32 **PROVISION, DOES NOT CONTAIN A SPENDTHRIFT PROVISION, THE COURT MAY**
33 **AUTHORIZE A CREDITOR OR ASSIGNEE OF THE BENEFICIARY TO ATTACH**

1 PRESENT OR FUTURE MANDATORY DISTRIBUTIONS TO OR FOR THE BENEFIT OF
2 THE BENEFICIARY, OR TO REACH THE BENEFICIARY'S INTEREST BY OTHER
3 MEANS, AS PROVIDED IN § 14.5-501 OF THIS SUBTITLE.

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

9 14.5-507.

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

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

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

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

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

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

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

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

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

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

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

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

11 **14.5-508.**

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

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

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

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

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

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

26 **(4) WITH RESPECT TO A TRUST DESCRIBED IN 42 U.S.C. §**
27 **1396P(D)(4)(A) OR (C), THE COURT MAY LIMIT THE AWARD OF THE CREDITOR**
28 **OF A SETTLOR UNDER ITEMS (1) AND (2) OF THIS SUBSECTION TO THE RELIEF**
29 **THAT IS APPROPRIATE UNDER THE CIRCUMSTANCES, CONSIDERING AMONG**
30 **OTHER FACTORS DETERMINED APPROPRIATE BY THE COURT, THE**
31 **SUPPLEMENTAL NEEDS OF THE BENEFICIARY; OR**

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

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

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

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

15 **(2) THE TRUST IS TREATED AS QUALIFIED TERMINABLE**
16 **INTEREST PROPERTY UNDER § 2523(F) OF THE INTERNAL REVENUE CODE OF**
17 **1986, AS AMENDED; AND**

18 **(3) THE RETAINED BENEFICIAL INTEREST OF THE INDIVIDUAL IN**
19 **THE TRUST INCOME, TRUST PRINCIPAL, OR BOTH, FOLLOWS THE TERMINATION**
20 **OF THE PRIOR BENEFICIAL INTEREST OF THE SPOUSE OF THE INDIVIDUAL IN**
21 **THE TRUST.**

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

26 **(2) AFTER THE LAPSE, WAIVER, OR RELEASE OF THE POWER OF**
27 **WITHDRAWAL DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE**
28 **FORMER POWER HOLDER SHALL NO LONGER BE CONSIDERED A SETTLOR OF**
29 **THE TRUST.**

30 **14.5-509.**

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

34 **14.5-510.**

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

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

15 **14.5-511.**

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

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

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

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

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

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

33 **(6) PROPERTY HELD BY THE TRUSTEE THAT IS OTHERWISE**
34 **TRACEABLE TO PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO**

1 A TRUSTEE OR THE PROPERTY PROCEEDS DESCRIBED IN ITEMS (1) THROUGH
2 (5) OF THIS SUBSECTION.

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

10 (1) THE HUSBAND AND WIFE REMAIN MARRIED;

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

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

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

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

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

32 (D) THE IMMUNITY FROM THE CLAIMS OF SEPARATE CREDITORS
33 UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION MAY BE WAIVED, AS TO
34 EACH SPECIFIC CREDITOR OR ALL SEPARATE CREDITORS OF A HUSBAND AND
35 WIFE OR SPECIFICALLY DESCRIBED TRUST PROPERTY, OR ALL FORMER

1 TENANCY BY THE ENTIRE PROPERTY CONVEYED TO THE TRUSTEE OR
2 TRUSTEES, BY:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 **SUBTITLE 6. REVOCABLE TRUSTS.**

11 **14.5-601.**

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

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

19 **14.5-602.**

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

23 **(2) THIS SUBSECTION DOES NOT APPLY TO A TRUST CREATED**
 24 **UNDER AN INSTRUMENT EXECUTED BEFORE OCTOBER 1, 2011.**

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

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

30 **(2) TO THE EXTENT THE TRUST CONSISTS OF PROPERTY OTHER**
 31 **THAN COMMUNITY PROPERTY, EACH SETTLOR MAY REVOKE OR AMEND THE**

1 TRUST WITH REGARD TO THE PORTION OF THE TRUST PROPERTY
2 ATTRIBUTABLE TO THE CONTRIBUTION OF THAT SETTLOR; AND

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

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

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

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

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

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

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

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

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

30 (G) A TRUSTEE WHO DOES NOT KNOW THAT A TRUST HAS BEEN
31 REVOKED OR AMENDED IS NOT LIABLE TO THE SETTLOR OR THE SUCCESSORS
32 IN INTEREST TO THE SETTLOR FOR DISTRIBUTIONS MADE AND OTHER ACTIONS
33 TAKEN ON THE ASSUMPTION THAT THE TRUST HAD NOT BEEN AMENDED OR
34 REVOKED.

1 **14.5-603.**

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

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

11 **14.5-604.**

12 (A) A PERSON SHALL COMMENCE A JUDICIAL PROCEEDING TO CONTEST
13 THE VALIDITY OF A TRUST THAT WAS REVOCABLE AT THE DEATH OF THE
14 SETTLOR WITHIN THE EARLIEST OF:

15 (1) 1 YEAR AFTER THE DEATH OF THE SETTLOR;

16 (2) 90 DAYS AFTER THE TRUSTEE SENT THE PERSON A COPY OF
17 THE TRUST INSTRUMENT AND A NOTICE INFORMING THE PERSON OF THE
18 EXISTENCE OF THE TRUST, OF THE NAME AND ADDRESS OF THE TRUSTEE, AND
19 OF THE TIME ALLOWED FOR COMMENCING A PROCEEDING; OR

20 (3) 6 MONTHS AFTER THE DATE OF THE FIRST PUBLICATION OF
21 NOTICE OF THE EXISTENCE OF THE TRUST, THE NAME AND ADDRESS OF EACH
22 TRUSTEE AND OF THE SETTLOR, AND THE TIME ALLOWED FOR COMMENCING A
23 PROCEEDING, IN THE SAME MANNER AS REQUIRED FOR PUBLICATION OF
24 NOTICE OF APPOINTMENT OF A PERSONAL REPRESENTATIVE, IF THE TRUSTEE
25 SENDS A COPY OF THE TEXT OF THE NOTICE, NOT LATER THAN 15 DAYS AFTER
26 THE DATE OF THE FIRST PUBLICATION OF THE NOTICE, TO EACH QUALIFIED
27 BENEFICIARY OF THE TRUST, HEIR OF THE DECEDENT, AND OTHER PERSON
28 WHO WOULD BE AN INTERESTED PERSON IF THE TRUST WERE A WILL AND WHO
29 WOULD HAVE BEEN REQUIRED TO BE SENT NOTICE OF THE APPOINTMENT OF A
30 PERSONAL REPRESENTATIVE IF A PERSONAL REPRESENTATIVE HAD BEEN
31 APPOINTED.

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

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

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

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

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

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

12 **14.5-701.**

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

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

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

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

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

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

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

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

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

6 14.5-702.

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

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

11 (2) HAS NOT DISPENSED WITH THE REQUIREMENT.

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

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

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

21 14.5-703.

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

25 (2) THIS SUBSECTION DOES NOT APPLY TO A TRUST CREATED
26 UNDER AN INSTRUMENT EXECUTED BEFORE OCTOBER 1, 2011.

