

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0489.01 Richard Sweetman x4333

SENATE BILL 18-180

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Wist and Gray,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE COLORADO TRUST CODE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Colorado Commission on Uniform State Laws. Under current law, the administration of trusts is generally governed by certain provisions within the probate code. The bill repeals many of these provisions and creates a new Colorado trust code (code) outside the probate code to address trust administration. The new code includes provisions concerning:

- ! Judicial proceedings;
- ! Representation;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Creation, validity, modification, and termination of trusts;
- ! Duties and powers of trustees; and
- ! Liabilities of trustees and rights of persons dealing with trustees.

The bill also makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 5 to title
3 15 as follows:

4 **ARTICLE 5**

5 **Colorado Trust Code**

6 **PART 1**

7 **GENERAL PROVISIONS AND DEFINITIONS**

8 **15-5-101. Short title.** THIS ARTICLE 5 IS KNOWN AND MAY BE
9 CITED AS THE "COLORADO TRUST CODE" AND IS REFERRED TO IN THIS
10 ARTICLE 5 AS "THIS CODE" OR "CODE".

11 **15-5-102. Scope.** THIS CODE APPLIES TO EXPRESS TRUSTS,
12 CHARITABLE OR NONCHARITABLE, AND TRUSTS CREATED PURSUANT TO A
13 STATUTE, JUDGMENT, OR DECREE THAT REQUIRES THE TRUST TO BE
14 ADMINISTERED IN THE MANNER OF AN EXPRESS TRUST. THIS CODE DOES
15 NOT APPLY TO A BUSINESS TRUST; A TRUST THAT IS USED PRIMARILY FOR
16 BUSINESS, EMPLOYMENT, INVESTMENT, OR COMMERCIAL TRANSACTIONS;
17 A LAND TRUST; A VOTING TRUST; A COMMON TRUST FUND; A SECURITY
18 ARRANGEMENT; A LIQUIDATION TRUST; A TRUST CREATED BY A DEPOSIT
19 ARRANGEMENT IN A FINANCIAL INSTITUTION; A TRUST CREATED FOR
20 PAYING DEBTS, DIVIDENDS, INTEREST, SALARIES, WAGES, PROFITS,
21 PENSIONS, OR EMPLOYEE BENEFITS OF ANY KIND; OR ANY ARRANGEMENT
22 UNDER WHICH A PERSON IS A NOMINEE OR ESCROWEE FOR ANOTHER.

23 **15-5-103. Definitions.** AS USED IN THIS ARTICLE 5, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

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

4 (2) "ALTERNATIVE DISPUTE RESOLUTION" MEANS A METHOD OF
5 NONJUDICIAL DISPUTE RESOLUTION AS SET FORTH IN THE TRUST
6 INSTRUMENT, WHICH MAY INCLUDE BUT IS NOT LIMITED TO A METHOD
7 PRESCRIBED PURSUANT TO THE UNIFORM ARBITRATION ACT, PART 2 OF
8 ARTICLE 22 OF TITLE 13.

9 (3) "ASCERTAINABLE STANDARD" MEANS A STANDARD RELATING
10 TO AN INDIVIDUAL'S HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE
11 WITHIN THE MEANING OF SECTION 2041 (b)(1)(A) OR 2514 (c)(1) OF THE
12 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

13 (4) (a) "BENEFICIARY" MEANS A PERSON WHO:

14 (I) HAS A PRESENT OR FUTURE BENEFICIAL INTEREST IN A TRUST,
15 VESTED OR CONTINGENT; OR

16 (II) IN A CAPACITY OTHER THAN THAT OF TRUSTEE, HOLDS A
17 POWER OF APPOINTMENT OVER TRUST PROPERTY.

18 (b) "BENEFICIARY" DOES NOT INCLUDE AN APPOINTEE UNDER A
19 POWER OF APPOINTMENT UNLESS AND UNTIL THE POWER IS EXERCISED AND
20 THE TRUSTEE HAS KNOWLEDGE OF THE EXERCISE AND THE IDENTITY OF
21 THE APPOINTEE.

22 (5) "BUSINESS TRUST" HAS THE SAME MEANING AS SET FORTH IN
23 SECTION 15-10-201 (6.5).

24 (6) "CHARITABLE TRUST" MEANS A TRUST, OR A PORTION OF A
25 TRUST, CREATED FOR A CHARITABLE PURPOSE DESCRIBED IN SECTION
26 15-5-405 (1).

27 (7) "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO

1 ADMINISTER THE ESTATE OF A MINOR OR ADULT INDIVIDUAL.

2 (8) "ENVIRONMENTAL LAW" MEANS A FEDERAL, STATE, OR LOCAL
3 LAW, RULE, REGULATION, OR ORDINANCE RELATING TO PROTECTION OF
4 THE ENVIRONMENT.

5 (9) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO
6 MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH,
7 AND WELFARE OF A MINOR OR ADULT INDIVIDUAL. THE TERM DOES NOT
8 INCLUDE A GUARDIAN AD LITEM.

9 (10) "INTERESTED PERSON" MEANS A QUALIFIED BENEFICIARY OR
10 OTHER PERSON HAVING A PROPERTY RIGHT IN OR CLAIM AGAINST A TRUST
11 ESTATE, WHICH RIGHT OR CLAIM MAY REASONABLY AND MATERIALLY BE
12 AFFECTED BY A JUDICIAL PROCEEDING PURSUANT TO THIS CODE. THE TERM
13 ALSO INCLUDES FIDUCIARIES AND OTHER PERSONS HAVING AUTHORITY TO
14 ACT UNDER THE TERMS OF THE TRUST.

15 (11) "INTERESTS OF THE BENEFICIARIES" MEANS THE BENEFICIAL
16 INTERESTS PROVIDED IN THE TERMS OF THE TRUST.

17 (12) "JURISDICTION", WITH RESPECT TO A GEOGRAPHICAL AREA,
18 INCLUDES A STATE OR COUNTRY.

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

24 (14) "POWER OF WITHDRAWAL" MEANS A PRESENTLY EXERCISABLE
25 GENERAL POWER OF APPOINTMENT OTHER THAN A POWER:

26 (a) EXERCISABLE BY A TRUSTEE AND LIMITED BY AN
27 ASCERTAINABLE STANDARD; OR

1 (b) EXERCISABLE BY ANOTHER PERSON ONLY UPON CONSENT OF
2 THE TRUSTEE OR A PERSON HOLDING AN ADVERSE INTEREST.

3 (15) "PROPERTY" MEANS ANYTHING THAT MAY BE THE SUBJECT OF
4 OWNERSHIP, WHETHER REAL OR PERSONAL, LEGAL OR EQUITABLE, OR ANY
5 INTEREST THEREIN.

6 (16) "QUALIFIED BENEFICIARY" MEANS A BENEFICIARY WHO, ON
7 THE DATE THE BENEFICIARY'S QUALIFICATION IS DETERMINED:

8 (a) IS A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF TRUST
9 INCOME OR PRINCIPAL;

10 (b) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF
11 TRUST INCOME OR PRINCIPAL IF THE INTERESTS OF THE DISTRIBUTEES
12 DESCRIBED IN SUBSECTION (16)(a) OF THIS SECTION TERMINATED ON THAT
13 DATE WITHOUT CAUSING THE TRUST TO TERMINATE; OR

14 (c) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF
15 TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON THAT DATE.

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

19 (18) "SETTLOR" MEANS A PERSON, INCLUDING A TESTATOR, WHO
20 CREATES, OR CONTRIBUTES PROPERTY TO, A TRUST. IF MORE THAN ONE
21 PERSON CREATES OR CONTRIBUTES PROPERTY TO A TRUST, EACH PERSON
22 IS A SETTLOR OF THE PORTION OF THE TRUST PROPERTY ATTRIBUTABLE TO
23 THAT PERSON'S CONTRIBUTION EXCEPT TO THE EXTENT ANOTHER PERSON
24 HAS THE POWER TO REVOKE OR HAS A POWER OF WITHDRAWAL OVER THAT
25 PORTION.

26 (19) "SPENDTHRIFT PROVISION" MEANS A TERM OF A TRUST THAT
27 RESTRAINS BOTH VOLUNTARY AND INVOLUNTARY TRANSFER OF A

1 BENEFICIARY'S INTEREST.

2 (20) "STATE" MEANS A STATE OF THE UNITED STATES, THE
3 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
4 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE
5 JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES AN INDIAN
6 TRIBE OR BAND RECOGNIZED BY FEDERAL LAW OR FORMALLY
7 ACKNOWLEDGED BY A STATE.

8 (21) "TERMS OF A TRUST" MEANS THE MANIFESTATION OF THE
9 SETTLOR'S INTENT REGARDING A TRUST'S PROVISIONS, AS EXPRESSED IN
10 THE TRUST INSTRUMENT, OR AS MAY BE ESTABLISHED BY OTHER EVIDENCE
11 IN A JUDICIAL PROCEEDING, OR IN A NONJUDICIAL SETTLEMENT
12 AGREEMENT PURSUANT TO SECTION 15-5-111 OR BY ALTERNATIVE
13 DISPUTE RESOLUTION PURSUANT TO SECTION 15-5-113.

14 (22) "TRUST INSTRUMENT" MEANS AN INSTRUMENT EXECUTED BY
15 THE SETTLOR THAT CONTAINS TERMS OF THE TRUST, INCLUDING ANY
16 AMENDMENTS THERETO.

17 (23) "TRUSTEE" INCLUDES AN ORIGINAL, AN ADDITIONAL, AND A
18 SUCCESSOR TRUSTEE OR A COTRUSTEE.

19 **15-5-104. Knowledge.** (1) SUBJECT TO SUBSECTION (2) OF THIS
20 SECTION, A PERSON HAS KNOWLEDGE OF A FACT IF THE PERSON:

- 21 (a) HAS ACTUAL KNOWLEDGE OF IT;
- 22 (b) HAS RECEIVED A NOTICE OR NOTIFICATION OF IT; OR
- 23 (c) FROM ALL THE FACTS AND CIRCUMSTANCES KNOWN TO THE
24 PERSON AT THE TIME IN QUESTION, HAS REASON TO KNOW IT.

25 (2) AN ORGANIZATION THAT CONDUCTS ACTIVITIES THROUGH
26 EMPLOYEES HAS NOTICE OR KNOWLEDGE OF A FACT INVOLVING A TRUST
27 ONLY FROM THE TIME THE INFORMATION WAS RECEIVED BY AN EMPLOYEE

1 HAVING RESPONSIBILITY TO ACT FOR THE TRUST, OR WOULD HAVE BEEN
2 BROUGHT TO THE EMPLOYEE'S ATTENTION IF THE ORGANIZATION HAD
3 EXERCISED REASONABLE DILIGENCE. AN ORGANIZATION EXERCISES
4 REASONABLE DILIGENCE IF IT MAINTAINS ROUTINES FOR COMMUNICATING
5 SIGNIFICANT INFORMATION TO THE EMPLOYEE HAVING RESPONSIBILITY TO
6 ACT FOR THE TRUST AND THERE IS REASONABLE COMPLIANCE WITH THE
7 ROUTINES. REASONABLE DILIGENCE DOES NOT REQUIRE AN EMPLOYEE OF
8 THE ORGANIZATION TO COMMUNICATE INFORMATION UNLESS THE
9 COMMUNICATION IS PART OF THE INDIVIDUAL'S REGULAR DUTIES OR THE
10 INDIVIDUAL KNOWS THAT A MATTER INVOLVING THE TRUST WOULD BE
11 MATERIALLY AFFECTED BY THE INFORMATION.

12 **15-5-105. Default and mandatory rules.** (1) EXCEPT AS
13 OTHERWISE PROVIDED IN THE TERMS OF THE TRUST, THIS CODE GOVERNS
14 THE DUTIES, RIGHTS, AND POWERS OF A TRUSTEE; RELATIONS AMONG
15 TRUSTEES; THE RIGHTS, POWERS, AND INTERESTS OF A BENEFICIARY; THE
16 RELATIONSHIP BETWEEN THE TRUSTEES AND THE BENEFICIARIES; THE
17 PURPOSE OF THE TRUST; AND OTHER MATTERS WITH RESPECT TO THE
18 TRUST OR THE PROPERTY SUBJECT TO THE TRUST.

19 (2) THE TERMS OF A TRUST PREVAIL OVER ANY PROVISION OF THIS
20 CODE EXCEPT:

21 (a) THE MINIMUM REQUIREMENTS FOR CREATING THE TRUST;

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

25 (c) THE REQUIREMENT THAT A TRUST AND ITS TERMS BE FOR THE
26 BENEFIT OF ITS BENEFICIARIES AND THAT THE TRUST HAVE A PURPOSE
27 THAT IS LAWFUL, NOT CONTRARY TO PUBLIC POLICY, AND POSSIBLE TO

- 1 ACHIEVE;
- 2 (d) THE POWER OF THE COURT TO MODIFY OR TERMINATE A TRUST
- 3 PURSUANT TO SECTIONS 15-5-410 TO 15-5-416;
- 4 (e) (Reserved)
- 5 (f) THE POWER OF THE COURT PURSUANT TO SECTION 15-5-702 TO
- 6 REQUIRE, DISPENSE WITH, MODIFY, OR TERMINATE A BOND;
- 7 (g) THE POWER OF THE COURT PURSUANT TO SECTION 15-5-708 (2)
- 8 TO ADJUST A TRUSTEE'S COMPENSATION SPECIFIED IN THE TERMS OF THE
- 9 TRUST THAT IS UNREASONABLY LOW OR HIGH;
- 10 (h) THE DUTY PURSUANT TO SECTION 15-5-813 (2)(b) AND (2)(c)
- 11 TO PROVIDE NOTICE OF THE EXISTENCE OF AN IRREVOCABLE TRUST, OF THE
- 12 IDENTITY OF THE TRUSTEE, AND OF THE RIGHT TO REQUEST TRUSTEE'S
- 13 REPORTS TO CURRENT DISTRIBUTEES OR PERMISSIBLE DISTRIBUTEES OF
- 14 SUCH TRUST AT ANY AGE, OR TO OTHER QUALIFIED BENEFICIARIES OF SUCH
- 15 TRUST WHO HAVE ATTAINED TWENTY-FIVE YEARS OF AGE;
- 16 (i) THE DUTY PURSUANT TO SECTION 15-5-813 (1) TO RESPOND TO
- 17 THE REQUEST OF A QUALIFIED BENEFICIARY OF AN IRREVOCABLE TRUST
- 18 FOR TRUSTEE'S REPORTS AND OTHER INFORMATION REASONABLY RELATED
- 19 TO THE ADMINISTRATION OF A TRUST;
- 20 (j) THE EFFECT OF AN EXCULPATORY TERM PURSUANT TO SECTION
- 21 15-5-1008;
- 22 (k) THE RIGHTS PURSUANT TO SECTIONS 15-5-1010 TO 15-5-1013
- 23 OF A PERSON OTHER THAN A TRUSTEE OR BENEFICIARY;
- 24 (l) THE PERIODS OF LIMITATION FOR COMMENCING A JUDICIAL
- 25 PROCEEDING;
- 26 (m) CONSISTENT WITH THE TERMS OF THE TRUST AND THE
- 27 PROVISIONS OF THIS CODE, THE POWER OF THE COURT TO TAKE SUCH

1 ACTION AND EXERCISE SUCH JURISDICTION NOT INCONSISTENT WITH A
2 SETTLOR'S INTENT AS MAY BE NECESSARY IN THE INTERESTS OF JUSTICE;
3 AND

4 (n) THE SUBJECT MATTER JURISDICTION OF THE COURT AND VENUE
5 FOR COMMENCING A PROCEEDING AS PROVIDED IN SECTIONS 15-5-203 AND
6 15-5-204, UNLESS THE TRUST INSTRUMENT REQUIRES ALTERNATIVE
7 DISPUTE RESOLUTION.

8 **15-5-106. Common law of trusts - principles of equity.** UNLESS
9 DISPLACED BY THE PARTICULAR PROVISIONS OF THIS CODE, THE COMMON
10 LAW OF TRUSTS AND PRINCIPLES OF LAW AND EQUITY, AND OTHER
11 STATUTES OF THIS STATE, SUPPLEMENT ITS PROVISIONS.

12 **15-5-107. Governing law.** (1) THE MEANING AND EFFECT OF THE
13 TERMS OF A TRUST ARE DETERMINED BY:

14 (a) THE LAW OF THE JURISDICTION DESIGNATED IN THE TERMS OF
15 THE TRUST UNLESS THE DESIGNATION OF THAT JURISDICTION'S LAW IS
16 CONTRARY TO A STRONG PUBLIC POLICY OF THE JURISDICTION HAVING THE
17 MOST SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE; OR

18 (b) IN THE ABSENCE OF A CONTROLLING DESIGNATION IN THE
19 TERMS OF THE TRUST, THE LAW OF THE JURISDICTION HAVING THE MOST
20 SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE.

21 **15-5-108. Principal place of administration.** (1) WITHOUT
22 PRECLUDING OTHER MEANS FOR ESTABLISHING A SUFFICIENT CONNECTION
23 WITH THE DESIGNATED JURISDICTION, TERMS OF A TRUST DESIGNATING
24 THE PRINCIPAL PLACE OF ADMINISTRATION ARE VALID AND CONTROLLING
25 IF:

26 (a) A TRUSTEE'S PRINCIPAL PLACE OF BUSINESS IS LOCATED IN OR
27 A TRUSTEE IS A RESIDENT OF THE DESIGNATED JURISDICTION; OR

1 (b) ALL OR PART OF THE ADMINISTRATION OCCURS IN THE
2 DESIGNATED JURISDICTION.