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

29 (C) A COTRUSTEE SHALL PARTICIPATE IN THE PERFORMANCE OF THE
30 FUNCTION OF A TRUSTEE UNLESS THE COTRUSTEE IS UNAVAILABLE TO
31 PERFORM THE FUNCTION BECAUSE OF ABSENCE, ILLNESS, DISQUALIFICATION

1 UNDER OTHER LAW, OR OTHER TEMPORARY INCAPACITY OR THE COTRUSTEE
2 HAS PROPERLY DELEGATED THE PERFORMANCE OF THE FUNCTION TO
3 ANOTHER TRUSTEE.

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

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

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

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

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

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

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

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

27 (I) IF THE TERMS OF A TRUST PROVIDE FOR THE APPOINTMENT OF
28 MORE THAN ONE TRUSTEE BUT CONFER ON ONE OR MORE OF THE TRUSTEES,
29 TO THE EXCLUSION OF THE OTHERS, THE POWER TO DIRECT OR PREVENT
30 CERTAIN ACTIONS OF THE TRUSTEES:

31 (1) THE EXCLUDED TRUSTEE SHALL ACT IN ACCORDANCE WITH
32 THE DIRECTION OF THE DIRECTING TRUSTEE AND IS NOT LIABLE FOR ANY LOSS
33 RESULTING DIRECTLY OR INDIRECTLY FROM THE ACT, EXCEPT IN THE CASE OF
34 WILLFUL MISCONDUCT ON THE PART OF THE EXCLUDED TRUSTEE;

1 **(2) THE EXCLUDED TRUSTEE SHALL HAVE NO DUTY TO:**

2 **(I) MONITOR THE CONDUCT OF THE DIRECTING TRUSTEE;**

3 **(II) PROVIDE ADVICE TO THE DIRECTING TRUSTEE; OR**

4 **(III) COMMUNICATE WITH, WARN, OR APPRISE A**
5 **BENEFICIARY OR THIRD PARTY CONCERNING INSTANCES IN WHICH THE**
6 **EXCLUDED TRUSTEE WOULD OR MIGHT HAVE EXERCISED THE DISCRETION OF**
7 **THE EXCLUDED TRUSTEE IN A MANNER DIFFERENT FROM THE MANNER**
8 **DIRECTED BY THE DIRECTING TRUSTEE;**

9 **(3) ABSENT CLEAR AND CONVINCING EVIDENCE TO THE**
10 **CONTRARY, THE ACTIONS OF THE EXCLUDED TRUSTEE PERTAINING TO**
11 **MATTERS WITHIN THE SCOPE OF THE AUTHORITY OF THE DIRECTING TRUSTEE,**
12 **SUCH AS CONFIRMING THAT THE DIRECTIONS OF THE DIRECTING TRUSTEE**
13 **HAVE BEEN CARRIED OUT AND RECORDING AND REPORTING ACTIONS TAKEN AT**
14 **THE DIRECTION OF THE DIRECTING TRUSTEE, SHALL BE PRESUMED TO BE**
15 **ADMINISTRATIVE ACTIONS TAKEN BY THE EXCLUDED TRUSTEE SOLELY TO**
16 **ALLOW THE EXCLUDED TRUSTEE TO PERFORM THOSE DUTIES ASSIGNED TO THE**
17 **EXCLUDED TRUSTEE BY THE TERMS OF THE TRUST AND THESE**
18 **ADMINISTRATIVE ACTIONS MAY NOT BE DEEMED TO CONSTITUTE AN**
19 **UNDERTAKING BY THE EXCLUDED TRUSTEE TO MONITOR THE DIRECTING**
20 **TRUSTEE OR OTHERWISE PARTICIPATE IN ACTIONS WITHIN THE SCOPE OF THE**
21 **AUTHORITY OF THE DIRECTING TRUSTEE; AND**

22 **(4) THE DIRECTING TRUSTEE SHALL BE LIABLE TO THE**
23 **BENEFICIARIES WITH RESPECT TO THE EXERCISE OF THE POWER AS IF THE**
24 **EXCLUDED TRUSTEE WERE NOT IN OFFICE, AND SHALL HAVE THE EXCLUSIVE**
25 **OBLIGATION TO ACCOUNT TO AND TO DEFEND AN ACTION BROUGHT BY THE**
26 **BENEFICIARIES WITH RESPECT TO THE EXERCISE OF THE POWER.**

27 **14.5-704.**

28 **(A) A VACANCY IN A TRUSTEESHIP OCCURS IF:**

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

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

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

1 (4) A TRUSTEE IS DISQUALIFIED OR REMOVED;

2 (5) A TRUSTEE DIES;

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

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

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

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

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

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

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

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

19 (3) APPOINTED BY THE COURT.

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

24 **14.5-705.**

25 (A) A TRUSTEE MAY RESIGN:

26 (1) ON AT LEAST 30 DAYS' NOTICE TO:

27 (i) THE QUALIFIED BENEFICIARIES;

1 (II) THE SETTLOR, IF LIVING; AND

2 (III) ALL COTRUSTEES OR, IF THERE IS NO COTRUSTEE, TO
3 THE NEXT DESIGNATED SUCCESSOR TRUSTEE, IF ANY; OR

4 (2) WITH THE APPROVAL OF THE COURT.

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

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

11 14.5-706.

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

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

17 (2) THE COURT MAY REMOVE A TRUSTEE IF:

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

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

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

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

31 14.5-707.

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

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

10 **14.5-708.**

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

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

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

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

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

29 **(II) GIVEN NOTICE OF THE SCHEDULED RATES OR**
30 **REVISIONS TO THE ASCERTAINED BENEFICIARIES OF THE AFFECTED TRUST.**

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

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

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

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

7 **2. 5% ON THE NEXT \$10,000;**

8 **3. 4% ON THE NEXT \$10,000; AND**

9 **4. 3% ON ANY REMAINDER.**

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

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

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

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

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

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

22 **(IV) .1% ON ANY EXCESS.**

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

25 **(3) IF A TRUST TERMINATES, WITH RESPECT TO ALL OR PART OF**
26 **THE CORPUS HELD IN TRUST IN THE COURSE OF A YEAR, THE COMMISSION FOR**
27 **THAT YEAR SHALL BE REDUCED OR PRORATED ACCORDING TO THE PART OF**
28 **THE YEAR ELAPSED AND THE AMOUNT OF CORPUS AS TO WHICH THE TRUST**
29 **TERMINATES, AND BE CHARGEABLE, FOR THAT PART OF THE YEAR, AND WITH**

1 RESPECT TO THIS PART OF THE CORPUS, AT THE TERMINATION OF THE TRUST,
2 ON THE THEN VALUE OF THE CORPUS.

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

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

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

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

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

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

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

33 (G) (1) INSTEAD OF THE RATES OF INCOME COMMISSIONS AND
34 CORPUS COMMISSIONS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS
35 SECTION, A TRUSTEE MAY CHARGE REASONABLE COMPENSATION CALCULATED
36 IN ACCORDANCE WITH A SCHEDULE OF RATES PREVIOUSLY FILED BY THE

1 TRUSTEE WITH THE APPROPRIATE AGENCY AS SPECIFIED IN PARAGRAPH (2) OF
2 THIS SUBSECTION, IF THE TRUSTEE IS:

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

6 (II) A MEMBER OF THE MARYLAND BAR.

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

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

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

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

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

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

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

30 (III) A BENEFICIARY OF A TRUST WHO OBJECTS TO THE
31 SCHEDULE OF RATES TO BE CHARGED TO THAT TRUST, AFTER NOTIFYING THE
32 TRUSTEE OF THE OBJECTION, MAY PETITION THE APPROPRIATE CIRCUIT
33 COURT TO REVIEW THE REASONABLENESS OF THE RATES TO BE CHARGED.

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

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

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

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

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

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

30 **14.5-709.**

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

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

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

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

7 **14.5-710.**

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

10 **(1) AN INDIVIDUAL;**

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

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

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

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

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

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

29 **(2) A BANK, TRUST COMPANY, OR SAVINGS BANK AUTHORIZED TO**
30 **EXERCISE TRUST POWERS UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL**
31 **FILE WITH THE COMMISSIONER OF FINANCIAL REGULATION, BEFORE**
32 **EXERCISING TRUST POWERS IN THIS STATE, INFORMATION SUFFICIENT TO**
33 **IDENTIFY:**

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

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

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

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

8 **14.5-711.**

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

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

19 **14.5-801.**

20 **ON ACCEPTANCE OF A TRUSTEESHIP, THE TRUSTEE SHALL ADMINISTER**
21 **THE TRUST IN GOOD FAITH, IN ACCORDANCE WITH THE TERMS AND PURPOSES**
22 **OF THE TRUST AND THE INTERESTS OF THE BENEFICIARIES, AND IN**
23 **ACCORDANCE WITH THIS TITLE.**

24 **14.5-802.**

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

27 **(B) SUBJECT TO THE RIGHTS OF PERSONS DEALING WITH OR ASSISTING**
28 **THE TRUSTEE AS PROVIDED IN § 14.5-912 OF THIS TITLE, A SALE, AN**
29 **ENCUMBRANCE, OR ANY OTHER TRANSACTION INVOLVING THE INVESTMENT OR**
30 **MANAGEMENT OF TRUST PROPERTY ENTERED INTO BY THE TRUSTEE FOR THE**
31 **PERSONAL ACCOUNT OF THE TRUSTEE OR WHICH IS OTHERWISE AFFECTED BY A**
32 **CONFLICT BETWEEN THE FIDUCIARY AND PERSONAL INTERESTS OF THE**

1 TRUSTEE IS VOIDABLE BY A BENEFICIARY AFFECTED BY THE TRANSACTION
2 UNLESS:

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

5 (2) THE TRANSACTION WAS APPROVED BY THE COURT;

6 (3) THE BENEFICIARY DID NOT COMMENCE A JUDICIAL
7 PROCEEDING WITHIN THE TIME ALLOWED BY § 14.5-905 OF THIS TITLE;

8 (4) THE BENEFICIARY CONSENTED TO THE CONDUCT OF THE
9 TRUSTEE, RATIFIED THE TRANSACTION, OR RELEASED THE TRUSTEE IN
10 COMPLIANCE WITH § 14.5-909 OF THIS TITLE; OR

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

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

18 (1) THE SPOUSE OF THE TRUSTEE;

19 (2) THE DESCENDANTS, SIBLINGS, PARENTS OF THE TRUSTEE OR
20 THE SPOUSES OF THE DESCENDANTS, SIBLINGS, PARENTS OF THE TRUSTEE;

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

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

26 (D) A TRANSACTION THAT DOES NOT CONCERN TRUST PROPERTY IN
27 WHICH THE TRUSTEE ENGAGES IN AN INDIVIDUAL CAPACITY INVOLVES A
28 CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF THE
29 TRANSACTION CONCERNS AN OPPORTUNITY PROPERLY BELONGING TO THE
30 TRUST.

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

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

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

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

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

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

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

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

21 **14.5-803.**

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

26 **14.5-804.**

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

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

1 **14.5-805.**

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

5 **14.5-806.**

6 **A TRUSTEE WHO HAS SPECIAL SKILLS OR EXPERTISE, OR IS NAMED**
7 **TRUSTEE IN RELIANCE ON THE REPRESENTATION OF THE TRUSTEE THAT THE**
8 **TRUSTEE HAS SPECIAL SKILLS OR EXPERTISE, SHALL USE THOSE SPECIAL**
9 **SKILLS OR EXPERTISE.**

10 **14.5-807.**

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

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

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

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

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

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

27 **(C) A TRUSTEE WHO COMPLIES WITH SUBSECTION (A) OF THIS SECTION**
28 **IS NOT LIABLE TO THE BENEFICIARIES OR TO THE TRUST FOR AN ACTION OF**
29 **THE AGENT TO WHOM THE FUNCTION WAS DELEGATED.**

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

4 **(E) THIS SECTION DOES NOT APPLY TO A DELEGATION OF INVESTMENT**
5 **DUTIES OR POWERS IN ACCORDANCE WITH § 15-114 OF THIS ARTICLE.**

6 **14.5-808.**

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

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

12 **(2) THE TRUSTEE WOULD OTHERWISE VIOLATE A DUTY THE**
13 **TRUSTEE OWES UNDER THE TRUST.**

14 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
15 **SUBSECTION, IF THE TERMS OF A TRUST CONFER ON ONE OR MORE PERSONS,**
16 **OTHER THAN THE SETTLOR OF A REVOCABLE TRUST, A POWER TO DIRECT,**
17 **CONSENT TO, OR DISAPPROVE THE ACTUAL OR PROPOSED INVESTMENT**
18 **DECISIONS OF A TRUSTEE, DISTRIBUTION DECISIONS, OR OTHER DECISIONS OF**
19 **THE TRUSTEE, THE PERSONS SHALL BE CONSIDERED ADVISERS AND**
20 **FIDUCIARIES WHO, AS SUCH, ARE REQUIRED TO ACT IN GOOD FAITH WITH**
21 **REGARD TO THE PURPOSES OF THE TRUST AND THE INTERESTS OF THE**
22 **BENEFICIARIES.**

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

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

32 **(C) (1) IF THE TERMS OF A TRUST PROVIDE THAT A TRUSTEE IS TO**
33 **FOLLOW THE DIRECTION OF AN ADVISER WITH RESPECT TO PROPOSED**
34 **INVESTMENT DECISIONS, DISTRIBUTION DECISIONS, OR OTHER DECISIONS OF**
35 **THE TRUSTEE:**

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

5 **(II) THE TRUSTEE SHALL HAVE NO DUTY TO:**

6 1. **MONITOR THE CONDUCT OF THE ADVISER;**

7 2. **PROVIDE ADVICE TO THE ADVISER; OR**

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

13 **(2) ABSENT CLEAR AND CONVINCING EVIDENCE TO THE**
14 **CONTRARY, THE ACTIONS OF THE TRUSTEE PERTAINING TO MATTERS WITHIN**
15 **THE SCOPE OF THE AUTHORITY OF THE ADVISER, SUCH AS CONFIRMING THAT**
16 **THE DIRECTIONS OF THE ADVISER HAVE BEEN CARRIED OUT AND RECORDING**
17 **AND REPORTING ACTIONS TAKEN AT THE DIRECTION OF THE ADVISER, SHALL**
18 **BE PRESUMED TO BE ADMINISTRATIVE ACTIONS TAKEN BY THE TRUSTEE**
19 **SOLELY TO ALLOW THE TRUSTEE TO PERFORM THOSE DUTIES ASSIGNED TO THE**
20 **TRUSTEE BY THE TERMS OF THE TRUST, AND THESE ADMINISTRATIVE ACTIONS**
21 **SHALL NOT BE DEEMED TO CONSTITUTE AN UNDERTAKING BY THE TRUSTEE TO**
22 **MONITOR THE ADVISER OR OTHERWISE PARTICIPATE IN ACTIONS WITHIN THE**
23 **SCOPE OF THE AUTHORITY OF THE ADVISER.**