3 (2) IN THE CASE OF COTRUSTEES, THE PRINCIPAL PLACE OF
4 ADMINISTRATION, IF NOT OTHERWISE DESIGNATED IN THE TRUST
5 INSTRUMENT, IS THE USUAL PLACE OF BUSINESS OF THE CORPORATE
6 TRUSTEE IF THERE IS BUT ONE CORPORATE COTRUSTEE, OR THE USUAL
7 PLACE OF BUSINESS OR RESIDENCE OF THE INDIVIDUAL TRUSTEE WHO IS A
8 PROFESSIONAL FIDUCIARY IF THERE IS BUT ONE SUCH PERSON AND NO
9 CORPORATE COTRUSTEE, AND OTHERWISE THE USUAL PLACE OF BUSINESS
10 OR RESIDENCE OF ANY OF THE COTRUSTEES AS AGREED UPON BY THEM.

11 (3) A TRUSTEE IS UNDER A CONTINUING DUTY TO ADMINISTER THE
12 TRUST AT A PLACE APPROPRIATE TO ITS PURPOSES, ITS ADMINISTRATION,
13 AND THE INTERESTS OF THE BENEFICIARIES.

14 (4) WITHOUT PRECLUDING THE RIGHT OF THE COURT TO ORDER,
15 APPROVE, OR DISAPPROVE A TRANSFER, THE TRUSTEE, IN FURTHERANCE OF
16 THE DUTY PRESCRIBED BY SUBSECTION (2) OF THIS SECTION, MAY
17 TRANSFER THE TRUST'S PRINCIPAL PLACE OF ADMINISTRATION TO
18 ANOTHER STATE OR TO A JURISDICTION OUTSIDE THE UNITED STATES.

19 (5) THE TRUSTEE SHALL NOTIFY THE QUALIFIED BENEFICIARIES OF
20 A PROPOSED TRANSFER OF A TRUST'S PRINCIPAL PLACE OF
21 ADMINISTRATION NOT LESS THAN SIXTY DAYS BEFORE INITIATING THE
22 TRANSFER. THE NOTICE OF A PROPOSED TRANSFER MUST INCLUDE:

23 (a) THE NAME OF THE JURISDICTION TO WHICH THE PRINCIPAL
24 PLACE OF ADMINISTRATION IS TO BE TRANSFERRED;

25 (b) THE ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER AT
26 THE NEW LOCATION AT WHICH THE TRUSTEE CAN BE CONTACTED;

27 (c) AN EXPLANATION OF THE REASONS FOR THE PROPOSED

1 TRANSFER;

2 (d) THE DATE ON WHICH THE PROPOSED TRANSFER IS ANTICIPATED
3 TO OCCUR; AND

4 (e) THE DATE, NOT LESS THAN SIXTY DAYS AFTER THE GIVING OF
5 THE NOTICE, BY WHICH THE QUALIFIED BENEFICIARY MUST NOTIFY THE
6 TRUSTEE OF AN OBJECTION TO THE PROPOSED TRANSFER.

7 (6) IF A QUALIFIED BENEFICIARY NOTIFIES THE TRUSTEE OF AN
8 OBJECTION TO A PROPOSED TRANSFER OF THE TRUST'S PRINCIPAL PLACE OF
9 ADMINISTRATION, THE AUTHORITY OF A TRUSTEE PURSUANT TO THIS
10 SECTION TO TRANSFER A TRUST'S PRINCIPAL PLACE OF ADMINISTRATION IS
11 SUSPENDED, PENDING RESOLUTION OF THE OBJECTION.

12 (7) IN CONNECTION WITH A TRANSFER OF THE TRUST'S PRINCIPAL
13 PLACE OF ADMINISTRATION, THE TRUSTEE MAY TRANSFER SOME OR ALL OF
14 THE TRUST PROPERTY TO A SUCCESSOR TRUSTEE DESIGNATED IN THE
15 TERMS OF THE TRUST OR APPOINTED PURSUANT TO SECTION 15-5-704.

16 **15-5-109. Methods and waiver of notice in matters other than**
17 **judicial proceedings.** (1) NOTICE TO A PERSON PURSUANT TO THIS CODE
18 OR THE SENDING OF A DOCUMENT TO A PERSON PURSUANT TO THIS CODE
19 MUST BE ACCOMPLISHED IN A MANNER REASONABLY SUITABLE UNDER THE
20 CIRCUMSTANCES AND LIKELY TO RESULT IN RECEIPT OF THE NOTICE OR
21 DOCUMENT. PERMISSIBLE METHODS OF NOTICE OR FOR SENDING A
22 DOCUMENT INCLUDE FIRST-CLASS MAIL, PERSONAL DELIVERY, DELIVERY
23 TO THE PERSON'S LAST-KNOWN PLACE OF RESIDENCE OR PLACE OF
24 BUSINESS, OR A PROPERLY DIRECTED ELECTRONIC MESSAGE.

25 (2) A TRUSTEE NEED NOT PROVIDE A NOTICE OR DOCUMENT
26 OTHERWISE REQUIRED PURSUANT TO THIS CODE TO A PERSON WHOSE
27 IDENTITY OR LOCATION IS UNKNOWN TO AND NOT REASONABLY

1 ASCERTAINABLE BY THE TRUSTEE. THE TRUSTEE SHALL MAINTAIN
2 DOCUMENTATION OF THE TRUSTEE'S REASONABLE EFFORTS TO ASCERTAIN
3 THE IDENTITY OR LOCATION OF SUCH A PERSON.

4 (3) NOTICE PURSUANT TO THIS CODE OR THE SENDING OF A
5 DOCUMENT PURSUANT TO THIS CODE MAY BE WAIVED BY THE PERSON WHO
6 IS TO BE NOTIFIED OR SENT THE DOCUMENT.

7 (4) NOTICE OF A JUDICIAL PROCEEDING MUST BE GIVEN AS
8 PROVIDED IN THE COLORADO RULES OF PROBATE PROCEDURE, THE
9 COLORADO PROBATE CODE, AND, IF APPLICABLE, THE COLORADO RULES
10 OF CIVIL PROCEDURE.

11 **15-5-110. Others treated as qualified beneficiaries.**

12 (1) WHENEVER NOTICE TO QUALIFIED BENEFICIARIES OF A TRUST IS
13 REQUIRED PURSUANT TO THIS CODE, THE TRUSTEE SHALL ALSO GIVE
14 NOTICE TO ANY OTHER BENEFICIARY WHO HAS SENT THE TRUSTEE A
15 REQUEST FOR NOTICE.

16 (2) A CHARITABLE ORGANIZATION EXPRESSLY DESIGNATED TO
17 RECEIVE DISTRIBUTIONS UNDER THE TERMS OF A CHARITABLE TRUST HAS
18 THE RIGHTS OF A QUALIFIED BENEFICIARY PURSUANT TO THIS CODE IF THE
19 CHARITABLE ORGANIZATION, ON THE DATE THE CHARITABLE
20 ORGANIZATION'S QUALIFICATION IS BEING DETERMINED:

21 (a) IS A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF TRUST
22 INCOME OR PRINCIPAL;

23 (b) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF
24 TRUST INCOME OR PRINCIPAL UPON THE TERMINATION OF THE INTERESTS
25 OF OTHER DISTRIBUTEES OR PERMISSIBLE DISTRIBUTEES THEN RECEIVING
26 OR ELIGIBLE TO RECEIVE DISTRIBUTIONS; OR

27 (c) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF

1 TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON THAT DATE.

2 (3) A PERSON APPOINTED TO ENFORCE A TRUST CREATED FOR THE
3 CARE OF AN ANIMAL OR ANOTHER NONCHARITABLE PURPOSE AS PROVIDED
4 IN SECTION 15-5-408 OR 15-5-409 HAS THE RIGHTS OF A QUALIFIED
5 BENEFICIARY PURSUANT TO THIS CODE.

6 (4) THE ATTORNEY GENERAL HAS THE RIGHTS OF A QUALIFIED
7 BENEFICIARY WITH RESPECT TO A CHARITABLE TRUST HAVING ITS
8 PRINCIPAL PLACE OF ADMINISTRATION IN THIS STATE.

9 **15-5-111. Nonjudicial settlement agreements.** (1) EXCEPT AS
10 OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, ANY PERSON
11 MAY ENTER INTO A BINDING NONJUDICIAL SETTLEMENT AGREEMENT WITH
12 RESPECT TO ANY MATTER INVOLVING A TRUST, REGARDLESS OF WHETHER
13 THE SETTLEMENT AGREEMENT IS SUPPORTED BY CONSIDERATION.

14 (2) THE REQUIRED PARTIES TO A NONJUDICIAL SETTLEMENT
15 AGREEMENT ARE THOSE PERSONS WHOSE INTERESTS IN THE TRUST WOULD
16 BE MATERIALLY AFFECTED BY ITS PROVISIONS WERE THE SETTLEMENT
17 AGREEMENT TO BE APPROVED BY THE COURT AT THE TIME IT WAS ENTERED
18 INTO BY THE PARTIES.

19 (3) A NONJUDICIAL SETTLEMENT AGREEMENT IS VALID ONLY TO
20 THE EXTENT IT DOES NOT VIOLATE A MATERIAL PURPOSE OF THE TRUST
21 AND INCLUDES TERMS AND CONDITIONS THAT COULD BE PROPERLY
22 APPROVED BY THE COURT PURSUANT TO THIS CODE OR OTHER APPLICABLE
23 LAW.

24 (4) MATTERS THAT MAY BE RESOLVED BY A NONJUDICIAL
25 SETTLEMENT AGREEMENT INCLUDE BUT ARE NOT LIMITED TO:

26 (a) THE INTERPRETATION OR CONSTRUCTION OF THE TERMS OF THE
27 TRUST;

- 1 (b) THE APPROVAL OF A TRUSTEE'S REPORT OR ACCOUNTING;
2 (c) DIRECTION TO A TRUSTEE TO REFRAIN FROM PERFORMING A
3 PARTICULAR ACT OR THE GRANT TO A TRUSTEE OF ANY NECESSARY OR
4 DESIRABLE POWER;
5 (d) THE RESIGNATION OR APPOINTMENT OF A TRUSTEE AND THE
6 DETERMINATION OF A TRUSTEE'S COMPENSATION;
7 (e) TRANSFER OF A TRUST'S PRINCIPAL PLACE OF ADMINISTRATION;
8 AND
9 (f) LIABILITY OF A TRUSTEE FOR AN ACTION RELATING TO THE
10 TRUST.

11 (5) ANY PERSON WHOSE INTEREST IN THE TRUST MAY BE AFFECTED
12 BY A NONJUDICIAL SETTLEMENT AGREEMENT MAY REQUEST THE COURT TO
13 APPROVE OR DISAPPROVE THE NONJUDICIAL SETTLEMENT AGREEMENT, TO
14 DETERMINE WHETHER THE REPRESENTATION AS PROVIDED IN PART 3 OF
15 THIS CODE WAS ADEQUATE, AND TO DETERMINE WHETHER THE
16 AGREEMENT CONTAINS TERMS AND CONDITIONS THE COURT COULD HAVE
17 PROPERLY APPROVED.

18 **15-5-112. Rules of construction.** UNLESS THE TERMS OF THE
19 TRUST INSTRUMENT CONTAIN CONTRARY RULES OF CONSTRUCTION, THE
20 RULES OF CONSTRUCTION THAT APPLY IN THIS STATE TO THE
21 INTERPRETATIONS OF AND DISPOSITION OF PROPERTY BY A WILL OR OTHER
22 GOVERNING INSTRUMENT, AS THAT TERM IS DEFINED IN THE "COLORADO
23 PROBATE CODE", ARTICLES 10 TO 17 OF THIS TITLE 15, ALSO APPLY AS
24 APPROPRIATE TO THE INTERPRETATION OF THE TERMS OF A TRUST AND THE
25 DISPOSITION OF THE TRUST PROPERTY.

26 **15-5-113. Alternate dispute resolution.** (1) A SETTLOR MAY
27 DESIGNATE IN THE TRUST INSTRUMENT A METHOD OF NONJUDICIAL

1 ALTERNATE DISPUTE RESOLUTION THAT IS VALID, ENFORCEABLE, AND
2 IRREVOCABLE, EXCEPT ON A GROUND THAT EXISTS AT LAW OR IN EQUITY
3 FOR THE INVALIDATION OF A TRUST. SUCH METHODS OF NONJUDICIAL
4 DISPUTE RESOLUTION MAY INCLUDE RULES OF NOTICE AND PROCEDURE.
5 THE SETTLOR MAY BIND BENEFICIARIES AND ASSIGNS TO THE METHODS OF
6 DISPUTE RESOLUTION.

7 (2) A METHOD OF NONJUDICIAL DISPUTE RESOLUTION PROVIDED BY
8 THE SETTLOR IN THE TRUST INSTRUMENT DOES NOT PRECLUDE THE
9 COURT'S AUTHORITY TO ENTER AN ORDER OF ALTERNATE DISPUTE
10 RESOLUTION, WHICH DOES NOT ELIMINATE OR NEGATE THE METHOD OF
11 NONJUDICIAL DISPUTE RESOLUTION PROVIDED BY THE SETTLOR EXCEPT ON
12 A GROUND THAT EXISTS AT LAW OR IN EQUITY FOR THE INVALIDATION OF
13 A TRUST.

14 **15-5-114. Insurable interest of trustee - definition.** (1) IN THIS
15 SECTION, "SETTLOR" MEANS A PERSON WHO EXECUTES A TRUST
16 INSTRUMENT. THE TERM INCLUDES A PERSON FOR WHICH A FIDUCIARY OR
17 AGENT IS ACTING.

18 (2) A TRUSTEE OF A TRUST HAS AN INSURABLE INTEREST IN THE
19 LIFE OF AN INDIVIDUAL INSURED UNDER A LIFE INSURANCE POLICY THAT
20 IS OWNED BY THE TRUSTEE OF THE TRUST ACTING IN A FIDUCIARY
21 CAPACITY OR THAT DESIGNATES THE TRUST ITSELF AS THE OWNER IF, ON
22 THE DATE THE POLICY ISSUED:

23 (a) THE INSURED IS:

24 (I) A SETTLOR OF THE TRUST; OR

25 (II) AN INDIVIDUAL IN WHOM A SETTLOR OF THE TRUST HAS, OR
26 WOULD HAVE HAD IF LIVING AT THE TIME THE POLICY WAS ISSUED, AN
27 INSURABLE INTEREST; AND

1 (b) THE LIFE INSURANCE PROCEEDS ARE PRIMARILY FOR THE
2 BENEFIT OF ONE OR MORE TRUST BENEFICIARIES THAT HAVE:

3 (I) AN INSURABLE INTEREST IN THE LIFE OF THE INSURED; OR

4 (II) A SUBSTANTIAL INTEREST ENGENDERED BY LOVE AND
5 AFFECTION IN THE CONTINUATION OF THE LIFE OF THE INSURED AND, IF
6 NOT ALREADY INCLUDED PURSUANT TO SUBSECTION (2)(b)(I) OF THIS
7 SECTION, WHO ARE:

8 (A) RELATED WITHIN THE FIFTH DEGREE OR CLOSER, AS MEASURED
9 BY THE CIVIL LAW SYSTEM OF DETERMINING DEGREES OF RELATION,
10 EITHER BY BLOOD OR LAW, TO THE INSURED;

11 (B) STEPCHILDREN OF THE INSURED OR THEIR DESCENDANTS; OR

12 (C) INDIVIDUALS WHO ARE DESIGNATED AS BENEFICIARIES OF
13 INSURANCE POLICIES FOR LIFE INSURANCE COVERAGE ON THE LIFE OF THE
14 INSURED UNDER A DESIGNATED BENEFICIARY AGREEMENT EXECUTED
15 PURSUANT TO ARTICLE 22 OF THIS TITLE 15.

16 (3) THIS SECTION DOES NOT LIMIT OR ABRIDGE ANY INSURABLE
17 INTEREST OR RIGHT TO INSURE UNDER THE COMMON LAW OR ANY OTHER
18 STATUTE.

19 PART 2

20 JUDICIAL PROCEEDINGS

21 **15-5-201. Role of court in administration of trust.** (1) THE
22 COURT MAY INTERVENE IN THE ADMINISTRATION OF A TRUST TO THE
23 EXTENT ITS JURISDICTION IS INVOKED BY AN INTERESTED PERSON OR AS
24 PROVIDED BY LAW.

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

27 (3) A JUDICIAL PROCEEDING INVOLVING A TRUST MAY RELATE TO

1 ANY MATTER INVOLVING THE TRUST'S ADMINISTRATION. SUCH MATTERS
2 MAY INCLUDE, BUT ARE NOT LIMITED TO, PROCEEDINGS INVOLVING:

- 3 (a) THE APPOINTMENT OR REMOVAL OF A TRUSTEE;
- 4 (b) REVIEW OF A TRUSTEE'S FEES AND REVIEW AND SETTLING OF
5 INTERIM OR FINAL ACCOUNTINGS;
- 6 (c) REQUESTS FOR INSTRUCTION;
- 7 (d) DECLARATIONS OF RIGHTS;
- 8 (e) DETERMINATIONS AS TO THE CREATION, EXISTENCE, AND
9 VALIDITY OF ALL OR PART OF A TRUST;
- 10 (f) THE ASCERTAINMENT OF BENEFICIARIES, AND DETERMINATIONS
11 OF ANY OTHER QUESTIONS ARISING IN THE ADMINISTRATION OF
12 DISTRIBUTION OF ANY TRUST, INCLUDING QUESTIONS OF CONSTRUCTION
13 IN TRUST INSTRUMENTS, AND THE EXISTENCE OR NONEXISTENCE OF ANY
14 IMMUNITY, POWER, PRIVILEGE, DUTY, OR RIGHT;
- 15 (g) THE REGISTRATION OR RELEASE OF REGISTRATION OF A TRUST;
- 16 (h) A DIRECTION TO COMPEL OR REFRAIN FROM PERFORMING A
17 PARTICULAR ACT;
- 18 (i) THE AMENDMENT, MODIFICATION, REVOCATION, OR
19 TERMINATION OF A TRUST;
- 20 (j) THE COMBINATION OR DIVISION OF TRUSTS; OR
- 21 (k) EQUITABLE DOCTRINES OF CY PRES, EQUITABLE DEVIATION,
22 AND OTHER PRINCIPLES OF EQUITY PERTAINING TO CHARITABLE AND
23 OTHER TRUSTS.