24 **(D) IF THE TERMS OF A TRUST PROVIDE THAT A TRUSTEE IS TO MAKE**
25 **DECISIONS WITH THE CONSENT OF AN ADVISER THEN, EXCEPT IN CASES OF**
26 **WILLFUL MISCONDUCT OR GROSS NEGLIGENCE ON THE PART OF THE TRUSTEE,**
27 **THE TRUSTEE IS NOT LIABLE FOR ANY LOSS DIRECTLY OR INDIRECTLY FROM**
28 **ANY ACT TAKEN OR OMITTED AS A RESULT OF THE FAILURE BY THE ADVISER TO**
29 **PROVIDE THE CONSENT AFTER HAVING BEEN REQUESTED TO DO SO BY A**
30 **TRUSTEE.**

31 **(E) UNLESS THE TERMS OF A TRUST OTHERWISE PROVIDE, AN ADVISER**
32 **WHO IS GIVEN AUTHORITY WITH RESPECT TO INVESTMENT DECISIONS HAS THE**
33 **POWER TO PERFORM THE FOLLOWING:**

34 **(1) DIRECT THE TRUSTEE WITH RESPECT TO THE RETENTION,**
35 **PURCHASE, SALE, OR ENCUMBRANCE OF THE TRUST PROPERTY AND THE**

1 INVESTMENT AND REINVESTMENT OF PRINCIPAL AND INCOME FROM THE
2 TRUST;

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

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

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

10 14.5-809.

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

17 14.5-810.

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

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

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

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

29 14.5-811.

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

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

4 **14.5-812.**

5 **A TRUSTEE SHALL TAKE REASONABLE STEPS TO COMPEL A FORMER**
6 **TRUSTEE OR OTHER PERSON TO DELIVER TRUST PROPERTY TO THE TRUSTEE,**
7 **AND TO REDRESS A BREACH OF TRUST KNOWN TO THE TRUSTEE TO HAVE BEEN**
8 **COMMITTED BY A FORMER TRUSTEE.**

9 **14.5-813.**

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

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

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

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

26 **14.5-814.**

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

29 **(1) THE POWER TO MAKE DISCRETIONARY DISTRIBUTIONS OF**
30 **EITHER PRINCIPAL OR INCOME TO, OR FOR THE BENEFIT OF, THE TRUSTEE IN**
31 **THE INDIVIDUAL CAPACITY OF THE TRUSTEE, UNLESS LIMITED BY AN**
32 **ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, AND**
33 **SUPPORT AND MAINTENANCE OF THE TRUSTEE, AS DEFINED IN 26 U.S.C. §§**

1 **2041 AND 2514 AND THE U.S. TREASURY REGULATIONS ISSUED UNDER THOSE**
2 **SECTIONS;**

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

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

10 **(4) A POWER, IN WHATEVER CAPACITY HELD, TO REMOVE OR**
11 **REPLACE A TRUSTEE WHO HOLDS A POWER PROSCRIBED IN THIS SUBSECTION;**
12 **OR**

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

17 **(B) IF A TRUSTEE IS PROHIBITED BY SUBSECTION (A)(1) OF THIS**
18 **SECTION FROM EXERCISING A POWER CONFERRED ON THE TRUSTEE, THE**
19 **TRUSTEE MAY NEVERTHELESS EXERCISE THE POWER EXCEPT THAT THE**
20 **EXERCISE OF THAT POWER BY THE TRUSTEE SHALL BE LIMITED BY AN**
21 **ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, AND**
22 **SUPPORT AND MAINTENANCE OF THE TRUSTEE, AS DEFINED IN 26 U.S.C. §§**
23 **2041 AND 2514 AND THE U.S. TREASURY REGULATIONS ISSUED UNDER THOSE**
24 **SECTIONS.**

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

31 **(D) THIS SECTION DOES NOT APPLY IF:**

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

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

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

7 **(E) (1) IN THIS SUBSECTION, “PARTIES IN INTEREST” MEANS:**

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

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

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

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

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

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

29 **14.5–815.**

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

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

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

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

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

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

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

10 **14.5–816.**

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

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

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

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

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

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

26 **(6) WITH RESPECT TO AN INTEREST IN A PROPRIETORSHIP,**
27 **PARTNERSHIP, LIMITED LIABILITY COMPANY, BUSINESS TRUST, CORPORATION,**
28 **OR OTHER FORM OF BUSINESS OR ENTERPRISE, CONTINUE THE BUSINESS OR**
29 **OTHER ENTERPRISE AND TAKE AN ACTION THAT MAY BE TAKEN BY**
30 **SHAREHOLDERS, MEMBERS, OR PROPERTY OWNERS, INCLUDING MERGING,**

1 DISSOLVING, OR OTHERWISE CHANGING THE FORM OF BUSINESS
2 ORGANIZATION OR CONTRIBUTING ADDITIONAL CAPITAL;

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

5 (I) VOTE, OR GIVE PROXIES TO VOTE, WITH OR WITHOUT
6 POWER OF SUBSTITUTION, OR ENTER INTO OR CONTINUE A VOTING TRUST
7 AGREEMENT;

8 (II) HOLD A SECURITY IN THE NAME OF A NOMINEE OR IN
9 OTHER FORM WITHOUT DISCLOSURE OF THE TRUST SO THAT TITLE MAY PASS
10 BY DELIVERY;

11 (III) PAY CALLS, ASSESSMENTS, AND OTHER SUMS
12 CHARGEABLE OR ACCRUING AGAINST THE SECURITIES, AND SELL OR EXERCISE
13 STOCK SUBSCRIPTION OR CONVERSION RIGHTS;

14 (IV) EXERCISE STOCK OPTIONS AND OTHER RIGHTS; AND

15 (V) DEPOSIT THE SECURITIES WITH A DEPOSITARY OR
16 OTHER REGULATED FINANCIAL-SERVICE INSTITUTION;

17 (8) WITH RESPECT TO AN INTEREST IN REAL PROPERTY AND
18 SUBJECT TO PARAGRAPH (9) OF THIS SECTION, CONSTRUCT, OR MAKE
19 ORDINARY OR EXTRAORDINARY REPAIRS TO, ALTERATIONS TO, OR
20 IMPROVEMENTS IN, BUILDINGS OR OTHER STRUCTURES, DEMOLISH
21 IMPROVEMENTS, RAZE EXISTING OR ERECT NEW PARTY WALLS OR BUILDINGS,
22 SUBDIVIDE OR DEVELOP LAND, DEDICATE LAND TO PUBLIC USE OR GRANT
23 PUBLIC OR PRIVATE EASEMENTS, AND MAKE OR VACATE PLATS AND ADJUST
24 BOUNDARIES;