24 **15-5-202. Jurisdiction over trustee and beneficiary.** (1) BY
25 ACCEPTING THE TRUSTEESHIP OF A TRUST HAVING ITS PRINCIPAL PLACE OF
26 ADMINISTRATION IN THIS STATE OR BY MOVING THE PRINCIPAL PLACE OF
27 ADMINISTRATION TO THIS STATE, THE TRUSTEE SUBMITS PERSONALLY TO

1 THE JURISDICTION OF THE COURTS OF THIS STATE REGARDING ANY MATTER
2 INVOLVING THE TRUST.

3 (2) WITH RESPECT TO THEIR INTERESTS IN THE TRUST, THE
4 BENEFICIARIES OF A TRUST THAT HAS ITS PRINCIPAL PLACE OF
5 ADMINISTRATION IN THIS STATE OR THAT IS PROPERLY REGISTERED IN THIS
6 STATE ARE SUBJECT TO THE JURISDICTION OF THE COURTS OF THIS STATE
7 REGARDING ANY MATTER INVOLVING THE TRUST. BY ACCEPTING A
8 DISTRIBUTION FROM SUCH A TRUST, THE RECIPIENT SUBMITS PERSONALLY
9 TO THE JURISDICTION OF THE COURTS OF THIS STATE REGARDING ANY
10 MATTER INVOLVING THE TRUST.

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

14 **15-5-203. Subject matter jurisdiction.** (1) THE DISTRICT COURT
15 OR, IN THE CITY AND COUNTY OF DENVER, THE PROBATE COURT, HAS
16 EXCLUSIVE JURISDICTION OF PROCEEDINGS IN THIS STATE BROUGHT BY A
17 TRUSTEE OR BENEFICIARY CONCERNING THE ADMINISTRATION OF A TRUST.

18 (2) THE DISTRICT COURT OR, IN THE CITY AND COUNTY OF DENVER,
19 THE PROBATE COURT, HAS CONCURRENT JURISDICTION WITH OTHER
20 DISTRICT COURTS OF THIS STATE OF OTHER PROCEEDINGS INVOLVING
21 TRUSTS AND THIRD PARTIES, SUCH AS PROCEEDINGS BY OR AGAINST
22 CREDITORS OR DEBTORS OF TRUSTS.

23 (3) THIS SECTION DOES NOT PRECLUDE JUDICIAL OR NONJUDICIAL
24 ALTERNATIVE DISPUTE RESOLUTION.

25 **15-5-204. Venue.** (1) A JUDICIAL PROCEEDING CONCERNING THE
26 INTERNAL AFFAIRS OF TRUSTS AND INVOLVING TRUSTEES, BENEFICIARIES,
27 OR PERSONS WITH AUTHORITY TO ACT UNDER THE TRUST INSTRUMENT

1 MUST BE COMMENCED IN THE FOLLOWING ORDER OF PRIORITY:

2 (a) THE COUNTY OF VENUE SPECIFIED BY THE TERMS OF THE TRUST
3 IF THAT COUNTY HAS A SUBSTANTIAL RELATIONSHIP TO THE PRESENT
4 ADMINISTRATION OF THE TRUST;

5 (b) THE COUNTY IN WHICH THE TRUST IS REGISTERED;

6 (c) EITHER:

7 (I) THE COUNTY IN WHICH THE TRUST'S PRINCIPAL PLACE OF
8 ADMINISTRATION IS OR IS TO BE LOCATED; OR

9 (II) IF THE TRUST IS CREATED BY A WILL, THE COUNTY IN WHICH
10 THE DECEDENT'S ESTATE IS BEING ADMINISTERED.

11 (2) IF A TRUST HAS NO TRUSTEE, A JUDICIAL PROCEEDING FOR THE
12 APPOINTMENT OF A TRUSTEE MUST BE COMMENCED IN THE FOLLOWING
13 ORDER OF PRIORITY:

14 (a) THE COUNTY REQUIRED PURSUANT TO SUBSECTION (1) OF THIS
15 SECTION;

16 (b) EITHER:

17 (I) A COUNTY IN WHICH A BENEFICIARY RESIDES; OR

18 (II) A COUNTY IN WHICH THE TRUST PROPERTY, OR SOME PORTION
19 OF THE TRUST PROPERTY, IS LOCATED.

20 (3) A JUDICIAL PROCEEDING OTHER THAN ONE DESCRIBED IN
21 SUBSECTION (1) OR (2) OF THIS SECTION MUST BE COMMENCED IN
22 ACCORDANCE WITH THE RULES OF VENUE APPLICABLE TO CIVIL ACTIONS.

23 **15-5-205. Registration of trusts.** (1) THE TRUSTEE OF A TRUST
24 HAVING ITS PRINCIPAL PLACE OF ADMINISTRATION IN THIS STATE MAY,
25 AFTER ITS ACCEPTANCE OF THE TRUST, REGISTER THE TRUST IN THE COURT
26 OF THIS STATE AT THE PRINCIPAL PLACE OF ADMINISTRATION UNLESS
27 REGISTRATION WOULD BE INCONSISTENT WITH THE RETAINED

1 JURISDICTION OF A FOREIGN COURT FROM WHICH THE TRUSTEE CANNOT
2 OBTAIN RELEASE.

3 (2) REGISTRATION OF A FULLY AND CONCURRENTLY REVOCABLE
4 INTER VIVOS TRUST SHALL NOT BE MADE UNTIL SUCH A TIME AS THE
5 SETTLOR'S POWER TO REVOKE SUCH A TRUST HAS TERMINATED.

6 (3) A TRUST THAT DIVIDES THE CORPUS INTO MULTIPLE TRUSTS OR
7 A WILL THAT CREATES MULTIPLE TRUSTS NEEDS ONLY ONE REGISTRATION
8 RATHER THAN A REGISTRATION OF EACH SEPARATE TRUST.

9 (4) THIS SECTION AND SECTIONS 15-5-206 TO 15-5-209 DO NOT
10 APPLY TO ANY TRUST CREATED PURSUANT TO SECTION 15-14-412.5 OR
11 15-14-412.6.

12 **15-5-206. Registration procedures and content of statement.**

13 (1) REGISTRATION MAY BE ACCOMPLISHED BY FILING A TRUST
14 REGISTRATION STATEMENT WITH THE COURT AS DESCRIBED IN SECTION
15 15-5-205 INDICATING THE NAME AND ADDRESS OF THE TRUSTEE IN WHICH
16 THE TRUSTEE ACKNOWLEDGES THE TRUSTEESHIP. THE STATEMENT MUST
17 INDICATE WHETHER THE TRUST HAS BEEN REGISTERED ELSEWHERE, IF
18 KNOWN.

19 (2) THE STATEMENT MUST IDENTIFY THE TRUST AS FOLLOWS:

20 (a) IN THE CASE OF A TESTAMENTARY TRUST, BY THE NAME OF THE
21 TESTATOR AND THE DATE AND PLACE OF DOMICILIARY PROBATE;

22 (b) IN THE CASE OF A WRITTEN INTER VIVOS TRUST, BY THE NAME
23 OF EACH SETTLOR AND THE ORIGINAL TRUSTEE AND THE DATE OF THE
24 TRUST INSTRUMENT; OR

25 (c) IN THE CASE OF AN ORAL TRUST, BY INFORMATION IDENTIFYING
26 THE SETTLOR OR OTHER SOURCE OF FUNDS OR ASSETS AND DESCRIBING
27 THE TIME AND MANNER OF THE TRUST'S CREATION AND THE TERMS OF THE

1 TRUST, INCLUDING THE SUBJECT MATTER, BENEFICIARIES, AND TIME OF
2 PERFORMANCE.

3 (3) WITHIN SIXTY DAYS AFTER FILING THE TRUST REGISTRATION
4 STATEMENT, THE TRUSTEE SHALL NOTIFY IN WRITING ALL COTRUSTEES,
5 QUALIFIED BENEFICIARIES, AND OTHER FIDUCIARIES AND PERSONS HAVING
6 AUTHORITY TO ACT UNDER THE TERMS OF THE TRUST. FOR PURPOSES OF
7 PRIVACY, THE NAMES OF QUALIFIED BENEFICIARIES MAY BE REDACTED
8 FROM THE COPY OF THE STATEMENT FILED WITH THE COURT OR PROVIDED
9 TO OTHER QUALIFIED BENEFICIARIES.

10 (4) THE TRUST REGISTRATION STATEMENT MUST CONTAIN
11 LANGUAGE INDICATING THAT, BECAUSE A COURT WILL NOT ROUTINELY
12 REVIEW OR ADJUDICATE MATTERS UNLESS IT IS SPECIFICALLY REQUESTED
13 TO DO SO BY A BENEFICIARY, CREDITOR, OR OTHER INTERESTED PERSON,
14 ALL INTERESTED PERSONS, INCLUDING BENEFICIARIES AND CREDITORS,
15 HAVE THE RESPONSIBILITY TO PROTECT THEIR OWN RIGHTS AND INTERESTS
16 IN THE TRUST ESTATE.

17 (5) IF A TRUST HAS BEEN REGISTERED IN A FOREIGN COURT,
18 REGISTRATION IN THIS STATE IS INEFFECTIVE TO THE EXTENT IT IS
19 INCONSISTENT WITH THE FOREIGN REGISTRATION UNTIL THE EARLIER
20 REGISTRATION IS RELEASED, OR AN INSTRUMENT EXECUTED BY THE
21 TRUSTEE AND ALL QUALIFIED BENEFICIARIES IS FILED WITH THE
22 REGISTRATION IN THIS STATE.

23 **15-5-207. Effect of failure to register.** A TRUSTEE WHO DOES NOT
24 REGISTER A TRUST IN A PROPER PLACE, FOR PURPOSES OF ANY
25 PROCEEDINGS INITIATED BY A BENEFICIARY OF THE TRUST PRIOR TO
26 REGISTRATION, IS SUBJECT TO THE PERSONAL JURISDICTION OF ANY COURT
27 IN WHICH THE TRUST COULD HAVE BEEN REGISTERED AND OTHERWISE AS

1 PROVIDED BY SECTION 15-5-205. IN ADDITION, ANY TRUSTEE WHO, WITHIN
2 THIRTY DAYS AFTER RECEIPT OF A WRITTEN DEMAND BY A SETTLOR OR
3 QUALIFIED BENEFICIARY OF THE TRUST, FAILS TO REGISTER A TRUST MAY
4 BE SUBJECT TO REMOVAL OR TO SURCHARGE AS THE COURT MAY DIRECT.

5 **15-5-208. Registration - qualification of a foreign trustee.** A
6 FOREIGN CORPORATE TRUSTEE IS REQUIRED TO QUALIFY AS A FOREIGN
7 CORPORATION DOING BUSINESS IN THIS STATE IF IT MAINTAINS THE
8 PRINCIPAL PLACE OF ADMINISTRATION OF ANY TRUST WITHIN THIS STATE.
9 A FOREIGN COTRUSTEE IS NOT REQUIRED TO QUALIFY IN THIS STATE
10 SOLELY BECAUSE ITS COTRUSTEE MAINTAINS THE PRINCIPAL PLACE OF
11 ADMINISTRATION IN THIS STATE. UNLESS OTHERWISE DOING BUSINESS IN
12 THIS STATE, LOCAL QUALIFICATION BY A FOREIGN TRUSTEE, CORPORATE
13 OR INDIVIDUAL, IS NOT REQUIRED IN ORDER FOR THE TRUSTEE TO RECEIVE
14 DISTRIBUTION FROM A LOCAL ESTATE OR TO HOLD, INVEST IN, MANAGE, OR
15 ACQUIRE PROPERTY LOCATED IN THIS STATE, OR MAINTAIN LITIGATION.
16 NOTHING IN THIS SECTION AFFECTS A DETERMINATION OF WHAT OTHER
17 ACTS REQUIRE QUALIFICATION AS DOING BUSINESS IN THIS STATE.

18 **15-5-209. Release of trust registration statement.** (1) IF A
19 TRUST'S PRINCIPAL PLACE OF ADMINISTRATION CHANGES AFTER THE TRUST
20 HAS BEEN REGISTERED IN THIS STATE, THE TRUSTEE MAY WITHDRAW THAT
21 REGISTRATION BY:

22 (a) FILING A NOTICE OF RELEASE OF TRUST REGISTRATION
23 STATEMENT IN THE SAME COURT IN WHICH THE LAST REGISTRATION
24 STATEMENT WAS FILED; AND

25 (b) SERVING THE NOTICE OF RELEASE UPON ALL PERSONS
26 DESCRIBED IN SECTION 15-5-206 (3).

27 (2) THE TRUST REGISTRATION IS DEEMED RELEASED THIRTY-FIVE

1 DAYS AFTER THE FILING OF THE NOTICE OF RELEASE WITH THE COURT
2 UNLESS AN OBJECTION TO THE RELEASE IS FILED WITH THAT COURT AND
3 THE OBJECTOR FILES A NOTICE TO SET A HEARING ON THE OBJECTION
4 WITHIN SAID PERIOD AND SERVES THE OBJECTION AND THE NOTICE TO SET
5 ON THOSE PERSONS DESCRIBED IN SECTION 15-5-206 (3).

6 **15-5-210. Judicially approved settlements.** (1) A SETTLEMENT
7 OF ANY CONTROVERSY AS TO THE ADMINISTRATION OF A TRUST; THE
8 CONSTRUCTION, VALIDITY, OR EFFECT OF ANY TRUST; OR THE RIGHTS OR
9 INTERESTS OF THE BENEFICIARIES OR PERSONS HAVING CLAIMS AGAINST
10 A TRUST, IF APPROVED IN A FORMAL PROCEEDING IN THE COURT FOR THAT
11 PURPOSE, IS BINDING ON ALL PARTIES THERETO, INCLUDING AN UNBORN
12 INDIVIDUAL, AN UNASCERTAINED INDIVIDUAL, OR A PERSON WHO COULD
13 NOT BE LOCATED. AN APPROVED SETTLEMENT DOES NOT IMPAIR THE
14 RIGHTS OF CREDITORS OR TAXING AUTHORITIES WHO ARE NOT PARTIES TO
15 IT.

16 (2) NOTICE OF A JUDICIALLY APPROVED SETTLEMENT MUST BE
17 GIVEN TO EVERY INTERESTED PERSON OR TO ONE WHO CAN BIND AN
18 INTERESTED PERSON AS PROVIDED IN THIS CODE.

19 (3) THE PROCEDURE FOR SECURING COURT APPROVAL OF A
20 SETTLEMENT IS AS FOLLOWS:

21 (a) THE TERMS OF THE SETTLEMENT MUST BE SET FORTH IN AN
22 AGREEMENT IN WRITING, WHICH MUST BE EXECUTED BY ALL COMPETENT
23 PERSONS AND PARENTS OF ANY MINOR CHILD HAVING A BENEFICIAL
24 INTEREST OR HAVING CLAIMS THAT WILL OR MAY BE AFFECTED BY THE
25 SETTLEMENT. EXECUTION IS NOT REQUIRED BY ANY PERSON WHOSE
26 IDENTITY OR WHEREABOUTS ARE UNKNOWN AND CANNOT BE REASONABLY
27 ASCERTAINED.

1 (b) ANY INTERESTED PERSON, INCLUDING A TRUSTEE, THEN MAY
2 SUBMIT THE SETTLEMENT TO THE COURT FOR ITS APPROVAL AND FOR
3 EXECUTION BY THE TRUSTEE, THE TRUSTEE OF EVERY AFFECTED
4 TESTAMENTARY TRUST, OTHER FIDUCIARIES, AND REPRESENTATIVES.

5 (c) AFTER NOTICE TO ALL INTERESTED PERSONS OR THEIR
6 REPRESENTATIVES, THE COURT, IF IT FINDS THAT THE CONTEST OR
7 CONTROVERSY IS IN GOOD FAITH AND THAT THE EFFECT OF THE
8 SETTLEMENT UPON THE INTERESTS OF THE PERSONS REPRESENTED BY THE
9 FIDUCIARIES OR REPRESENTATIVES IS JUST AND REASONABLE, SHALL MAKE
10 AN ORDER APPROVING THE SETTLEMENT AND DIRECTING ALL FIDUCIARIES
11 UNDER ITS SUPERVISION TO EXECUTE THE AGREEMENT. A MINOR CHILD
12 REPRESENTED ONLY BY HIS OR HER PARENTS MAY BE BOUND ONLY IF
13 THERE IS NO CONFLICT OF INTEREST BETWEEN THE PARENT AND THE CHILD.
14 UPON THE MAKING OF THE ORDER AND THE EXECUTION OF THE
15 SETTLEMENT, ALL FURTHER DISPOSITION OF TRUST PROPERTY AFFECTED
16 BY THE SETTLEMENT MUST BE IN ACCORDANCE WITH THE TERMS OF THE
17 SETTLEMENT.

18 (4) NOTICE TO A PERSON WHO MAY BE REPRESENTED AND BOUND
19 PURSUANT TO THIS CODE OF AN AGREEMENT TO BE APPROVED BY THE
20 COURT MUST BE GIVEN:

21 (a) DIRECTLY TO THE PERSON OR TO ONE WHO MAY BIND THE
22 PERSON IF THE PERSON MAY BE REPRESENTED AND BOUND PURSUANT TO
23 SECTION 15-5-302 OR 15-5-303; OR

24 (b) IN THE CASE OF A PERSON WHO MAY BE REPRESENTED AND
25 BOUND PURSUANT TO SECTION 15-5-304 AND WHO IS UNBORN OR WHOSE
26 IDENTITY OR LOCATION IS UNKNOWN AND NOT REASONABLY
27 ASCERTAINABLE, TO ALL PERSONS WHOSE INTERESTS IN THE JUDICIAL

1 PROCEEDINGS ARE SUBSTANTIALLY IDENTICAL AND WHOSE IDENTITIES
2 AND LOCATIONS ARE KNOWN; OR, IN THE CASE OF OTHER PERSONS WHO
3 MAY BE REPRESENTED AND BOUND PURSUANT TO SECTION 15-5-304,
4 DIRECTLY TO THE PERSON.