25 (9) DONATE A CONSERVATION EASEMENT ON REAL PROPERTY,
26 OR CONSENT TO THE DONATION OF A CONSERVATION EASEMENT ON REAL
27 PROPERTY BY A PERSONAL REPRESENTATIVE OF AN ESTATE OF WHICH THE
28 TRUSTEE IS A LEGATEE, IN ORDER TO OBTAIN THE BENEFIT OF THE ESTATE TAX
29 EXCLUSION ALLOWED UNDER § 2031(C) OF THE INTERNAL REVENUE CODE OF
30 1986, AS AMENDED, IF:

31 (I) THE GOVERNING INSTRUMENT AUTHORIZES OR
32 DIRECTS THE DONATION OF A CONSERVATION EASEMENT ON THE REAL
33 PROPERTY; OR

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

4 **(10) ENTER INTO A LEASE AS LESSOR OR LESSEE, INCLUDING A**
5 **LEASE OR OTHER ARRANGEMENT FOR EXPLORATION AND REMOVAL OF**
6 **NATURAL RESOURCES, WITH OR WITHOUT THE OPTION TO PURCHASE OR**
7 **RENEW, FOR A PERIOD WITHIN OR EXTENDING BEYOND THE DURATION OF THE**
8 **TRUST;**

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

13 **(12) INSURE THE PROPERTY OF THE TRUST AGAINST DAMAGE OR**
14 **LOSS AND INSURE THE TRUSTEE, THE AGENTS OF THE TRUSTEE, AND**
15 **BENEFICIARIES AGAINST LIABILITY ARISING FROM THE ADMINISTRATION OF**
16 **THE TRUST;**

17 **(13) ABANDON OR DECLINE TO ADMINISTER PROPERTY OF NO**
18 **VALUE OR OF INSUFFICIENT VALUE TO JUSTIFY THE COLLECTION OR**
19 **CONTINUED ADMINISTRATION OF THE PROPERTY;**

20 **(14) WITH RESPECT TO POSSIBLE LIABILITY FOR VIOLATION OF**
21 **ENVIRONMENTAL LAW:**

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

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

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

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

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

5 (15) PAY OR CONTEST A CLAIM, SETTLE A CLAIM BY OR AGAINST
6 THE TRUST, AND RELEASE, IN WHOLE OR IN PART, A CLAIM BELONGING TO THE
7 TRUST;

8 (16) PAY TAXES, ASSESSMENTS, COMPENSATION OF THE TRUSTEE
9 AND OF EMPLOYEES AND AGENTS OF THE TRUST, AND OTHER EXPENSES
10 INCURRED IN THE ADMINISTRATION OF THE TRUST;

11 (17) EXERCISE ELECTIONS WITH RESPECT TO FEDERAL, STATE,
12 AND LOCAL TAXES;

13 (18) SELECT A MODE OF PAYMENT UNDER AN EMPLOYEE BENEFIT
14 OR RETIREMENT PLAN, ANNUITY, OR LIFE INSURANCE PAYABLE TO THE
15 TRUSTEE, EXERCISE RIGHTS UNDER THE PLAN, ANNUITY, OR LIFE INSURANCE,
16 INCLUDING EXERCISE OF THE RIGHT TO INDEMNIFICATION FOR EXPENSES AND
17 AGAINST LIABILITIES, AND TAKE APPROPRIATE ACTION TO COLLECT THE
18 PROCEEDS;

19 (19) MAKE LOANS OUT OF TRUST PROPERTY, INCLUDING LOANS
20 TO A BENEFICIARY ON TERMS AND CONDITIONS THE TRUSTEE CONSIDERS TO BE
21 FAIR AND REASONABLE UNDER THE CIRCUMSTANCES, AND ON WHICH THE
22 TRUSTEE HAS A LIEN ON FUTURE DISTRIBUTIONS FOR REPAYMENT OF THE
23 LOANS;

24 (20) PLEDGE TRUST PROPERTY TO GUARANTEE LOANS MADE BY
25 OTHERS TO THE BENEFICIARY;

26 (21) APPOINT A TRUSTEE TO ACT IN ANOTHER JURISDICTION WITH
27 RESPECT TO TRUST PROPERTY LOCATED IN THE OTHER JURISDICTION, CONFER
28 ON THE APPOINTED TRUSTEE ALL OF THE POWERS AND DUTIES OF THE
29 APPOINTING TRUSTEE, REQUIRE THAT THE APPOINTED TRUSTEE FURNISH
30 SECURITY, AND REMOVE A TRUSTEE APPOINTED UNDER THIS PARAGRAPH;

31 (22) (i) PAY AN AMOUNT DISTRIBUTABLE TO A BENEFICIARY
32 WHO IS UNDER A LEGAL DISABILITY OR WHO THE TRUSTEE REASONABLY
33 BELIEVES IS INCAPACITATED, BY PAYING THE AMOUNT DIRECTLY TO THE
34 BENEFICIARY OR APPLYING THE AMOUNT FOR THE BENEFIT OF THE
35 BENEFICIARY;

1 **(II) PAY THE AMOUNT DESCRIBED IN ITEM (I) OF THIS ITEM**
2 **TO THE GUARDIAN OF THE PROPERTY OF THE BENEFICIARY, OR, IF THE**
3 **BENEFICIARY DOES NOT HAVE A GUARDIAN OF THE PROPERTY, THE GUARDIAN**
4 **OF THE PERSON OF THE BENEFICIARY;**

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

8 **(IV) IF THE TRUSTEE DOES NOT KNOW OF A GUARDIAN OF**
9 **THE PROPERTY, GUARDIAN OF THE PERSON, OR CUSTODIAN, PAY THE AMOUNT**
10 **DESCRIBED IN ITEM (I) OF THIS ITEM TO AN ADULT RELATIVE OR OTHER**
11 **PERSON HAVING LEGAL OR PHYSICAL CARE OR CUSTODY OF THE BENEFICIARY,**
12 **TO BE EXPENDED ON BEHALF OF THE BENEFICIARY; OR**

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

16 **(23) ON DISTRIBUTION OF TRUST PROPERTY OR THE DIVISION OR**
17 **TERMINATION OF A TRUST, MAKE DISTRIBUTIONS IN DIVIDED OR UNDIVIDED**
18 **INTERESTS, ALLOCATE PARTICULAR ASSETS IN PROPORTIONATE OR**
19 **DISPROPORTIONATE SHARES, VALUE THE TRUST PROPERTY FOR THOSE**
20 **PURPOSES, AND ADJUST FOR RESULTING DIFFERENCES IN VALUATION;**

21 **(24) RESOLVE A DISPUTE CONCERNING THE INTERPRETATION OF**
22 **THE TRUST OR THE ADMINISTRATION OF THE TRUST BY MEDIATION,**
23 **ARBITRATION, OR OTHER PROCEDURE FOR ALTERNATIVE DISPUTE**
24 **RESOLUTION;**

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

28 **(26) SIGN AND DELIVER CONTRACTS AND OTHER INSTRUMENTS**
29 **THAT ARE USEFUL TO ACHIEVE OR FACILITATE THE EXERCISE OF THE POWERS**
30 **OF THE TRUSTEE;**

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

33 **(28) ON TERMINATION OF THE TRUST, EXERCISE THE POWERS**
34 **APPROPRIATE TO WIND UP THE ADMINISTRATION OF THE TRUST AND**

1 DISTRIBUTE THE TRUST PROPERTY TO THE PERSONS ENTITLED TO THE TRUST
2 PROPERTY.

3 14.5-817.