5 PART 3

6 REPRESENTATION

7 **15-5-301. Representation - basic effect.** (1) NOTICE TO A
8 PERSON WHO MAY REPRESENT AND BIND ANOTHER PERSON PURSUANT TO
9 THIS PART 3 HAS THE SAME EFFECT AS IF NOTICE WERE GIVEN DIRECTLY TO
10 THE OTHER PERSON.

11 (2) THE CONSENT OF A PERSON WHO MAY REPRESENT AND BIND
12 ANOTHER PERSON PURSUANT TO THIS PART 3 IS BINDING ON THE PERSON
13 REPRESENTED UNLESS THE PERSON REPRESENTED OBJECTS TO THE
14 REPRESENTATION BEFORE THE CONSENT WOULD OTHERWISE HAVE BECOME
15 EFFECTIVE.

16 (3) A PERSON WHO PURSUANT TO THIS PART 3 MAY REPRESENT A
17 SETTLOR WHO LACKS CAPACITY MAY RECEIVE NOTICE AND GIVE A BINDING
18 CONSENT ON THE SETTLOR'S BEHALF.

19 (4) A SETTLOR MAY NOT REPRESENT AND BIND A BENEFICIARY
20 PURSUANT TO THIS PART 3 WITH RESPECT TO THE TERMINATION OR
21 MODIFICATION OF A TRUST PURSUANT TO SECTION 15-5-411 (1).

22 **15-5-301.5. Scope of representative's authority and duty of**
23 **certain representatives - definitions.** (1) AS USED IN THIS SECTION,
24 UNLESS THE CONTEXT OTHERWISE REQUIRES, "REPRESENTATIVE" MEANS
25 A REPRESENTATIVE ACTING PURSUANT TO SECTION 15-5-302, 15-5-303,
26 15-5-304, OR 15-5-305.

27 (2) A REPRESENTATIVE MAY RECEIVE NOTICE, GIVE CONSENT, AND

1 OTHERWISE REPRESENT, BIND, AND ACT ON BEHALF OF THE INDIVIDUAL
2 REPRESENTED WITH RESPECT TO ANY MATTER ARISING PURSUANT TO THIS
3 ARTICLE 5, REGARDLESS OF WHETHER A JUDICIAL PROCEEDING
4 CONCERNING THE TRUST IS PENDING.

5 (3) IN MAKING DECISIONS, A REPRESENTATIVE MAY CONSIDER
6 GENERAL BENEFITS ACCRUING TO THE LIVING MEMBERS OF THE
7 REPRESENTED INDIVIDUAL'S FAMILY.

8 (4) A REPRESENTATIVE ACTING PURSUANT TO SECTION 15-5-303
9 (1)(f) OR SECTION 15-5-305 SHALL ACT IN GOOD FAITH ON BEHALF OF THE
10 PERSON REPRESENTED. AS USED IN THIS SUBSECTION (4), WITH RESPECT TO
11 REPRESENTATIVES ACTING PURSUANT TO SECTIONS 15-5-303 (1)(f) AND
12 15-5-305 ONLY, "GOOD FAITH" MEANS HONESTY IN FACT.

13 **15-5-302. Representation by a holder of general testamentary**
14 **power of appointment.** TO THE EXTENT THAT THERE IS NO CONFLICT OF
15 INTEREST BETWEEN THE HOLDER OF A GENERAL TESTAMENTARY POWER
16 OF APPOINTMENT AND THE PERSONS REPRESENTED WITH RESPECT TO THE
17 PARTICULAR QUESTION OR DISPUTE, THE HOLDER MAY REPRESENT AND
18 BIND PERSONS WHOSE INTERESTS, AS PERMISSIBLE APPOINTEES, TAKERS IN
19 DEFAULT, OR OTHERWISE, ARE SUBJECT TO THE POWER. FOR PERSONS
20 BOUND BY ORDERS BINDING HOLDERS OF A PRESENTLY EXERCISABLE
21 GENERAL POWER OF APPOINTMENT, SEE SECTION 15-10-403 (3)(a).

22 **15-5-303. Representation by fiduciaries and parents.** (1) TO
23 THE EXTENT THERE IS NO CONFLICT OF INTEREST BETWEEN THE
24 REPRESENTATIVE AND THE PERSON REPRESENTED OR AMONG THOSE BEING
25 REPRESENTED WITH RESPECT TO A PARTICULAR QUESTION OR DISPUTE:

26 (a) A CONSERVATOR MAY REPRESENT AND BIND THE PROTECTED
27 PERSON WHOSE ESTATE THE CONSERVATOR CONTROLS;

1 (b) A GUARDIAN MAY REPRESENT AND BIND THE WARD IF A
2 CONSERVATOR OF THE WARD'S ESTATE HAS NOT BEEN APPOINTED;

3 (c) AN AGENT HAVING AUTHORITY TO ACT WITH RESPECT TO THE
4 PARTICULAR QUESTION OR DISPUTE MAY REPRESENT AND BIND THE
5 PRINCIPAL;

6 (d) A TRUSTEE MAY REPRESENT AND BIND THE BENEFICIARIES OF
7 THE TRUST;

8 (e) A PERSONAL REPRESENTATIVE OF A DECEDENT'S ESTATE MAY
9 REPRESENT AND BIND PERSONS INTERESTED IN THE ESTATE; AND

10 (f) A PARENT MAY REPRESENT AND BIND, OR APPOINT ANOTHER
11 PERSON TO REPRESENT AND BIND, THE PARENT'S MINOR OR UNBORN CHILD
12 IF A CONSERVATOR OR GUARDIAN FOR THE CHILD HAS NOT BEEN
13 APPOINTED, PROVIDED THAT A PERSON APPOINTED BY A SETTLOR TO
14 REPRESENT THE SETTLOR'S MINOR OR UNBORN CHILD MAY NOT BE
15 RELATED OR SUBORDINATE TO THE SETTLOR WITHIN THE MEANING OF
16 SECTION 672 (c) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",
17 AS AMENDED.

18 **15-5-304. Representation by person having substantially**
19 **identical interest.** UNLESS OTHERWISE REPRESENTED, A MINOR, AN
20 INCAPACITATED PERSON, OR AN UNBORN INDIVIDUAL, OR A PERSON WHOSE
21 IDENTITY OR LOCATION IS UNKNOWN AND NOT REASONABLY
22 ASCERTAINABLE, MAY BE REPRESENTED BY AND BOUND BY ANOTHER
23 HAVING A SUBSTANTIALLY IDENTICAL INTEREST WITH RESPECT TO THE
24 PARTICULAR QUESTION OR DISPUTE, BUT ONLY TO THE EXTENT THERE IS
25 NO CONFLICT OF INTEREST BETWEEN THE REPRESENTATIVE AND THE
26 PERSON REPRESENTED.

27 **15-5-305. Appointment of representative.** IF THE COURT

1 DETERMINES THAT AN INTEREST IS NOT REPRESENTED PURSUANT TO THIS
2 PART 3, OR THAT THE OTHERWISE AVAILABLE REPRESENTATION MIGHT BE
3 INADEQUATE, THE COURT MAY APPOINT A REPRESENTATIVE TO RECEIVE
4 NOTICE, GIVE CONSENT, AND OTHERWISE REPRESENT, BIND, AND ACT ON
5 BEHALF OF A MINOR, AN INCAPACITATED PERSON, A PROTECTED PERSON,
6 OR AN UNBORN INDIVIDUAL, OR A PERSON WHOSE IDENTITY OR LOCATION
7 IS UNKNOWN. A REPRESENTATIVE MAY BE APPOINTED TO REPRESENT
8 SEVERAL PERSONS OR INTERESTS.

9 PART 4
10 CREATION, VALIDITY, MODIFICATION,
11 AND TERMINATION OF TRUST

12 **15-5-401. Methods of creating trust.** (1) A TRUST MAY BE
13 CREATED BY:

14 (a) TRANSFER OF PROPERTY TO ANOTHER PERSON AS TRUSTEE
15 DURING THE SETTLOR'S LIFETIME OR BY WILL OR OTHER DISPOSITION
16 TAKING EFFECT UPON THE SETTLOR'S DEATH;

17 (b) DECLARATION BY THE OWNER OF PROPERTY THAT THE OWNER
18 HOLDS IDENTIFIABLE PROPERTY AS TRUSTEE;

19 (c) EXERCISE OF A POWER OF APPOINTMENT IN FAVOR OF A
20 TRUSTEE; OR

21 (d) A STATUTE, JUDGMENT, OR DECREE AUTHORIZING THE
22 CREATION OF A TRUST.

23 **15-5-402. Requirements for creation.** (1) A TRUST IS CREATED
24 ONLY IF:

25 (a) EITHER:

26 (I) THE SETTLOR HAS CAPACITY TO CREATE A TRUST AND
27 INDICATES AN INTENTION TO CREATE A TRUST; OR

1 (II) A STATUTE, JUDGMENT, OR DECREE AUTHORIZES CREATION OF
2 A TRUST;

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

4 (I) A CHARITABLE TRUST;

5 (II) A TRUST FOR THE CARE OF AN ANIMAL, AS PROVIDED IN
6 SECTION 15-5-408; OR

7 (III) A TRUST FOR A NONCHARITABLE PURPOSE, AS PROVIDED IN
8 SECTION 15-5-409;

9 (c) THE TRUSTEE HAS DUTIES TO PERFORM; AND

10 (d) THE SAME PERSON IS NOT THE SOLE TRUSTEE AND SOLE
11 BENEFICIARY.

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

15 (3) A POWER IN A TRUSTEE TO SELECT A BENEFICIARY FROM AN
16 INDEFINITE CLASS IS VALID. IF THE POWER IS NOT EXERCISED WITHIN A
17 REASONABLE TIME, THE POWER FAILS AND THE PROPERTY SUBJECT TO THE
18 POWER PASSES TO THE PERSONS WHO WOULD HAVE TAKEN THE PROPERTY
19 HAD THE POWER NOT BEEN CONFERRED.

20 **15-5-403. Trusts created in other jurisdictions.** (1) A TRUST
21 NOT CREATED BY A WILL IS VALIDLY CREATED IF ITS CREATION COMPLIES
22 WITH THE LAW OF THE JURISDICTION IN WHICH THE TRUST INSTRUMENT
23 WAS EXECUTED, OR THE LAW OF THE JURISDICTION IN WHICH, AT THE TIME
24 OF CREATION:

25 (a) THE SETTLOR WAS DOMICILED, HAD A PLACE OF ABODE, OR WAS
26 A NATIONAL;

27 (b) A TRUSTEE WAS DOMICILED OR HAD A PLACE OF BUSINESS; OR

1 (c) ANY TRUST PROPERTY WAS LOCATED.

2 **15-5-404. Trust purposes.** A TRUST MAY BE CREATED ONLY TO
3 THE EXTENT ITS PURPOSES ARE LAWFUL, NOT CONTRARY TO PUBLIC
4 POLICY, AND POSSIBLE TO ACHIEVE. A TRUST AND ITS TERMS MUST BE FOR
5 THE BENEFIT OF ITS BENEFICIARIES.

6 **15-5-405. Charitable purposes - enforcement.** (1) A
7 CHARITABLE TRUST MAY BE CREATED FOR THE RELIEF OF POVERTY; THE
8 ADVANCEMENT OF EDUCATION OR RELIGION; THE PROMOTION OF HEALTH,
9 GOVERNMENTAL, OR MUNICIPAL PURPOSES; OR OTHER PURPOSES THE
10 ACHIEVEMENT OF WHICH IS BENEFICIAL TO THE COMMUNITY.

11 (2) IF THE TERMS OF A CHARITABLE TRUST DO NOT INDICATE A
12 PARTICULAR CHARITABLE PURPOSE OR BENEFICIARY, THE TRUSTEE, IF
13 AUTHORIZED BY THE TERMS OF THE TRUST, OR, IF NOT, THE COURT, MAY
14 SELECT ONE OR MORE CHARITABLE PURPOSES OR BENEFICIARIES. THE
15 SELECTION MUST BE CONSISTENT WITH THE SETTLOR'S INTENTION TO THE
16 EXTENT THAT SUCH INTENTION CAN BE ASCERTAINED.

17 (3) THE SETTLOR OF A CHARITABLE TRUST, AMONG OTHERS, MAY
18 MAINTAIN A PROCEEDING TO ENFORCE THE TRUST.

19 **15-5-406. Creation of trust induced by fraud, duress, or undue**
20 **influence.** A TRUST IS VOID TO THE EXTENT ITS CREATION WAS INDUCED
21 BY FRAUD, DURESS, OR UNDUE INFLUENCE.

22 **15-5-407. Evidence of oral trust.** EXCEPT AS REQUIRED BY A
23 STATUTE OTHER THAN THIS ARTICLE 5, A TRUST NEED NOT BE EVIDENCED
24 BY A TRUST INSTRUMENT, BUT THE CREATION OF AN ORAL TRUST AND ITS
25 TERMS MAY BE ESTABLISHED ONLY BY CLEAR AND CONVINCING EVIDENCE.

26 **15-5-408. Trust for care of an animal.** SUBJECT TO THIS SECTION
27 AND SECTION 15-5-409.5, A TRUST FOR THE CARE OF DESIGNATED

1 DOMESTIC OR PET ANIMALS AND THE ANIMALS' OFFSPRING IN GESTATION
2 IS VALID. FOR PURPOSES OF THIS SECTION, THE DETERMINATION OF THE
3 "ANIMALS' OFFSPRING IN GESTATION" IS MADE AT THE TIME THE
4 DESIGNATED DOMESTIC OR PET ANIMALS BECOME PRESENT BENEFICIARIES
5 OF THE TRUST. UNLESS THE TRUST INSTRUMENT PROVIDES FOR AN EARLIER
6 TERMINATION, THE TRUST TERMINATES WHEN NO LIVING ANIMAL IS
7 COVERED BY THE TRUST. A TRUST INSTRUMENT MUST BE LIBERALLY
8 CONSTRUED TO BRING THE TRUST WITHIN THIS SECTION, TO PRESUME
9 AGAINST THE MERELY PRECATORY OR HONORARY NATURE OF ITS
10 DISPOSITION, AND TO CARRY OUT THE GENERAL INTENT OF THE SETTLOR.
11 EXTRINSIC EVIDENCE IS ADMISSIBLE IN DETERMINING THE SETTLOR'S
12 INTENT. ANY TRUST PURSUANT TO THIS SECTION IS AN EXCEPTION TO ANY
13 STATUTORY OR COMMON LAW RULE AGAINST PERPETUITIES.

14 **15-5-409. Noncharitable trust without ascertainable**
15 **beneficiary.** SUBJECT TO SECTION 15-5-409.5 AND EXCEPT AS PROVIDED
16 PURSUANT TO SECTIONS 38-30-110 TO 38-30-112, IF A TRUST IS FOR A
17 SPECIFIC, LAWFUL, NONCHARITABLE PURPOSE OR FOR LAWFUL,
18 NONCHARITABLE PURPOSES TO BE SELECTED BY THE TRUSTEE, AND THERE
19 IS NO DEFINITE OR DEFINITELY ASCERTAINABLE BENEFICIARY DESIGNATED,
20 THE TRUST MAY BE PERFORMED BY THE TRUSTEE FOR TWENTY-ONE YEARS
21 BUT NO LONGER, REGARDLESS OF WHETHER THE TERMS OF TRUST
22 CONTEMPLATE A LONGER DURATION.

23 **15-5-409.5. Additional provisions applicable to noncharitable**
24 **trusts without ascertainable beneficiary and trusts for care of animal.**

25 (1) IN ADDITION TO THE PROVISIONS OF SECTIONS 15-5-408 AND 15-5-409,
26 A TRUST COVERED BY EITHER OF THOSE SECTIONS IS SUBJECT TO THE
27 FOLLOWING PROVISIONS:

1 (a) EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THE TRUST
2 INSTRUMENT, NO PORTION OF THE PRINCIPAL OR INCOME MAY BE
3 CONVERTED TO THE USE OF THE TRUSTEE, OTHER THAN REASONABLE
4 TRUSTEE FEES AND EXPENSES OF ADMINISTRATION, OR TO ANY USE OTHER
5 THAN FOR THE TRUST'S PURPOSES OR FOR THE BENEFIT OF A COVERED
6 ANIMAL OR ANIMALS;

7 (b) UPON TERMINATION, THE TRUSTEE SHALL TRANSFER THE
8 UNEXPENDED TRUST PROPERTY IN THE FOLLOWING ORDER:

9 (I) AS DIRECTED IN THE TRUST INSTRUMENT;

10 (II) IF THE TRUST WAS CREATED IN A NONRESIDUARY CLAUSE IN
11 THE SETTLOR'S WILL OR IN A CODICIL TO THE SETTLOR'S WILL, UNDER THE
12 RESIDUARY CLAUSE IN THE SETTLOR'S WILL; AND

13 (III) IF NO TAKER IS PRODUCED BY THE APPLICATION OF
14 SUBSECTIONS (1)(b)(I) AND (1)(b)(II) OF THIS SECTION, TO THE SETTLOR'S
15 HEIRS PURSUANT TO PART 5 OF ARTICLE 11 OF THIS TITLE 15;

16 (c) (Reserved)

17 (d) THE INTENDED USE OF THE PRINCIPAL OR INCOME CAN BE
18 ENFORCED BY AN INDIVIDUAL DESIGNATED FOR THAT PURPOSE IN THE
19 TRUST INSTRUMENT, BY THE PERSON HAVING CUSTODY OF AN ANIMAL FOR
20 WHICH CARE IS PROVIDED BY THE TRUST INSTRUMENT, BY A REMAINDER
21 BENEFICIARY, OR, IF NONE, BY AN INDIVIDUAL APPOINTED BY A COURT
22 UPON APPLICATION TO IT BY AN INDIVIDUAL;

23 (e) ALL TRUSTS CREATED PURSUANT TO THIS SECTION MAY BE
24 REGISTERED, AND ALL TRUSTEES ARE SUBJECT TO THE LAWS OF THIS STATE
25 APPLYING TO TRUSTS AND TRUSTEES; AND

26 (f) (Reserved)

27 (g) (I) IF NO TRUSTEE IS DESIGNATED OR NO DESIGNATED TRUSTEE

1 IS WILLING OR ABLE TO SERVE, A COURT SHALL NAME A TRUSTEE. A COURT
2 MAY ORDER THE TRANSFER OF THE PROPERTY TO ANOTHER TRUSTEE IF
3 REQUIRED TO ENSURE THAT THE INTENDED USE IS CARRIED OUT AND IF:

4 (A) NO SUCCESSOR TRUSTEE IS DESIGNATED IN THE TRUST
5 INSTRUMENT; OR

6 (B) NO DESIGNATED SUCCESSOR TRUSTEE AGREES TO SERVE OR IS
7 ABLE TO SERVE.

8 (II) A COURT MAY ALSO MAKE SUCH OTHER ORDERS AND
9 DETERMINATIONS AS SHALL BE ADVISABLE TO CARRY OUT THE INTENT OF
10 THE SETTLOR AND THE PURPOSES OF SECTIONS 15-5-408 AND 15-5-409.

11 **15-5-410. Modification or termination of trust - proceedings**
12 **for approval or disapproval.** (1) IN ADDITION TO THE METHODS OF
13 TERMINATION PRESCRIBED BY SECTIONS 15-5-411 TO 15-5-414, A TRUST
14 TERMINATES TO THE EXTENT THAT:

15 (a) THE TRUST IS REVOKED OR EXPIRES PURSUANT TO ITS TERMS;

16 (b) NO PURPOSE OF THE TRUST REMAINS TO BE ACHIEVED; OR

17 (c) THE PURPOSES OF THE TRUST HAVE BECOME UNLAWFUL,
18 CONTRARY TO PUBLIC POLICY, OR IMPOSSIBLE TO ACHIEVE.

19 (2) A PROCEEDING TO APPROVE OR DISAPPROVE A PROPOSED
20 MODIFICATION OR TERMINATION PURSUANT TO SECTIONS 15-5-411 TO
21 15-5-416, OR TRUST COMBINATION OR DIVISION PURSUANT TO SECTION
22 15-5-417, MAY BE COMMENCED BY A TRUSTEE OR A BENEFICIARY.

23 **15-5-411. Modification or termination of noncharitable**
24 **irrevocable trust by consent.** (1) IF, UPON PETITION, THE COURT FINDS
25 THAT THE SETTLOR AND ALL BENEFICIARIES CONSENT TO THE
26 MODIFICATION OR TERMINATION OF A NONCHARITABLE IRREVOCABLE
27 TRUST, THE COURT SHALL APPROVE THE MODIFICATION OR TERMINATION

1 EVEN IF THE MODIFICATION OR TERMINATION IS INCONSISTENT WITH A
2 MATERIAL PURPOSE OF THE TRUST. A SETTLOR'S CONSENT TO A TRUST'S
3 MODIFICATION OR TERMINATION MAY BE GIVEN BY AN AGENT UNDER A
4 POWER OF ATTORNEY ONLY TO THE EXTENT EXPRESSLY AUTHORIZED BY
5 THE POWER OF ATTORNEY OR THE TERMS OF THE TRUST, BY THE SETTLOR'S
6 CONSERVATOR WITH THE APPROVAL OF THE COURT SUPERVISING THE
7 CONSERVATORSHIP IF AN AGENT IS NOT SO AUTHORIZED, OR BY THE
8 SETTLOR'S GUARDIAN WITH THE APPROVAL OF THE COURT SUPERVISING
9 THE GUARDIANSHIP IF AN AGENT IS NOT SO AUTHORIZED AND A
10 CONSERVATOR HAS NOT BEEN APPOINTED.

11 (2) OTHER THAN A TRUST ESTABLISHED BY COURT ORDER UNDER
12 TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC.
13 1396p (d)(4), A NONCHARITABLE IRREVOCABLE TRUST MAY:

14 (a) BE TERMINATED UPON CONSENT OF ALL OF THE BENEFICIARIES
15 IF THE COURT CONCLUDES THAT CONTINUANCE OF THE TRUST IS NOT
16 NECESSARY TO ACHIEVE ANY MATERIAL PURPOSE OF THE TRUST; OR

17 (b) BE MODIFIED UPON CONSENT OF ALL OF THE BENEFICIARIES IF
18 THE COURT CONCLUDES THAT MODIFICATION IS NOT INCONSISTENT WITH
19 A MATERIAL PURPOSE OF THE TRUST.

20 (3) A SPENDTHRIFT PROVISION IN THE TERMS OF A TRUST IS NOT
21 PRESUMED TO CONSTITUTE A MATERIAL PURPOSE OF THE TRUST.

22 (4) UPON TERMINATION OF A TRUST PURSUANT TO SUBSECTION (1)
23 OR (2) OF THIS SECTION, THE TRUSTEE SHALL DISTRIBUTE THE TRUST
24 PROPERTY AS AGREED BY THE BENEFICIARIES.

25 (5) IF NOT ALL OF THE BENEFICIARIES CONSENT TO A PROPOSED
26 MODIFICATION OR TERMINATION OF A TRUST PURSUANT TO SUBSECTION (1)
27 OR (2) OF THIS SECTION, THE MODIFICATION OR TERMINATION MAY BE

1 APPROVED BY THE COURT IF THE COURT IS SATISFIED THAT:

2 (a) IF ALL OF THE BENEFICIARIES HAD CONSENTED, THE TRUST
3 COULD HAVE BEEN MODIFIED OR TERMINATED PURSUANT TO THIS SECTION;

4 AND

5 (b) THE INTERESTS OF A BENEFICIARY WHO DOES NOT CONSENT
6 WILL BE ADEQUATELY PROTECTED.

7 **15-5-412. Modification or termination because of**
8 **unanticipated circumstances or inability to administer trust**

9 **effectively.** (1) THE COURT MAY MODIFY THE ADMINISTRATIVE OR
10 DISPOSITIVE TERMS OF A TRUST OR TERMINATE THE TRUST IF, BECAUSE OF
11 CIRCUMSTANCES NOT ANTICIPATED BY THE SETTLOR, MODIFICATION OR
12 TERMINATION WILL FURTHER THE PURPOSES OF THE TRUST. TO THE
13 EXTENT PRACTICABLE, THE MODIFICATION MUST BE MADE IN ACCORDANCE
14 WITH THE SETTLOR'S PROBABLE INTENTION.

15 (2) THE COURT MAY MODIFY THE ADMINISTRATIVE TERMS OF A
16 TRUST IF CONTINUATION OF THE TRUST ON ITS EXISTING TERMS WOULD BE
17 IMPRACTICABLE OR WASTEFUL OR IMPAIR THE TRUST'S ADMINISTRATION.

18 (3) UPON TERMINATION OF A TRUST PURSUANT TO THIS SECTION,
19 THE TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY IN A MANNER
20 CONSISTENT WITH THE PURPOSES OF THE TRUST.

21 **15-5-413. Cy pres.** (1) EXCEPT AS OTHERWISE PROVIDED IN
22 SUBSECTION (2) OF THIS SECTION, IF A PARTICULAR CHARITABLE PURPOSE
23 BECOMES UNLAWFUL, IMPRACTICABLE, IMPOSSIBLE TO ACHIEVE, OR
24 WASTEFUL:

25 (a) THE TRUST DOES NOT FAIL, IN WHOLE OR IN PART;

26 (b) THE TRUST PROPERTY DOES NOT REVERT TO THE SETTLOR OR
27 THE SETTLOR'S SUCCESSORS IN INTEREST; AND

1 (c) THE COURT MAY APPLY CY PRES TO MODIFY OR TERMINATE THE
2 TRUST BY DIRECTING THAT THE TRUST PROPERTY BE APPLIED OR
3 DISTRIBUTED, IN WHOLE OR IN PART, IN A MANNER CONSISTENT WITH THE
4 SETTLOR'S CHARITABLE PURPOSES.

5 (2) A PROVISION IN THE TERMS OF A CHARITABLE TRUST THAT
6 WOULD RESULT IN DISTRIBUTION OF THE TRUST PROPERTY TO A
7 NONCHARITABLE BENEFICIARY PREVAILS OVER THE POWER OF THE COURT
8 PURSUANT TO SUBSECTION (1) OF THIS SECTION TO APPLY CY PRES TO
9 MODIFY OR TERMINATE THE TRUST ONLY IF, WHEN THE PROVISION TAKES
10 EFFECT:

11 (a) THE TRUST PROPERTY IS TO REVERT TO THE SETTLOR AND THE
12 SETTLOR IS STILL LIVING; OR

13 (b) FEWER THAN TWENTY-ONE YEARS HAVE ELAPSED SINCE THE
14 DATE OF THE TRUST'S CREATION.

15 **15-5-414. Modification or termination of uneconomic trust.**

16 (1) AFTER NOTICE TO THE QUALIFIED BENEFICIARIES, THE TRUSTEE OF A
17 TRUST PROPERTY HAVING A TOTAL VALUE LESS THAN ONE HUNDRED
18 THOUSAND DOLLARS MAY TERMINATE THE TRUST IF THE TRUSTEE
19 CONCLUDES THAT THE VALUE OF THE TRUST PROPERTY IS INSUFFICIENT TO
20 JUSTIFY THE COST OF ADMINISTRATION.

21 (2) THE COURT MAY MODIFY OR TERMINATE A TRUST OR REMOVE
22 THE TRUSTEE AND APPOINT A DIFFERENT TRUSTEE IF IT DETERMINES THAT
23 THE VALUE OF THE TRUST PROPERTY IS INSUFFICIENT TO JUSTIFY THE COST
24 OF ADMINISTRATION.

25 (3) UPON TERMINATION OF A TRUST PURSUANT TO THIS SECTION,
26 THE TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY IN A MANNER
27 CONSISTENT WITH THE PURPOSES OF THE TRUST.

1 SUBSECTION (1) DOES NOT APPLY TO A TRUST CREATED UNDER AN
2 INSTRUMENT EXECUTED BEFORE AUGUST 7, 2013.

3 (2) UNLESS THE TERMS OF A TRUST EXPRESSLY PROVIDE
4 OTHERWISE, IF A REVOCABLE TRUST IS CREATED OR FUNDED BY MORE
5 THAN ONE SETTLOR:

6 (a) TO THE EXTENT THE TRUST CONSISTS OF COMMUNITY
7 PROPERTY, THE TRUST MAY BE REVOKED BY EITHER SPOUSE ACTING
8 ALONE, WITH REGARD TO THE PORTION OF THE TRUST PROPERTY
9 ATTRIBUTABLE TO THAT SETTLOR'S CONTRIBUTION, BUT MAY BE AMENDED
10 ONLY BY JOINT ACTION OF BOTH SPOUSES;

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

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

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

19 (a) BY SUBSTANTIAL COMPLIANCE WITH A METHOD PROVIDED IN
20 THE TERMS OF THE TRUST; OR

21 (b) IF THE TERMS OF THE TRUST DO NOT PROVIDE A METHOD OR
22 THE METHOD PROVIDED IN THE TERMS IS NOT EXPRESSLY MADE
23 EXCLUSIVE, BY ANY OTHER METHOD MANIFESTING CLEAR AND
24 CONVINCING EVIDENCE OF THE SETTLOR'S INTENT, WHICH MAY INCLUDE
25 A LATER WILL OR CODICIL THAT EXPRESSLY REFERS TO THE TRUST OR
26 SPECIFICALLY DEVISES PROPERTY THAT WOULD OTHERWISE HAVE PASSED
27 ACCORDING TO THE TERMS OF THE TRUST. A PROVISION IN A TRUST

1 SPECIFYING A METHOD TO REVOKE OR AMEND THE TRUST DOES NOT MAKE
2 THE SPECIFIED METHOD EXCLUSIVE UNLESS THE SPECIFIED METHOD IS
3 REFERRED TO AS THE "SOLE", "EXCLUSIVE", OR "ONLY" METHOD OF
4 REVOKING OR AMENDING THE TRUST OR THE PROVISION INCLUDES SIMILAR
5 LANGUAGE MANIFESTING THE SETTLOR'S INTENT THAT THE TRUST MAY
6 NOT BE REVOKED OR AMENDED BY ANY OTHER METHOD.

7 (4) UPON REVOCATION OF A REVOCABLE TRUST, THE TRUSTEE
8 SHALL DELIVER THE TRUST PROPERTY AS THE SETTLOR DIRECTS.

9 (5) A SETTLOR'S POWERS WITH RESPECT TO REVOCATION,
10 AMENDMENT, OR DISTRIBUTION OF TRUST PROPERTY MAY BE EXERCISED
11 BY AN AGENT UNDER A POWER OF ATTORNEY ONLY TO THE EXTENT
12 EXPRESSLY AUTHORIZED BY THE TERMS OF THE TRUST OR THE POWER.

13 (6) UNLESS THE TERMS OF A TRUST EXPRESSLY PROVIDE
14 OTHERWISE, OR THE POWER TO DO SO HAS BEEN EXPRESSLY GRANTED TO
15 ANOTHER PERSON, A CONSERVATOR OF THE SETTLOR OR, IF NO
16 CONSERVATOR HAS BEEN APPOINTED, A GUARDIAN OF THE SETTLOR, MAY
17 EXERCISE THE SETTLOR'S POWERS WITH RESPECT TO REVOCATION,
18 AMENDMENT, OR DISTRIBUTION OF TRUST PROPERTY, BUT ONLY WITH THE
19 APPROVAL OF THE COURT SUPERVISING THE CONSERVATORSHIP OR
20 GUARDIANSHIP.

21 (7) A TRUSTEE WHO DOES NOT KNOW THAT A TRUST HAS BEEN
22 REVOKED OR AMENDED IS NOT LIABLE TO THE SETTLOR OR THE SETTLOR'S
23 SUCCESSORS IN INTEREST FOR DISTRIBUTIONS MADE AND OTHER ACTIONS
24 TAKEN ON THE ASSUMPTION THAT THE TRUST HAS NOT BEEN AMENDED OR
25 REVOKED.

26 **15-5-603. Settlor's powers.** UNLESS THE TERMS OF THE TRUST
27 EXPRESSLY PROVIDE OTHERWISE, WHILE A TRUST IS REVOCABLE, THE

1 RIGHTS OF THE BENEFICIARIES ARE SUBJECT TO THE CONTROL OF, AND THE
2 DUTIES OF THE TRUSTEE ARE OWED EXCLUSIVELY TO, THE SETTLOR.

3 **15-5-604. Limitation on action contesting validity of revocable**
4 **trust.** (1) (a) A PERSON MUST COMMENCE A JUDICIAL PROCEEDING TO
5 CONTEST THE VALIDITY OF A TRUST THAT WAS REVOCABLE AT THE
6 SETTLOR'S DEATH WITHIN THE EARLIER OF:

7 (I) THREE YEARS AFTER THE SETTLOR'S DEATH; OR

8 (II) ONE HUNDRED TWENTY DAYS AFTER THE TRUSTEE SENT THE
9 PERSON A COPY OF THE TRUST INSTRUMENT AND A NOTICE INFORMING THE
10 PERSON OF THE TRUST'S EXISTENCE, OF THE TRUSTEE'S NAME AND
11 ADDRESS, AND OF THE TIME ALLOWED FOR COMMENCING A PROCEEDING.

12 A TRUSTEE IS NOT LIABLE TO ANY PERSON FOR GIVING OR FAILING TO GIVE
13 NOTICE UNDER THIS SECTION.

14 (b) THE APPLICABLE TIME LIMIT DESCRIBED IN SUBSECTION (1)(a)
15 OF THIS SECTION IS AN ABSOLUTE BAR THAT MAY NOT BE WAIVED OR
16 TOLLED.

17 (2) UPON THE DEATH OF THE SETTLOR OF A TRUST THAT WAS
18 REVOCABLE AT THE SETTLOR'S DEATH, THE TRUSTEE MAY PROCEED TO
19 DISTRIBUTE THE TRUST PROPERTY IN ACCORDANCE WITH THE TERMS OF
20 THE TRUST. THE TRUSTEE IS NOT SUBJECT TO LIABILITY FOR DOING SO
21 UNLESS:

22 (a) THE TRUSTEE KNOWS OF A PENDING JUDICIAL PROCEEDING
23 CONTESTING THE VALIDITY OF THE TRUST; OR

24 (b) A POTENTIAL CONTESTANT HAS NOTIFIED THE TRUSTEE OF A
25 POSSIBLE JUDICIAL PROCEEDING TO CONTEST THE TRUST AND A JUDICIAL
26 PROCEEDING IS COMMENCED WITHIN SIXTY DAYS AFTER THE CONTESTANT
27 SENT THE NOTIFICATION.

1 INCLUDES SIMILAR LANGUAGE MANIFESTING THAT THE SETTLOR'S INTENT
2 WAS THAT THE TRUSTEESHIP MAY NOT BE ACCEPTED OR DECLINED BY ANY
3 OTHER METHOD.

4 (2) A PERSON DESIGNATED AS TRUSTEE WHO HAS NOT YET
5 ACCEPTED THE TRUSTEESHIP MAY REJECT THE TRUSTEESHIP. A
6 DESIGNATED TRUSTEE WHO DOES NOT ACCEPT THE TRUSTEESHIP WITHIN
7 A REASONABLE TIME AFTER KNOWING OF THE DESIGNATION IS DEEMED TO
8 HAVE REJECTED THE TRUSTEESHIP.