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

7 (2) THE RIGHT OF A BENEFICIARY TO OBJECT TO A PROPOSED
8 DISTRIBUTION UNDER PARAGRAPH (1) OF THIS SUBSECTION TERMINATES IF
9 THE BENEFICIARY DOES NOT NOTIFY THE TRUSTEE OF AN OBJECTION WITHIN
10 30 DAYS AFTER THE PROPOSAL WAS SENT BUT ONLY IF THE PROPOSAL
11 INFORMED THE BENEFICIARY OF THE RIGHT TO OBJECT AND OF THE TIME
12 ALLOWED FOR OBJECTION.

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

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

20 14.5-901.

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

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

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

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

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

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

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

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

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

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

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

8 **(9) SUBJECT TO § 14.5-912 OF THIS SUBTITLE, VOID AN ACT OF**
9 **THE TRUSTEE, IMPOSE A LIEN OR A CONSTRUCTIVE TRUST ON TRUST**
10 **PROPERTY, OR TRACE TRUST PROPERTY WRONGFULLY DISPOSED OF AND**
11 **RECOVER THE PROPERTY OR PROCEEDS FROM THE PROPERTY; OR**

12 **(10) ORDER OTHER APPROPRIATE RELIEF.**

13 **14.5-902.**

14 **(A) A TRUSTEE WHO COMMITS A BREACH OF TRUST IS LIABLE TO THE**
15 **BENEFICIARIES AFFECTED BY THE BREACH FOR THE GREATER OF:**

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

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

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

24 **(2) A TRUSTEE IS NOT ENTITLED TO CONTRIBUTION UNDER THIS**
25 **SUBSECTION IF THE TRUSTEE WAS SUBSTANTIALLY MORE AT FAULT THAN**
26 **ANOTHER TRUSTEE OR IF THE TRUSTEE COMMITTED THE BREACH OF TRUST IN**
27 **BAD FAITH OR WITH RECKLESS INDIFFERENCE TO THE PURPOSES OF THE**
28 **TRUST OR THE INTERESTS OF THE BENEFICIARIES.**

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

4 **14.5-903.**

5 **ABSENT A BREACH OF TRUST, A TRUSTEE IS NOT LIABLE TO A**
6 **BENEFICIARY FOR A LOSS OR DEPRECIATION IN THE VALUE OF TRUST**
7 **PROPERTY OR FOR NOT HAVING MADE A PROFIT.**

8 **14.5-904.**

9 **IN A JUDICIAL PROCEEDING INVOLVING THE ADMINISTRATION OF A**
10 **TRUST, THE COURT, AS JUSTICE AND EQUITY MAY REQUIRE, MAY AWARD COSTS**
11 **AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, TO A PARTY, TO BE**
12 **PAID BY ANOTHER PARTY, OR FROM THE TRUST THAT IS THE SUBJECT OF THE**
13 **CONTROVERSY.**

14 **14.5-905.**

15 **(A) A BENEFICIARY MAY NOT COMMENCE A PROCEEDING AGAINST A**
16 **TRUSTEE FOR BREACH OF TRUST MORE THAN 1 YEAR AFTER THE DATE THE**
17 **BENEFICIARY OR THE REPRESENTATIVE OF THE BENEFICIARY WAS SENT A**
18 **REPORT THAT ADEQUATELY DISCLOSED THE EXISTENCE OF A POTENTIAL CLAIM**
19 **FOR BREACH OF TRUST AND INFORMED THE BENEFICIARY OR THE**
20 **REPRESENTATIVE OF THE BENEFICIARY OF THE TIME ALLOWED FOR**
21 **COMMENCING A PROCEEDING.**

22 **(B) A REPORT ADEQUATELY DISCLOSES THE EXISTENCE OF A**
23 **POTENTIAL CLAIM FOR BREACH OF TRUST IF THE REPORT PROVIDES**
24 **SUFFICIENT INFORMATION SO THAT THE BENEFICIARY OR REPRESENTATIVE**
25 **KNOWS OF THE POTENTIAL CLAIM OR SHOULD HAVE INQUIRED INTO THE**
26 **EXISTENCE OF THE CLAIM.**

27 **(C) NO BENEFICIARY SHALL COMMENCE A JUDICIAL PROCEEDING**
28 **AGAINST A TRUSTEE FOR BREACH OF TRUST AFTER THE EARLIER OF:**

29 **(1) THE EXPIRATION OF AN APPLICABLE TIME PERIOD FOR**
30 **COMMENCING THE ACTION AS PROVIDED BY MARYLAND LAW; OR**

31 **(2) THREE YEARS AFTER THE FIRST TO OCCUR OF:**

32 **(i) THE REMOVAL, RESIGNATION, OR DEATH OF THE**
33 **TRUSTEE;**

1 **(II) THE TERMINATION OF THE INTEREST OF THE**
2 **BENEFICIARY IN THE TRUST; OR**

3 **(III) THE TERMINATION OF THE TRUST.**

4 **14.5-906.**

5 **A TRUSTEE WHO ACTS IN REASONABLE RELIANCE ON THE TERMS OF THE**
6 **TRUST AS EXPRESSED IN THE TRUST INSTRUMENT IS NOT LIABLE TO A**
7 **BENEFICIARY FOR A BREACH OF TRUST TO THE EXTENT THE BREACH RESULTED**
8 **FROM THE RELIANCE.**

9 **14.5-907.**

10 **IF THE HAPPENING OF AN EVENT, INCLUDING MARRIAGE, DIVORCE,**
11 **PERFORMANCE OF EDUCATIONAL REQUIREMENTS, DEATH, BIRTH, OR**
12 **ADOPTION, AFFECTS THE ADMINISTRATION OR DISTRIBUTION OF A TRUST, A**
13 **TRUSTEE WHO HAS EXERCISED REASONABLE CARE TO ASCERTAIN THE**
14 **HAPPENING OF THE EVENT IS NOT LIABLE FOR A LOSS RESULTING FROM THE**
15 **LACK OF KNOWLEDGE OF THE TRUSTEE.**

16 **14.5-908.**

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

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

22 **(2) WAS INSERTED INTO THE TRUST AS THE RESULT OF AN ABUSE**
23 **BY THE TRUSTEE OF A FIDUCIARY OR CONFIDENTIAL RELATIONSHIP TO THE**
24 **SETTLOR.**

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

31 **(C) IF THE SETTLOR WAS REPRESENTED BY INDEPENDENT COUNSEL,**
32 **AN EXCULPATORY TERM IS NOT CONSIDERED DRAFTED OR CAUSED TO BE**

1 DRAFTED BY THE TRUSTEE, EVEN IF THE TERM INCORPORATES SUGGESTED
2 PROVISIONS PROVIDED BY THE TRUSTEE.

3 **14.5-909.**

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

8 (1) THE CONSENT, RELEASE, OR RATIFICATION OF THE
9 BENEFICIARY WAS INDUCED BY IMPROPER CONDUCT OF THE TRUSTEE; OR

10 (2) AT THE TIME OF THE CONSENT, RELEASE, OR RATIFICATION,
11 THE BENEFICIARY DID NOT KNOW OF THE RIGHTS OF THE BENEFICIARY OR OF
12 THE MATERIAL FACTS RELATING TO THE BREACH.

13 **14.5-910.**

14 (A) EXCEPT AS OTHERWISE PROVIDED IN THE CONTRACT, A TRUSTEE IS
15 NOT PERSONALLY LIABLE ON A CONTRACT PROPERLY ENTERED INTO BY THE
16 TRUSTEE IN THE FIDUCIARY CAPACITY OF THE TRUSTEE IN THE COURSE OF
17 ADMINISTERING THE TRUST IF THE TRUSTEE IN THE CONTRACT DISCLOSED THE
18 FIDUCIARY CAPACITY.

19 (B) A TRUSTEE IS PERSONALLY LIABLE FOR TORTS COMMITTED IN THE
20 COURSE OF ADMINISTERING A TRUST, OR FOR OBLIGATIONS ARISING FROM
21 OWNERSHIP OR CONTROL OF TRUST PROPERTY, INCLUDING LIABILITY FOR
22 VIOLATION OF ENVIRONMENTAL LAW, ONLY IF THE TRUSTEE IS PERSONALLY AT
23 FAULT.

24 (C) A CLAIM BASED ON A CONTRACT ENTERED INTO BY A TRUSTEE IN
25 THE FIDUCIARY CAPACITY OF THE TRUSTEE, ON AN OBLIGATION ARISING FROM
26 OWNERSHIP OR CONTROL OF TRUST PROPERTY, OR ON A TORT COMMITTED IN
27 THE COURSE OF ADMINISTERING A TRUST, MAY BE ASSERTED IN A JUDICIAL
28 PROCEEDING AGAINST THE TRUSTEE IN THE FIDUCIARY CAPACITY OF THE
29 TRUSTEE, REGARDLESS OF WHETHER THE TRUSTEE IS PERSONALLY LIABLE
30 FOR THE CLAIM.

31 **14.5-911.**

32 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS
33 SECTION OR UNLESS PERSONAL LIABILITY IS IMPOSED IN THE CONTRACT, A
34 TRUSTEE WHO HOLDS AN INTEREST AS A GENERAL PARTNER IN A GENERAL OR

1 LIMITED PARTNERSHIP IS NOT PERSONALLY LIABLE ON A CONTRACT ENTERED
2 INTO BY THE PARTNERSHIP AFTER THE ACQUISITION BY THE TRUST OF THE
3 INTEREST IF THE FIDUCIARY CAPACITY WAS DISCLOSED IN THE CONTRACT OR
4 IN A STATEMENT PREVIOUSLY FILED IN ACCORDANCE WITH THE UNIFORM
5 PARTNERSHIP ACT OR UNIFORM LIMITED PARTNERSHIP ACT.

6 (B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS
7 SECTION, A TRUSTEE WHO HOLDS AN INTEREST AS A GENERAL PARTNER IS NOT
8 PERSONALLY LIABLE FOR TORTS COMMITTED BY THE PARTNERSHIP OR FOR
9 OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF THE INTEREST
10 UNLESS THE TRUSTEE IS PERSONALLY AT FAULT.

11 (C) THE IMMUNITY PROVIDED BY THIS SECTION DOES NOT APPLY IF AN
12 INTEREST IN THE PARTNERSHIP IS HELD BY THE TRUSTEE IN A CAPACITY
13 OTHER THAN THAT OF TRUSTEE OR IS HELD BY THE SPOUSE OF THE TRUSTEE
14 OR ONE OR MORE OF THE DESCENDANTS, SIBLINGS, OR PARENTS OF THE
15 TRUSTEE, OR THE SPOUSE OF A DESCENDANT, SIBLING, OR PARENT OF THE
16 TRUSTEE.

17 (D) IF THE TRUSTEE OF A REVOCABLE TRUST HOLDS AN INTEREST AS A
18 GENERAL PARTNER, THE SETTLOR IS PERSONALLY LIABLE FOR CONTRACTS
19 AND OTHER OBLIGATIONS OF THE PARTNERSHIP AS IF THE SETTLOR WERE A
20 GENERAL PARTNER.

21 14.5-912.

22 (A) A PERSON WHO IN GOOD FAITH ASSISTS A TRUSTEE, OR WHO IN
23 GOOD FAITH AND FOR VALUE DEALS WITH A TRUSTEE, WITHOUT KNOWLEDGE
24 THAT THE TRUSTEE IS EXCEEDING OR IMPROPERLY EXERCISING THE POWERS
25 OF THE TRUSTEE, IS PROTECTED FROM LIABILITY AS IF THE TRUSTEE
26 PROPERLY EXERCISED THOSE POWERS.

27 (B) A PERSON WHO IN GOOD FAITH DEALS WITH A TRUSTEE IS NOT
28 REQUIRED TO INQUIRE INTO THE EXTENT OF THE POWERS OF THE TRUSTEE OR
29 THE PROPRIETY OF THE EXERCISE OF A POWER OF THE TRUSTEE.

30 (C) A PERSON WHO IN GOOD FAITH DELIVERS ASSETS TO A TRUSTEE
31 NEED NOT ENSURE THE PROPER APPLICATION OF THE ASSETS.

32 (D) A PERSON WHO IN GOOD FAITH ASSISTS A FORMER TRUSTEE, OR
33 WHO IN GOOD FAITH AND FOR VALUE DEALS WITH A FORMER TRUSTEE,
34 WITHOUT KNOWLEDGE THAT THE TRUSTEESHIP HAS TERMINATED, IS
35 PROTECTED FROM LIABILITY AS IF THE FORMER TRUSTEE WAS STILL A
36 TRUSTEE.

1 **(E) COMPARABLE PROTECTIVE PROVISIONS OF OTHER LAWS RELATING**
2 **TO COMMERCIAL TRANSACTIONS OR TRANSFER OF SECURITIES BY FIDUCIARIES**
3 **PREVAIL OVER THE PROTECTION PROVIDED BY THIS SECTION.**

4 **14.5-913.**

5 **(A) INSTEAD OF FURNISHING A COPY OF THE TRUST INSTRUMENT TO A**
6 **PERSON OTHER THAN A BENEFICIARY, THE TRUSTEE MAY FURNISH TO THE**
7 **PERSON A CERTIFICATION OF TRUST CONTAINING THE FOLLOWING**
8 **INFORMATION:**

9 **(1) THAT THE TRUST EXISTS AND THE DATE THE TRUST**
10 **INSTRUMENT WAS EXECUTED;**

11 **(2) THE IDENTITY OF THE SETTLOR;**

12 **(3) THE IDENTITY AND ADDRESS OF THE CURRENTLY ACTING**
13 **TRUSTEE;**

14 **(4) THE POWERS OF THE TRUSTEE IN THE PENDING**
15 **TRANSACTION;**

16 **(5) THE REVOCABILITY OR IRREVOCABILITY OF THE TRUST AND**
17 **THE IDENTITY OF A PERSON HOLDING A POWER TO REVOKE THE TRUST;**