9 (3) A PERSON DESIGNATED AS A TRUSTEE, WITHOUT ACCEPTING
10 THE TRUSTEESHIP, MAY:

11 (a) ACT TO PRESERVE THE TRUST PROPERTY IF, WITHIN A
12 REASONABLE TIME AFTER ACTING, THE PERSON SENDS A REJECTION OF THE
13 TRUSTEESHIP TO THE SETTLOR OR, IF THE SETTLOR IS DEAD OR LACKS
14 CAPACITY, TO ANY ACTING TRUSTEE AND A QUALIFIED BENEFICIARY; AND

15 (b) INSPECT OR INVESTIGATE TRUST PROPERTY TO DETERMINE
16 POTENTIAL LIABILITY UNDER ENVIRONMENTAL OR OTHER LAW OR FOR ANY
17 OTHER PURPOSE.

18 **15-5-702. Trustee's bond.** (1) A TRUSTEE SHALL GIVE BOND TO
19 SECURE PERFORMANCE OF THE TRUSTEE'S DUTIES ONLY IF THE COURT
20 FINDS THAT A BOND IS NEEDED TO PROTECT THE INTERESTS OF THE
21 BENEFICIARIES OR IS REQUIRED BY THE TERMS OF THE TRUST AND THE
22 COURT HAS NOT DISPENSED WITH THE REQUIREMENT.

23 (2) THE COURT MAY SPECIFY THE AMOUNT OF A BOND, ITS
24 LIABILITIES, AND WHETHER SURETIES ARE NECESSARY. THE COURT MAY
25 MODIFY OR TERMINATE A BOND AT ANY TIME.

26 (3) UNLESS OTHERWISE DIRECTED BY THE COURT OR THE TERMS
27 OF THE TRUST, THE COST OF A BOND IS CHARGED TO THE TRUST.

1 **15-5-703. Cotrustees.** (1) COTRUSTEES WHO ARE UNABLE TO
2 REACH A UNANIMOUS DECISION MAY ACT BY MAJORITY DECISION.

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

5 (3) A COTRUSTEE SHALL PARTICIPATE IN THE PERFORMANCE OF A
6 TRUSTEE'S FUNCTION UNLESS THE COTRUSTEE IS UNAVAILABLE TO
7 PERFORM THE FUNCTION BECAUSE OF ABSENCE, ILLNESS,
8 DISQUALIFICATION, OR OTHER TEMPORARY INCAPACITY OR THE
9 COTRUSTEE HAS PROPERLY DELEGATED THE PERFORMANCE OF THE
10 FUNCTION TO ANOTHER TRUSTEE.

11 (4) IF A COTRUSTEE IS UNAVAILABLE TO PERFORM DUTIES BECAUSE
12 OF ABSENCE, ILLNESS, DISQUALIFICATION, OR OTHER TEMPORARY
13 INCAPACITY, AND PROMPT ACTION IS NECESSARY TO ACHIEVE THE
14 PURPOSES OF THE TRUST OR TO AVOID INJURY TO THE TRUST PROPERTY,
15 THE REMAINING COTRUSTEE OR A MAJORITY OF THE REMAINING
16 COTRUSTEES MAY ACT FOR THE TRUST.

17 (5) A TRUSTEE MAY NOT DELEGATE TO A COSTRUSTEE THE
18 PERFORMANCE OF A FUNCTION THE SETTLOR REASONABLY EXPECTED THE
19 TRUSTEES TO PERFORM JOINTLY. UNLESS A DELEGATION WAS
20 IRREVOCABLE, A TRUSTEE MAY REVOKE A DELEGATION PREVIOUSLY
21 MADE.

22 (6) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7) OF THIS
23 SECTION, A TRUSTEE WHO DOES NOT JOIN IN AN ACTION OF ANOTHER
24 TRUSTEE IS NOT LIABLE FOR THE ACTION.

25 (7) EACH TRUSTEE SHALL EXERCISE REASONABLE CARE TO:
26 (a) PREVENT A COTRUSTEE FROM COMMITTING A SERIOUS BREACH
27 OF TRUST; AND

1 (b) PURSUE A REMEDY, AT TRUST EXPENSE, FOR A COTRUSTEE'S
2 SERIOUS BREACH OF TRUST.

3 (8) A DISSENTING TRUSTEE WHO JOINS IN AN ACTION AT THE
4 DIRECTION OF THE MAJORITY OF THE TRUSTEES AND WHO NOTIFIED ANY
5 COTRUSTEE OF THE DISSENT AT OR BEFORE THE TIME OF THE ACTION IS NOT
6 LIABLE FOR THE ACTION UNLESS THE ACTION IS A SERIOUS BREACH OF
7 TRUST.

8 **15-5-704. Vacancy in trusteeship - appointment of successor.**

9 (1) A VACANCY IN A TRUSTEESHIP OCCURS IF:

10 (a) A PERSON DESIGNATED AS TRUSTEE REJECTS THE TRUSTEESHIP;

11 (b) A PERSON DESIGNATED AS TRUSTEE CANNOT BE IDENTIFIED OR
12 DOES NOT EXIST;

13 (c) A TRUSTEE RESIGNS;

14 (d) A TRUSTEE IS DISQUALIFIED OR REMOVED;

15 (e) A TRUSTEE DIES; OR

16 (f) A GUARDIAN OR CONSERVATOR IS APPOINTED FOR AN
17 INDIVIDUAL SERVING AS TRUSTEE.

18 (2) IF ONE OR MORE COTRUSTEES REMAIN IN OFFICE, A VACANCY
19 IN A TRUSTEESHIP NEED NOT BE FILLED. A VACANCY IN A TRUSTEESHIP
20 MUST BE FILLED IF THE TRUST HAS NO REMAINING TRUSTEE.

21 (3) A VACANCY IN A TRUSTEESHIP OF A NONCHARITABLE TRUST
22 THAT IS REQUIRED TO BE FILLED MUST BE FILLED IN THE FOLLOWING
23 ORDER OF PRIORITY:

24 (a) BY A PERSON DESIGNATED IN THE TERMS OF THE TRUST TO ACT
25 AS SUCCESSOR TRUSTEE;

26 (b) BY A PERSON APPOINTED BY UNANIMOUS AGREEMENT OF THE
27 QUALIFIED BENEFICIARIES; OR

1 (c) BY A PERSON APPOINTED BY THE COURT.

2 (4) A VACANCY IN A TRUSTEESHIP OF A CHARITABLE TRUST THAT
3 IS REQUIRED TO BE FILLED MUST BE FILLED IN THE FOLLOWING ORDER OF
4 PRIORITY:

5 (a) BY A PERSON DESIGNATED IN THE TERMS OF THE TRUST TO ACT
6 AS SUCCESSOR TRUSTEE;

7 (b) BY A PERSON SELECTED BY THE CHARITABLE ORGANIZATIONS
8 EXPRESSLY DESIGNATED TO RECEIVE DISTRIBUTIONS UNDER THE TERMS OF
9 THE TRUST IF THE ATTORNEY GENERAL IS PROVIDED WRITTEN NOTICE OF
10 THE SELECTION AND FAILS TO OBJECT OR CONCURS IN THE SELECTION
11 WITHIN THIRTY DAYS OF SUCH NOTICE; OR

12 (c) BY A PERSON APPOINTED BY THE COURT.

13 (5) REGARDLESS OF WHETHER A VACANCY IN A TRUSTEESHIP
14 EXISTS OR IS REQUIRED TO BE FILLED, THE COURT MAY APPOINT AN
15 ADDITIONAL TRUSTEE OR SPECIAL FIDUCIARY WHENEVER THE COURT
16 CONSIDERS THE APPOINTMENT NECESSARY FOR THE ADMINISTRATION OF
17 THE TRUST.

18 **15-5-705. Resignation of trustee.** (1) A TRUSTEE MAY RESIGN:

19 (a) UPON AT LEAST THIRTY DAYS' NOTICE TO THE QUALIFIED
20 BENEFICIARIES; THE SETTLOR, IF LIVING; AND ALL COTRUSTEES; OR

21 (b) WITH THE APPROVAL OF THE COURT.

22 (2) IN APPROVING A RESIGNATION PURSUANT TO THIS SECTION, THE
23 COURT MAY ISSUE ORDERS AND IMPOSE CONDITIONS REASONABLY
24 NECESSARY FOR THE PROTECTION OF THE TRUST PROPERTY.

25 (3) ANY LIABILITY OF A RESIGNING TRUSTEE OR OF ANY SURETIES
26 ON THE TRUSTEE'S BOND FOR ACTS OR OMISSIONS OF THE TRUSTEE IS NOT
27 DISCHARGED OR AFFECTED BY THE TRUSTEE'S RESIGNATION.

1 **15-5-706. Removal of trustee.** (1) THE SETTLOR, A COTRUSTEE,
2 OR A BENEFICIARY MAY REQUEST THE COURT TO REMOVE A TRUSTEE, OR
3 A TRUSTEE MAY BE REMOVED BY THE COURT ON ITS OWN INITIATIVE.

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

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

6 (b) LACK OF COOPERATION AMONG COTRUSTEES SUBSTANTIALLY
7 IMPAIRS THE ADMINISTRATION OF THE TRUST;

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

12 (d) (I) THERE HAS BEEN A SUBSTANTIAL CHANGE OF
13 CIRCUMSTANCES OR REMOVAL IS REQUESTED BY ALL OF THE QUALIFIED
14 BENEFICIARIES;

15 (II) THE COURT FINDS THAT REMOVAL OF THE TRUSTEE BEST
16 SERVES THE INTERESTS OF ALL OF THE BENEFICIARIES AND IS NOT
17 INCONSISTENT WITH A MATERIAL PURPOSE OF THE TRUST; AND

18 (III) A SUITABLE COTRUSTEE OR SUCCESSOR TRUSTEE IS
19 AVAILABLE.

20 (3) PENDING A FINAL DECISION ON A REQUEST TO REMOVE A
21 TRUSTEE, OR IN LIEU OF OR IN ADDITION TO REMOVING A TRUSTEE, THE
22 COURT MAY ORDER SUCH APPROPRIATE RELIEF PURSUANT TO SECTION
23 15-5-1001 (2) AS MAY BE NECESSARY TO PROTECT THE TRUST PROPERTY
24 OR THE INTERESTS OF THE BENEFICIARIES.

25 **15-5-707. Delivery of property by former trustee.** (1) UNLESS
26 A COTRUSTEE REMAINS IN OFFICE OR THE COURT OTHERWISE ORDERS, AND
27 UNTIL THE TRUST PROPERTY IS DELIVERED TO A SUCCESSOR TRUSTEE OR

1 OTHER PERSON ENTITLED TO IT, A TRUSTEE WHO HAS RESIGNED OR BEEN
2 REMOVED HAS THE DUTIES OF A TRUSTEE AND THE POWERS NECESSARY TO
3 PROTECT THE TRUST PROPERTY.

4 (2) A TRUSTEE WHO HAS RESIGNED OR BEEN REMOVED SHALL
5 PROCEED EXPEDITIOUSLY TO DELIVER THE TRUST PROPERTY WITHIN THE
6 TRUSTEE'S POSSESSION TO THE COTRUSTEE, SUCCESSOR TRUSTEE, OR
7 OTHER PERSON ENTITLED TO IT.

8 **15-5-708. Compensation of trustee.** (1) IF THE TERMS OF THE
9 TRUST DO NOT SPECIFY THE TRUSTEE'S COMPENSATION, A TRUSTEE'S
10 COMPENSATION IS DETERMINED IN ACCORDANCE WITH PART 6 OF ARTICLE
11 10 OF THIS TITLE 15.

12 (2) IF THE TERMS OF A TRUST SPECIFY THE TRUSTEE'S
13 COMPENSATION, THE TRUSTEE IS ENTITLED TO BE COMPENSATED AS
14 SPECIFIED, BUT THE COURT MAY ALLOW MORE OR LESS COMPENSATION IF
15 THE COMPENSATION SPECIFIED BY THE TERMS OF THE TRUST WOULD BE
16 UNREASONABLY LOW OR HIGH AS DETERMINED IN ACCORDANCE WITH THE
17 FACTORS SET FORTH IN PART 6 OF ARTICLE 10 OF THIS TITLE 15 AND
18 TAKING INTO CONSIDERATION WHETHER THE DUTIES OF THE TRUSTEE ARE
19 SUBSTANTIALLY DIFFERENT FROM THOSE CONTEMPLATED WHEN THE
20 TRUST WAS CREATED.

21 **15-5-709. Reimbursement of expenses.** (1) A TRUSTEE IS
22 ENTITLED TO BE REIMBURSED OUT OF THE TRUST PROPERTY, WITH
23 INTEREST AS APPROPRIATE, FOR:

24 (a) EXPENSES THAT WERE PROPERLY INCURRED IN THE
25 ADMINISTRATION OF THE TRUST; AND

26 (b) TO THE EXTENT NECESSARY TO PREVENT UNJUST ENRICHMENT
27 OF THE TRUST, EXPENSES THAT WERE NOT PROPERLY INCURRED IN THE

1 ADMINISTRATION OF THE TRUST.

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

5 PART 8

6 DUTIES AND POWERS OF TRUSTEE

7 **15-5-801. Duty to administer trust.** UPON ACCEPTANCE OF A
8 TRUSTEESHIP, THE TRUSTEE SHALL ADMINISTER THE TRUST IN GOOD FAITH,
9 IN ACCORDANCE WITH ITS TERMS AND PURPOSES AND THE INTERESTS OF
10 THE BENEFICIARIES, AND IN ACCORDANCE WITH THIS ARTICLE 5.

11 **15-5-802. Duty of loyalty.** (1) A TRUSTEE SHALL ADMINISTER
12 THE TRUST SOLELY IN THE INTERESTS OF THE BENEFICIARIES.

13 (2) SUBJECT TO THE RIGHTS OF PERSONS DEALING WITH OR
14 ASSISTING THE TRUSTEE AS PROVIDED IN SECTION 15-5-1012, A SALE,
15 ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING THE INVESTMENT OR
16 MANAGEMENT OF TRUST PROPERTY ENTERED INTO BY THE TRUSTEE FOR
17 THE TRUSTEE'S OWN PERSONAL ACCOUNT OR THAT IS OTHERWISE
18 AFFECTED BY A CONFLICT BETWEEN THE TRUSTEE'S FIDUCIARY AND
19 PERSONAL INTERESTS IS VOIDABLE BY A BENEFICIARY AFFECTED BY THE
20 TRANSACTION UNLESS:

21 (a) THE TRANSACTION WAS AUTHORIZED BY THE TERMS OF THE
22 TRUST;

23 (b) THE TRANSACTION WAS APPROVED BY THE COURT;

24 (c) THE BENEFICIARY DID NOT COMMENCE A JUDICIAL PROCEEDING
25 WITHIN THE TIME ALLOWED BY SECTION 15-5-1005;

26 (d) THE BENEFICIARY CONSENTED TO THE TRUSTEE'S CONDUCT,
27 RATIFIED THE TRANSACTION, OR RELEASED THE TRUSTEE IN COMPLIANCE

1 WITH SECTION 15-5-1009; OR

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

5 (3) A SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING
6 THE INVESTMENT OR MANAGEMENT OF TRUST PROPERTY IS PRESUMED TO
7 BE AFFECTED BY A CONFLICT BETWEEN PERSONAL AND FIDUCIARY
8 INTERESTS IF IT IS ENTERED INTO BY THE TRUSTEE WITH:

9 (a) THE TRUSTEE'S SPOUSE;

10 (b) THE TRUSTEE'S DESCENDANTS, SIBLINGS, PARENTS, OR THEIR
11 SPOUSES;

12 (c) AN AGENT OR ATTORNEY OF THE TRUSTEE; OR

13 (d) A CORPORATION OR OTHER PERSON OR ENTERPRISE IN WHICH
14 THE TRUSTEE, OR A PERSON THAT OWNS A SIGNIFICANT INTEREST IN THE
15 TRUSTEE, HAS AN INTEREST THAT MIGHT AFFECT THE TRUSTEE'S BEST
16 JUDGMENT.

17 (4) A TRANSACTION BETWEEN A TRUSTEE AND A BENEFICIARY
18 THAT DOES NOT CONCERN TRUST PROPERTY BUT THAT OCCURS DURING
19 THE EXISTENCE OF THE TRUST OR WHILE THE TRUSTEE RETAINS
20 SIGNIFICANT INFLUENCE OVER THE BENEFICIARY AND FROM WHICH THE
21 TRUSTEE OBTAINS AN ADVANTAGE IS VOIDABLE BY THE BENEFICIARY
22 UNLESS THE TRUSTEE ESTABLISHES THAT THE TRANSACTION WAS FAIR TO
23 THE BENEFICIARY.

24 (5) A TRANSACTION NOT CONCERNING TRUST PROPERTY, AND IN
25 WHICH THE TRUSTEE ENGAGES IN THE TRUSTEE'S INDIVIDUAL CAPACITY,
26 INVOLVES A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF
27 THE TRANSACTION CONCERNS AN OPPORTUNITY PROPERLY BELONGING TO

1 THE TRUST.

2 (6) AN INVESTMENT BY A TRUSTEE IN SECURITIES OF AN
3 INVESTMENT COMPANY OR INVESTMENT TRUST TO WHICH THE TRUSTEE OR
4 ITS AFFILIATE PROVIDES SERVICES IN A CAPACITY OTHER THAN AS TRUSTEE
5 IS NOT PRESUMED TO BE AFFECTED BY A CONFLICT BETWEEN PERSONAL
6 AND FIDUCIARY INTERESTS IF THE INVESTMENT OTHERWISE COMPLIES
7 WITH THE "COLORADO UNIFORM PRUDENT INVESTOR ACT", ARTICLE 1.1
8 OF THIS TITLE 15. IN ADDITION TO ITS COMPENSATION FOR ACTING AS
9 TRUSTEE, THE TRUSTEE MAY BE COMPENSATED BY THE INVESTMENT
10 COMPANY OR INVESTMENT TRUST FOR PROVIDING THOSE SERVICES OUT OF
11 FEES CHARGED TO THE TRUST. IF THE TRUSTEE RECEIVES COMPENSATION
12 FROM THE INVESTMENT COMPANY OR INVESTMENT TRUST FOR PROVIDING
13 INVESTMENT ADVISORY OR INVESTMENT MANAGEMENT SERVICES, THE
14 TRUSTEE MUST AT LEAST ANNUALLY NOTIFY THE PERSONS ENTITLED
15 PURSUANT TO SECTION 15-5-813 TO RECEIVE A COPY OF THE TRUSTEE'S
16 ANNUAL REPORT OF THE RATE AND METHOD BY WHICH THAT
17 COMPENSATION WAS DETERMINED.

18 (7) IN VOTING SHARES OF STOCK OR IN EXERCISING POWERS OF
19 CONTROL OVER SIMILAR INTERESTS IN OTHER FORMS OF ENTERPRISE, THE
20 TRUSTEE SHALL ACT IN THE BEST INTERESTS OF THE BENEFICIARIES. IF THE
21 TRUST IS THE SOLE OWNER OF A CORPORATION OR OTHER FORM OF
22 ENTERPRISE, THE TRUSTEE SHALL ELECT OR APPOINT DIRECTORS OR OTHER
23 MANAGERS WHO WILL MANAGE THE CORPORATION OR ENTERPRISE IN THE
24 BEST INTERESTS OF THE BENEFICIARIES.

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

27 (a) AN AGREEMENT BETWEEN A TRUSTEE AND A BENEFICIARY

- 1 RELATING TO THE APPOINTMENT OR COMPENSATION OF THE TRUSTEE;
- 2 (b) PAYMENT OF REASONABLE COMPENSATION TO THE TRUSTEE;
- 3 (c) A TRANSACTION BETWEEN A TRUST AND ANOTHER TRUST,
- 4 DECEDENT'S ESTATE, GUARDIANSHIP, OR CONSERVATORSHIP OF WHICH THE
- 5 TRUSTEE IS A FIDUCIARY OR IN WHICH A BENEFICIARY HAS AN INTEREST;
- 6 (d) A DEPOSIT OF TRUST MONEY IN A REGULATED FINANCIAL
- 7 SERVICE INSTITUTION OPERATED BY THE TRUSTEE; OR
- 8 (e) AN ADVANCE BY THE TRUSTEE OF MONEY FOR THE PROTECTION
- 9 OF THE TRUST.
- 10 (9) THE COURT MAY APPOINT A SPECIAL FIDUCIARY TO MAKE A
- 11 DECISION WITH RESPECT TO ANY PROPOSED TRANSACTION THAT MIGHT
- 12 VIOLATE THIS SECTION IF ENTERED INTO BY THE TRUSTEE.

13 **15-5-803. Impartiality.** IF A TRUST HAS TWO OR MORE

14 BENEFICIARIES, THE TRUSTEE SHALL ACT IMPARTIALLY IN INVESTING,

15 MANAGING, AND DISTRIBUTING THE TRUST PROPERTY, TAKING INTO

16 ACCOUNT ANY DIFFERING INTERESTS OF THE BENEFICIARIES.

17 **15-5-804. Prudent administration.** A TRUSTEE SHALL

18 ADMINISTER THE TRUST AS A PRUDENT PERSON WOULD, BY CONSIDERING

19 THE PURPOSES, TERMS, DISTRIBUTION REQUIREMENTS, AND OTHER

20 CIRCUMSTANCES OF THE TRUST. IN SATISFYING THIS STANDARD, THE

21 TRUSTEE SHALL EXERCISE REASONABLE CARE, SKILL, AND CAUTION.

22 **15-5-805. Costs of administration.** IN ADMINISTERING A TRUST,

23 THE TRUSTEE MAY INCUR ONLY COSTS THAT ARE APPROPRIATE AND

24 REASONABLE IN RELATION TO THE TRUST PROPERTY, THE PURPOSES OF THE

25 TRUST, AND THE SKILLS OF THE TRUSTEE.

26 **15-5-806. Trustee's skills.** A TRUSTEE WHO HAS SPECIAL SKILLS

27 OR EXPERTISE, OR IS NAMED TRUSTEE IN RELIANCE UPON THE TRUSTEE'S

1 REPRESENTATION THAT THE TRUSTEE HAS SPECIAL SKILLS OR EXPERTISE,
2 HAS A DUTY TO USE THOSE SPECIAL SKILLS OR EXPERTISE.

3 **15-5-807. Delegation by trustee.** (1) A TRUSTEE MAY DELEGATE
4 DUTIES AND POWERS THAT A PRUDENT TRUSTEE OF COMPARABLE SKILLS
5 COULD PROPERLY DELEGATE UNDER THE CIRCUMSTANCES. THE TRUSTEE
6 SHALL EXERCISE REASONABLE CARE, SKILL, AND CAUTION IN:

- 7 (a) SELECTING AN AGENT;
- 8 (b) ESTABLISHING THE SCOPE AND TERMS OF THE DELEGATION,
9 CONSISTENT WITH THE PURPOSES AND TERMS OF THE TRUST; AND
- 10 (c) PERIODICALLY REVIEWING THE AGENT'S ACTIONS IN ORDER TO
11 MONITOR THE AGENT'S PERFORMANCE AND COMPLIANCE WITH THE TERMS
12 OF THE DELEGATION.

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

16 (3) A TRUSTEE WHO COMPLIES WITH SUBSECTION (1) OF THIS
17 SECTION IS NOT LIABLE TO THE BENEFICIARIES OR TO THE TRUST FOR THE
18 DECISIONS OR ACTIONS OF THE AGENT TO WHOM THE FUNCTION WAS
19 DELEGATED.

20 (4) BY ACCEPTING A DELEGATION OF POWERS OR DUTIES FROM THE
21 TRUSTEE OF A TRUST THAT IS SUBJECT TO THE LAW OF THIS STATE, AN
22 AGENT SUBMITS TO THE JURISDICTION OF THE COURTS OF THIS STATE.

23 **15-5-808. Powers to direct.** (Reserved)

24 **15-5-809. Control and protection of trust property.** A TRUSTEE
25 SHALL TAKE REASONABLE STEPS TO TAKE CONTROL OF AND PROTECT THE
26 TRUST PROPERTY.

27 **15-5-810. Record keeping and identification of trust property.**

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

3 (2) A TRUSTEE SHALL KEEP TRUST PROPERTY SEPARATE FROM THE
4 TRUSTEE'S OWN PROPERTY.

5 (3) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF
6 THIS SECTION, A TRUSTEE SHALL CAUSE THE TRUST PROPERTY TO BE
7 DESIGNATED SO THAT THE INTEREST OF THE TRUST, TO THE EXTENT
8 FEASIBLE, APPEARS IN RECORDS MAINTAINED BY A PARTY OTHER THAN A
9 TRUSTEE OR BENEFICIARY.

10 (b) NOTHING IN SUBSECTION (3)(a) OF THIS SECTION MAY BE
11 CONSTRUED AS PREVENTING A TRUSTEE FROM HOLDING A PROPERTY IN
12 THE NAME OF A NOMINEE OR OTHER FORM, WITHOUT DISCLOSURE OF THE
13 TRUST, AS AUTHORIZED IN SECTION 15-5-816 (1)(g)(II) AND IN SECTION
14 15-1-804 (2)(o), PROVIDED THE TRUSTEE MAINTAINS ADEQUATE RECORDS
15 OF ALL TRUST PROPERTY SO HELD.

16 (c) THIS SUBSECTION (3) DOES NOT APPLY TO TANGIBLE PERSONAL
17 PROPERTY OTHER THAN MOTOR VEHICLES, AIRPLANES, AND OTHER
18 PROPERTY THE TITLE OF WHICH IS REGISTERED WITH A GOVERNMENTAL
19 AUTHORITY.

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

23 **15-5-811. Enforcement and defense of claims.** A TRUSTEE
24 SHALL TAKE REASONABLE STEPS TO ENFORCE CLAIMS OF THE TRUST AND
25 TO DEFEND CLAIMS AGAINST THE TRUST OF WHICH THE TRUSTEE HAS
26 KNOWLEDGE.

27 **15-5-812. Collecting trust property.** A TRUSTEE SHALL TAKE

1 REASONABLE STEPS TO COMPEL A FORMER TRUSTEE OR OTHER PERSON TO
2 DELIVER TRUST PROPERTY TO THE TRUSTEE AND TO REDRESS A BREACH OF
3 TRUST KNOWN TO THE TRUSTEE TO HAVE BEEN COMMITTED BY A FORMER
4 TRUSTEE.

5 **15-5-813. Duty to inform and report.** (1) A TRUSTEE SHALL
6 KEEP THE QUALIFIED BENEFICIARIES OF THE TRUST REASONABLY
7 INFORMED ABOUT THE ADMINISTRATION OF THE TRUST AND OF THE
8 MATERIAL FACTS NECESSARY FOR THEM TO PROTECT THEIR INTERESTS.
9 UNLESS UNREASONABLE UNDER THE CIRCUMSTANCES, A TRUSTEE SHALL
10 PROMPTLY RESPOND TO A QUALIFIED BENEFICIARY'S REQUEST FOR
11 INFORMATION RELATED TO THE ADMINISTRATION OF THE TRUST.

12 (2) A TRUSTEE:

13 (a) UPON REQUEST OF A QUALIFIED BENEFICIARY, SHALL
14 PROMPTLY FURNISH TO THE QUALIFIED BENEFICIARY A COPY OF THE
15 PORTIONS OF THE TRUST INSTRUMENT THAT DESCRIBE OR AFFECT THE
16 BENEFICIARY'S INTEREST;

17 (b) WITHIN SIXTY DAYS AFTER ACCEPTING A TRUSTEESHIP, SHALL
18 NOTIFY THE QUALIFIED BENEFICIARIES OF THE ACCEPTANCE AND OF THE
19 TRUSTEE'S NAME, ADDRESS, AND TELEPHONE NUMBER;

20 (c) WITHIN SIXTY DAYS AFTER THE DATE THE TRUSTEE ACQUIRES
21 KNOWLEDGE OF THE CREATION OF AN IRREVOCABLE TRUST, OR THE DATE
22 THE TRUSTEE ACQUIRES KNOWLEDGE THAT A FORMERLY REVOCABLE
23 TRUST HAS BECOME IRREVOCABLE, WHETHER BY THE DEATH OF THE
24 SETTLOR OR OTHERWISE, SHALL NOTIFY THE QUALIFIED BENEFICIARIES OF
25 THE TRUST'S EXISTENCE, OF THE IDENTITY OF THE SETTLOR OR SETTLORS,
26 OF THE RIGHT TO REQUEST PORTIONS OF THE TRUST INSTRUMENT THAT
27 DESCRIBE OR AFFECT THE BENEFICIARY'S INTEREST, AND OF THE RIGHT TO

1 A TRUSTEE'S REPORT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION;
2 AND

3 (d) SHALL NOTIFY THE QUALIFIED BENEFICIARIES IN ADVANCE OF
4 ANY CHANGE IN THE METHOD OR RATE OF THE TRUSTEE'S COMPENSATION.

5 (3) (a) AT LEAST ANNUALLY AND AT THE TERMINATION OF THE
6 TRUST, A TRUSTEE SHALL SEND TO THE DISTRIBUTEES OR PERMISSIBLE
7 DISTRIBUTEES OF TRUST INCOME OR PRINCIPAL, AND TO OTHER QUALIFIED
8 BENEFICIARIES WHO REQUEST IT:

9 (I) A REPORT OF THE TRUST PROPERTY, LIABILITIES, RECEIPTS, AND
10 DISBURSEMENTS, INCLUDING THE SOURCE AND AMOUNT OF THE TRUSTEE'S
11 COMPENSATION; AND

12 (II) A LISTING OF THE TRUST ASSETS AND, IF FEASIBLE, THEIR
13 RESPECTIVE MARKET VALUES.

14 (b) UPON A VACANCY IN A TRUSTEESHIP, UNLESS A COTRUSTEE
15 REMAINS IN OFFICE, THE FORMER TRUSTEE SHALL SEND A REPORT TO THE
16 QUALIFIED BENEFICIARIES. A PERSONAL REPRESENTATIVE, CONSERVATOR,
17 OR GUARDIAN MAY SEND THE QUALIFIED BENEFICIARIES A REPORT ON
18 BEHALF OF A DECEASED OR INCAPACITATED TRUSTEE.

19 (4) A QUALIFIED BENEFICIARY MAY WAIVE THE RIGHT TO A
20 TRUSTEE'S REPORT OR OTHER INFORMATION REQUIRED TO BE FURNISHED
21 PURSUANT TO THIS SECTION. A QUALIFIED BENEFICIARY, WITH RESPECT TO
22 FUTURE REPORTS AND OTHER INFORMATION, MAY WITHDRAW A WAIVER
23 PREVIOUSLY GIVEN.

24 (5) SUBSECTIONS (2)(b) AND (2)(c) OF THIS SECTION DO NOT APPLY
25 TO A TRUSTEE WHO ACCEPTS A TRUSTEESHIP BEFORE THE EFFECTIVE DATE
26 OF THIS ARTICLE 5, TO AN IRREVOCABLE TRUST CREATED BEFORE THE
27 EFFECTIVE DATE OF THIS ARTICLE 5, OR TO A REVOCABLE TRUST THAT

1 BECOMES IRREVOCABLE BEFORE THE EFFECTIVE DATE OF THIS ARTICLE 5.

2 (6) NOTHING IN THIS SECTION MAY BE CONSTRUED TO IMPOSE ON
3 THE TRUSTEE A DUTY TO INFORM OR REPORT TO ANY PERSON OTHER THAN
4 A QUALIFIED BENEFICIARY OR AS DIRECTED BY THE COURT.

5 **15-5-814. Discretionary powers - tax savings.**

6 (1) (a) NOTWITHSTANDING THE BREADTH OF DISCRETION GRANTED TO A
7 TRUSTEE IN THE TERMS OF THE TRUST, INCLUDING THE USE OF SUCH TERMS
8 AS "ABSOLUTE", "SOLE", OR "UNCONTROLLED", THE TRUSTEE SHALL
9 EXERCISE A DISCRETIONARY POWER IN GOOD FAITH. THE PARAMETERS FOR
10 THAT EXERCISE ARE ESTABLISHED BY THE TERMS AND PURPOSES OF THE
11 TRUST, THE INTERESTS OF THE BENEFICIARIES, AND RELEVANT FIDUCIARY
12 DUTIES. A TRUSTEE DOES NOT ABUSE ITS DISCRETION IF THE TRUSTEE,
13 FOLLOWING THE TERMS AND PURPOSES OF THE TRUST AND CONSIDERING
14 THE INTERESTS OF ITS BENEFICIARIES, EXERCISES ITS JUDGMENT HONESTLY
15 AND WITH A PROPER MOTIVE.

16 (b) WHERE A TRUST GIVES A TRUSTEE UNLIMITED DISCRETION,
17 INCLUDING THE USE OF SUCH TERMS AS "ABSOLUTE", "SOLE", OR
18 "UNCONTROLLED", A COURT MAY NOT DETERMINE THAT A TRUSTEE
19 ABUSED ITS DISCRETION MERELY BECAUSE THE COURT WOULD HAVE
20 EXERCISED THE DISCRETION IN A DIFFERENT MANNER OR WOULD NOT HAVE
21 EXERCISED THE DISCRETION.

22 (2) SUBJECT TO SUBSECTION (4) OF THIS SECTION, AND UNLESS THE
23 TERMS OF THE TRUST EXPRESSLY INDICATE THAT A RULE IN THIS
24 SUBSECTION (2) DOES NOT APPLY:

25 (a) A PERSON OTHER THAN A SETTLOR WHO IS A BENEFICIARY AND
26 TRUSTEE OF A TRUST THAT CONFERS ON THE TRUSTEE A POWER TO MAKE
27 DISCRETIONARY DISTRIBUTIONS TO OR FOR THE TRUSTEE'S PERSONAL

1 BENEFIT MAY EXERCISE THE POWER ONLY IN ACCORDANCE WITH AN
2 ASCERTAINABLE STANDARD; AND

3 (b) A TRUSTEE MAY NOT EXERCISE A POWER TO MAKE
4 DISCRETIONARY DISTRIBUTIONS TO SATISFY A LEGAL OBLIGATION OF
5 SUPPORT THAT THE TRUSTEE PERSONALLY OWES ANOTHER PERSON.

6 (3) A POWER WHOSE EXERCISE IS LIMITED OR PROHIBITED BY
7 SUBSECTION (2) OF THIS SECTION MAY BE EXERCISED BY A MAJORITY OF
8 THE REMAINING TRUSTEES WHOSE EXERCISE OF THE POWER IS NOT SO
9 LIMITED OR PROHIBITED. IF THE POWER OF ALL TRUSTEES IS SO LIMITED OR
10 PROHIBITED, THE COURT MAY APPOINT A SPECIAL FIDUCIARY WITH
11 AUTHORITY TO EXERCISE THE POWER.

12 (4) SUBSECTION (2) OF THIS SECTION DOES NOT APPLY TO:

13 (a) A POWER HELD BY THE SETTLOR'S SPOUSE WHO IS THE TRUSTEE
14 OF A TRUST FOR WHICH A MARITAL DEDUCTION, AS DEFINED IN SECTION
15 2056 (b)(5) OR 2523 (e) OF THE FEDERAL "INTERNAL REVENUE CODE OF
16 1986", AS AMENDED, WAS PREVIOUSLY ALLOWED;

17 (b) ANY TRUST DURING ANY PERIOD THAT THE TRUST MAY BE
18 REVOKED OR AMENDED BY ITS SETTLOR; OR

19 (c) A TRUST, IF CONTRIBUTIONS TO THE TRUST QUALIFY FOR THE
20 ANNUAL EXCLUSION UNDER SECTION 2503 (c) OF THE FEDERAL "INTERNAL
21 REVENUE CODE OF 1986", AS AMENDED.