18 **(6) THE AUTHORITY OF COTRUSTEES TO SIGN OR OTHERWISE**
19 **AUTHENTICATE AND WHETHER THE AUTHENTICATION OF ALL OR FEWER THAN**
20 **ALL OF THE COTRUSTEES IS REQUIRED IN ORDER TO EXERCISE POWERS OF THE**
21 **TRUSTEE;**

22 **(7) THE TAXPAYER IDENTIFICATION NUMBER OF THE TRUST,**
23 **UNLESS THE TAXPAYER IDENTIFICATION NUMBER IS ALSO THE SOCIAL**
24 **SECURITY NUMBER OF A SETTLOR; AND**

25 **(8) THE MANNER AND NAME IN WHICH TITLE TO TRUST**
26 **PROPERTY MAY BE TAKEN.**

27 **(B) A CERTIFICATION OF TRUST MAY BE SIGNED OR OTHERWISE**
28 **AUTHENTICATED BY A TRUSTEE.**

29 **(C) A CERTIFICATION OF TRUST SHALL STATE THAT THE TRUST HAS**
30 **NOT BEEN REVOKED, MODIFIED, OR AMENDED IN A MANNER THAT WOULD**

1 CAUSE THE REPRESENTATIONS CONTAINED IN THE CERTIFICATION OF TRUST
2 TO BE INCORRECT.

3 (D) A CERTIFICATION OF TRUST NEED NOT CONTAIN THE DISPOSITIVE
4 TERMS OF A TRUST.

5 (E) A RECIPIENT OF A CERTIFICATION OF TRUST MAY REQUIRE THE
6 TRUSTEE TO FURNISH COPIES OF THOSE EXCERPTS FROM THE ORIGINAL TRUST
7 INSTRUMENT AND LATER AMENDMENTS WHICH DESIGNATE THE TRUSTEE AND
8 CONFER ON THE TRUSTEE THE POWER TO ACT IN THE PENDING TRANSACTION.

9 (F) (1) A PERSON WHO ACTS IN RELIANCE ON A CERTIFICATION OF
10 TRUST WITHOUT KNOWLEDGE THAT THE REPRESENTATIONS CONTAINED IN THE
11 TRUST ARE INCORRECT IS NOT LIABLE FOR THE ACT AND MAY ASSUME WITHOUT
12 INQUIRY THE EXISTENCE OF THE FACTS CONTAINED IN THE CERTIFICATION.

13 (2) KNOWLEDGE OF THE TERMS OF THE TRUST MAY NOT BE
14 INFERRED SOLELY FROM THE FACT THAT A COPY OF ALL OR PART OF THE
15 TRUST INSTRUMENT IS HELD BY THE PERSON RELYING ON THE CERTIFICATION.

16 (G) A PERSON WHO IN GOOD FAITH ENTERS INTO A TRANSACTION IN
17 RELIANCE ON A CERTIFICATION OF TRUST MAY ENFORCE THE TRANSACTION
18 AGAINST THE TRUST PROPERTY AS IF THE REPRESENTATIONS CONTAINED IN
19 THE CERTIFICATION WERE CORRECT.

20 (H) A PERSON MAKING A DEMAND FOR THE TRUST INSTRUMENT IN
21 ADDITION TO A CERTIFICATION OF TRUST OR EXCERPTS OF THE TRUST IS
22 LIABLE FOR DAMAGES IF THE COURT DETERMINES THAT THE PERSON DID NOT
23 ACT IN GOOD FAITH IN DEMANDING THE TRUST INSTRUMENT.

24 (I) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PERSON TO OBTAIN
25 A COPY OF THE TRUST INSTRUMENT IN A JUDICIAL PROCEEDING CONCERNING
26 THE TRUST.

27 **SUBTITLE 10. MISCELLANEOUS PROVISIONS.**

28 **14.5-1001.**

29 THE PROVISIONS OF THIS TITLE GOVERNING THE LEGAL EFFECT,
30 VALIDITY, OR ENFORCEABILITY OF ELECTRONIC RECORDS OR ELECTRONIC
31 SIGNATURES, AND OF CONTRACTS FORMED OR PERFORMED WITH THE USE OF
32 THOSE RECORDS OR SIGNATURES, CONFORM TO THE REQUIREMENTS OF § 102
33 OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

1 **(15 U.S.C. § 7002) AND SUPERSEDE, MODIFY, AND LIMIT THE REQUIREMENTS**
2 **OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**

3 **14.5-1002.**

4 **IF A PROVISION OF THIS TITLE OR THE APPLICATION OF A PROVISION TO**
5 **A PERSON OR CIRCUMSTANCES IS HELD INVALID, THE INVALIDITY DOES NOT**
6 **AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE WHICH CAN BE**
7 **GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO**
8 **THIS END THE PROVISIONS OF THIS TITLE ARE SEVERABLE.**

9 **14.5-1003.**

10 **(A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, ON OCTOBER 1,**
11 **2011:**

12 **(1) THIS TITLE APPLIES TO ALL TRUSTS CREATED BEFORE, ON,**
13 **OR AFTER OCTOBER 1, 2011;**

14 **(2) THIS TITLE APPLIES TO ALL JUDICIAL PROCEEDINGS**
15 **CONCERNING TRUSTS COMMENCED ON OR AFTER OCTOBER 1, 2011;**

16 **(3) THIS TITLE APPLIES TO JUDICIAL PROCEEDINGS**
17 **CONCERNING TRUSTS COMMENCED BEFORE OCTOBER 1, 2011, UNLESS THE**
18 **COURT FINDS THAT APPLICATION OF A PARTICULAR PROVISION OF THIS TITLE**
19 **WOULD SUBSTANTIALLY INTERFERE WITH THE EFFECTIVE CONDUCT OF THE**
20 **JUDICIAL PROCEEDINGS OR PREJUDICE THE RIGHTS OF THE PARTIES, IN**
21 **WHICH CASE THE PARTICULAR PROVISION OF THIS TITLE DOES NOT APPLY AND**
22 **THE SUPERSEDED LAW APPLIES;**

23 **(4) A RULE OF CONSTRUCTION OR PRESUMPTION PROVIDED IN**
24 **THIS TITLE APPLIES TO TRUST INSTRUMENTS EXECUTED BEFORE OCTOBER 1,**
25 **2011, UNLESS THERE IS A CLEAR INDICATION OF A CONTRARY INTENT IN THE**
26 **TERMS OF THE TRUST; AND**

27 **(5) AN ACT DONE BEFORE OCTOBER 1, 2011, IS NOT AFFECTED**
28 **BY THIS TITLE.**

29 **(B) IF A RIGHT IS ACQUIRED, EXTINGUISHED, OR BARRED ON THE**
30 **EXPIRATION OF A PRESCRIBED PERIOD THAT HAS COMMENCED TO RUN UNDER**
31 **ANOTHER STATUTE BEFORE OCTOBER 1, 2011, THAT STATUTE CONTINUES TO**
32 **APPLY TO THE RIGHT EVEN IF THE STATUTE HAS BEEN REPEALED OR**
33 **SUPERSEDED.**

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Article – Financial Institutions

3–506.

(b) To the extent that a fund plan does not provide otherwise as to the determination, allocation, and apportionment of principal and income, the principles of Title 14 **AND TITLE 14.5** of the Estates and Trusts Article apply.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.