22 **15-5-815. General powers of trustee.** (1) A TRUSTEE, WITHOUT
23 AUTHORIZATION BY THE COURT, MAY EXERCISE:

24 (a) POWERS CONFERRED BY THE TERMS OF THE TRUST; AND

25 (b) EXCEPT AS LIMITED BY THE TERMS OF THE TRUST:

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

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

4 (III) ANY OTHER POWERS CONFERRED BY THIS CODE AND THE
5 "COLORADO FIDUCIARIES' POWERS ACT", PART 8 OF ARTICLE 1 OF THIS
6 TITLE 15.

7 (2) THE EXERCISE OF A POWER IS SUBJECT TO THE FIDUCIARY
8 DUTIES PRESCRIBED BY THIS CODE.

9 **15-5-816. Specific powers of trustee.** (1) WITHOUT LIMITING
10 THE AUTHORITY CONFERRED BY SECTION 15-5-815, AND IN ADDITION TO
11 THE POWERS CONFERRED PURSUANT TO THE "COLORADO FIDUCIARIES'
12 POWERS ACT", PART 8 OF ARTICLE 1 OF THIS TITLE 15, A TRUSTEE MAY:

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

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

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

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

21 (e) BORROW MONEY, WITH OR WITHOUT SECURITY, AND
22 MORTGAGE OR PLEDGE TRUST PROPERTY FOR A PERIOD WITHIN OR
23 EXTENDING BEYOND THE DURATION OF THE TRUST;

24 (f) WITH RESPECT TO AN INTEREST IN A PROPRIETORSHIP,
25 PARTNERSHIP, LIMITED LIABILITY COMPANY, BUSINESS TRUST,
26 CORPORATION, OR OTHER FORM OF BUSINESS OR ENTERPRISE, CONTINUE
27 THE BUSINESS OR OTHER ENTERPRISE AND TAKE ANY ACTION THAT MAY BE

1 TAKEN BY SHAREHOLDERS, MEMBERS, OR PROPERTY OWNERS, INCLUDING
2 MERGING, DISSOLVING, OR OTHERWISE CHANGING THE FORM OF BUSINESS
3 ORGANIZATION OR CONTRIBUTING ADDITIONAL CAPITAL;

4 (g) WITH RESPECT TO STOCKS OR OTHER SECURITIES, EXERCISE
5 THE RIGHTS OF AN ABSOLUTE POWER, INCLUDING THE RIGHT TO:

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

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

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

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

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

24 (i) ENTER INTO A LEASE FOR ANY PURPOSE AS LESSOR OR LESSEE,
25 INCLUDING A LEASE OR OTHER ARRANGEMENT FOR EXPLORATION AND
26 REMOVAL OF NATURAL RESOURCES, WITH OR WITHOUT THE OPTION TO
27 PURCHASE OR RENEW, FOR A PERIOD WITHIN OR EXTENDING BEYOND THE

1 DURATION OF THE TRUST;

2 (j) GRANT AN OPTION INVOLVING A SALE, LEASE, OR OTHER
3 DISPOSITION OF TRUST PROPERTY OR ACQUIRE AN OPTION FOR THE
4 ACQUISITION OF PROPERTY, INCLUDING AN OPTION EXERCISABLE BEYOND
5 THE DURATION OF THE TRUST, AND EXERCISE AN OPTION SO ACQUIRED;

6 (k) INSURE THE PROPERTY OF THE TRUST AGAINST DAMAGE OR
7 LOSS AND INSURE THE TRUSTEE, THE TRUSTEE'S AGENTS, AND
8 BENEFICIARIES AGAINST LIABILITY ARISING FROM THE ADMINISTRATION OF
9 THE TRUST;

10 (l) ABANDON OR DECLINE TO ADMINISTER PROPERTY OF NO VALUE
11 OR INSUFFICIENT VALUE TO JUSTIFY ITS COLLECTION OR CONTINUED
12 ADMINISTRATION;

13 (m) WITH RESPECT TO POSSIBLE LIABILITY FOR VIOLATION OF
14 ENVIRONMENTAL LAW:

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

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

25 (III) DECLINE TO ACCEPT PROPERTY INTO TRUST OR DISCLAIM ANY
26 POWER WITH RESPECT TO PROPERTY THAT IS OR MAY BE BURDENED WITH
27 LIABILITY FOR VIOLATION OF ENVIRONMENTAL LAW;

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

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

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

8 (o) 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 (p) EXERCISE ELECTIONS WITH RESPECT TO FEDERAL, STATE, AND
12 LOCAL TAXES;

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

18 (r) (Reserved)

19 (s) (Reserved)

20 (t) APPOINT A TRUSTEE TO ACT IN ANOTHER JURISDICTION WITH
21 RESPECT TO TRUST PROPERTY LOCATED IN THE OTHER JURISDICTION,
22 CONFER UPON THE APPOINTED TRUSTEE ALL OF THE POWERS AND DUTIES
23 OF THE APPOINTING TRUSTEE, REQUIRE THAT THE APPOINTED TRUSTEE
24 FURNISH SECURITY, AND REMOVE ANY TRUSTEE SO APPOINTED;

25 (u) PAY AN AMOUNT DISTRIBUTABLE TO A BENEFICIARY WHO IS
26 UNDER A LEGAL DISABILITY OR WHO THE TRUSTEE REASONABLY BELIEVES
27 IS INCAPACITATED, BY PAYING IT DIRECTLY TO THE BENEFICIARY OR

1 APPLYING IT FOR THE BENEFICIARY'S BENEFIT OR BY:

2 (I) PAYING IT TO THE BENEFICIARY'S CONSERVATOR OR, IF THE
3 BENEFICIARY DOES NOT HAVE A CONSERVATOR, THE BENEFICIARY'S
4 GUARDIAN;

5 (II) PAYING IT TO THE BENEFICIARY'S CUSTODIAN PURSUANT TO
6 THE "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF
7 TITLE 11, OR CUSTODIAL TRUSTEE PURSUANT TO THE "COLORADO
8 UNIFORM CUSTODIAL TRUST ACT", ARTICLE 1.5 OF THIS TITLE 15, AND
9 FOR THAT PURPOSE, CREATING A CUSTODIANSHIP OF CUSTODIAL TRUST;

10 (III) IF THE TRUSTEE DOES NOT KNOW OF A CONSERVATOR,
11 GUARDIAN, CUSTODIAN, OR CUSTODIAL TRUSTEE, PAYING IT TO AN ADULT
12 RELATIVE OR OTHER PERSON HAVING LEGAL OR PHYSICAL CARE OR
13 CUSTODY OF THE BENEFICIARY, TO BE EXPENDED ON THE BENEFICIARY'S
14 BEHALF; OR

15 (IV) MANAGING IT AS A SEPARATE FUND ON THE BENEFICIARY'S
16 BEHALF, SUBJECT TO THE BENEFICIARY'S CONTINUING RIGHT TO
17 WITHDRAW THE DISTRIBUTION;

18 (v) ON DISTRIBUTION OF TRUST PROPERTY OR THE DIVISION OR
19 TERMINATION OF A TRUST, MAKE DISTRIBUTIONS IN DIVIDED OR
20 UNDIVIDED INTERESTS, ALLOCATE PARTICULAR ASSETS IN PROPORTIONATE
21 OR DISPROPORTIONATE SHARES, VALUE THE TRUST PROPERTY FOR THOSE
22 PURPOSES, AND ADJUST FOR RESULTING DIFFERENCES IN VALUATION;

23 (w) RESOLVE A DISPUTE CONCERNING THE INTERPRETATION OF
24 THE TRUST OR ITS ADMINISTRATION BY MEDIATION, ARBITRATION, OR
25 OTHER PROCEDURE FOR ALTERNATE DISPUTE RESOLUTION;

26 (x) PROSECUTE OR DEFEND AN ACTION, CLAIM, OR JUDICIAL
27 PROCEEDING IN ANY JURISDICTION TO PROTECT TRUST PROPERTY AND THE

1 TRUSTEE IN THE PERFORMANCE OF THE TRUSTEE'S DUTIES;

2 (y) SIGN AND DELIVER CONTRACTS AND OTHER INSTRUMENTS
3 THAT ARE USEFUL TO ACHIEVE OR FACILITATE THE EXERCISE OF THE
4 TRUSTEE'S POWERS; AND

5 (z) ON TERMINATION OF THE TRUST, EXERCISE THE POWERS
6 APPROPRIATE TO WIND UP THE ADMINISTRATION OF THE TRUST AND
7 DISTRIBUTE THE TRUST PROPERTY TO THE PERSONS ENTITLED TO IT.

8 **15-5-817. Distribution on termination.** (1) UPON TERMINATION
9 OR PARTIAL TERMINATION OF A TRUST, THE TRUSTEE MAY SEND TO THE
10 BENEFICIARIES A PROPOSAL FOR DISTRIBUTION. THE RIGHT OF ANY
11 BENEFICIARY TO OBJECT TO THE PROPOSED DISTRIBUTION TERMINATES IF
12 THE BENEFICIARY DOES NOT NOTIFY THE TRUSTEE OF AN OBJECTION
13 WITHIN THIRTY DAYS AFTER THE PROPOSAL WAS SENT, BUT ONLY IF THE
14 PROPOSAL INFORMED THE BENEFICIARY OF THE RIGHT TO OBJECT AND OF
15 THE TIME ALLOWED FOR OBJECTION.

16 (2) UPON THE OCCURRENCE OF AN EVENT TERMINATING OR
17 PARTIALLY TERMINATING A TRUST, THE TRUSTEE SHALL PROCEED
18 EXPEDITIOUSLY TO DISTRIBUTE THE TRUST PROPERTY TO THE PERSONS
19 ENTITLED TO IT, SUBJECT TO THE RIGHT OF THE TRUSTEE TO RETAIN A
20 REASONABLE RESERVE FOR THE PAYMENTS OF DEBTS, EXPENSES, AND
21 TAXES.

22 (3) A RELEASE BY A BENEFICIARY OF A TRUSTEE FROM LIABILITY
23 FOR BREACH OF TRUST IS INVALID TO THE EXTENT:

24 (a) IT WAS INDUCED BY IMPROPER CONDUCT OF THE TRUSTEE; OR

25 (b) THE BENEFICIARY, AT THE TIME OF THE RELEASE, DID NOT
26 KNOW OF THE BENEFICIARY'S RIGHTS OR OF THE MATERIAL FACTS
27 RELATING TO THE BREACH.

1 **15-5-818. Reimbursement for taxes - definitions.** (1) AS USED
2 IN THIS SECTION:

3 (a) "INDEPENDENT TRUSTEE" MEANS A TRUSTEE WHO IS NOT
4 RELATED OR SUBORDINATE TO THE SETTLOR WITHIN THE MEANING OF
5 SECTION 672 (c) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",
6 AS AMENDED.

7 (b) "SETTLOR" MEANS THE GRANTOR OR ANOTHER PERSON
8 TREATED AS THE OWNER OF ANY PORTION OF A TRUST UNDER SECTION 671
9 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

10 (2) UNLESS OTHERWISE PROVIDED IN THE GOVERNING
11 INSTRUMENT, AN INDEPENDENT TRUSTEE OF A TRUST MAY, FROM TIME TO
12 TIME, IN THE TRUSTEE'S DISCRETION, DISTRIBUTE TO THE SETTLOR AN
13 AMOUNT EQUAL TO ANY INCOME TAXES ON ANY PORTION OF THE TRUST'S
14 TAXABLE INCOME FOR WHICH THE SETTLOR IS LIABLE.

15 (3) A TRUSTEE SHALL NOT EXERCISE OR PARTICIPATE IN THE
16 EXERCISE OF DISCRETION PURSUANT TO THIS SECTION THAT WOULD CAUSE
17 THE INCLUSION OF THE TRUST ASSETS IN THE SETTLOR'S GROSS TAXABLE
18 ESTATE FOR FEDERAL ESTATE TAX PURPOSES AT THE TIME OF EXERCISE OR
19 IN A MANNER INCONSISTENT WITH THE QUALIFICATION OF ALL OR ANY
20 PORTION OF THE TRUST FOR THE FEDERAL GIFT OR ESTATE TAX MARITAL
21 DEDUCTION, TO THE EXTENT THE TRUST IS INTENDED TO QUALIFY FOR
22 SUCH DEDUCTION.

23 (4) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO:

24 (a) ANY TRUST BY WHICH A FUTURE ESTATE IS INDEFEASIBLY
25 VESTED IN THE UNITED STATES OR A POLITICAL SUBDIVISION THEREOF FOR
26 EXCLUSIVELY PUBLIC PURPOSES;

27 (b) A CORPORATION ORGANIZED EXCLUSIVELY FOR RELIGIOUS,

1 CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES,
2 INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF
3 CRUELTY TO CHILDREN OR ANIMALS, NO PART OF THE NET EARNINGS OF
4 WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR
5 INDIVIDUAL, AND NO SUBSTANTIAL PART OF THE ACTIVITIES OF WHICH IS
6 CARRYING ON PROPAGANDA OR OTHERWISE ATTEMPTING TO INFLUENCE
7 LEGISLATION;

8 (c) A TRUSTEE, OR A FRATERNAL SOCIETY, ORDER, OR
9 ASSOCIATION OPERATING UNDER THE LODGE SYSTEM, PROVIDED THE
10 PRINCIPAL OR INCOME OF SUCH TRUST IS TO BE USED BY SUCH TRUSTEE OR
11 BY SUCH FRATERNAL SOCIETY, ORDER, OR ASSOCIATION EXCLUSIVELY FOR
12 RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL
13 PURPOSES, OR FOR THE PREVENTION OF CRUELTY TO CHILDREN OR
14 ANIMALS, AND NO SUBSTANTIAL PART OF THE ACTIVITIES OF SUCH
15 TRUSTEE OR OF SUCH FRATERNAL SOCIETY, ORDER, OR ASSOCIATION IS
16 CARRYING ON PROPAGANDA OR OTHERWISE ATTEMPTING TO INFLUENCE
17 LEGISLATION; OR

18 (d) ANY VETERANS' ORGANIZATION INCORPORATED BY AN ACT OF
19 CONGRESS, OR ANY DEPARTMENT OR LOCAL CHAPTERS OR POSTS OF SUCH
20 AN ORGANIZATION, NO PART OF THE NET EARNINGS OF WHICH INURES TO
21 THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

22 (5) A CREDITOR OF THE SETTLOR OF AN IRREVOCABLE TRUST IS
23 NOT ENTITLED TO ATTACH OR OTHERWISE REACH ANY TRUST PROPERTY
24 DUE TO THE POWER GRANTED TO A TRUSTEE OR OTHER THIRD PARTY BY
25 THE TERMS OF THE TRUST, COURT ORDER, AGREEMENT OF THE
26 BENEFICIARIES, OR ANY OTHER PROVISION OF LAW, INCLUDING
27 SUBSECTION (2) OF THIS SECTION, TO REIMBURSE THE SETTLOR OF THE

1 TRUST AN AMOUNT FOR WHICH THE SETTLOR IS LIABLE FOR INCOME TAX
2 ON THE TAXABLE INCOME OF THE TRUST.

3 (6) THE PROVISIONS OF THIS SECTION APPLY TO ALL TRUSTS
4 UNLESS AN INDEPENDENT TRUSTEE OF A TRUST ELECTS OTHERWISE IN
5 WRITING.

6 PART 9

7 (RESERVED)

8 PART 10

9 LIABILITY OF TRUSTEES AND RIGHTS

10 OF PERSONS DEALING WITH TRUSTEES

11 **15-5-1001. Remedies for breach of trust.** (1) A VIOLATION BY
12 A TRUSTEE OF A DUTY THE TRUSTEE OWES TO A BENEFICIARY IS A BREACH
13 OF TRUST.

14 (2) TO REMEDY A BREACH OF TRUST THAT HAS OCCURRED OR MAY
15 OCCUR, THE COURT MAY:

16 (a) COMPEL THE TRUSTEE TO PERFORM THE TRUSTEE'S DUTIES;

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

18 (c) COMPEL THE TRUSTEE TO REDRESS A BREACH OF TRUST BY
19 PAYING MONEY, RESTORING PROPERTY, BEING SURCHARGED OR
20 SANCTIONED, OR OTHER MEANS;

21 (d) ORDER A TRUSTEE TO ACCOUNT, PROVIDE A STATUS OR
22 FINANCIAL REPORT, OR PROVIDE AN INVENTORY;

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

25 (f) RESTRAIN, RESTRICT, OR SUSPEND THE TRUSTEE;

26 (g) REMOVE THE TRUSTEE AS PROVIDED IN SECTION 15-5-706;

27 (h) REDUCE OR DENY COMPENSATION TO THE TRUSTEE OR REQUIRE

1 THE TRUSTEE TO DISGORGE COMPENSATION PREVIOUSLY PAID;

2 (i) SUBJECT TO SECTION 15-5-1012, VOID AN ACT OF THE TRUSTEE,
3 IMPOSE A LIEN OR CONSTRUCTIVE TRUST ON TRUST PROPERTY, OR TRACE
4 TRUST PROPERTY WRONGFULLY DISPOSED OF AND RECOVER THE PROPERTY
5 OR ITS PROCEEDS; OR

6 (j) ORDER OTHER APPROPRIATE RELIEF.

7 (3) IF A REMEDY FOR A BREACH OF TRUST IS SOUGHT BY A
8 COTRUSTEE, BENEFICIARY, OR INTERESTED PERSON, OR THE COURT ACTS
9 SUA SPONTE, THE PROVISIONS OF PART 5 OF ARTICLE 10 OF THIS TITLE 15
10 APPLY.

11 **15-5-1002. Damages for breach of trust.** (1) IN ADDITION TO
12 OTHER REMEDIES PROVIDED BY THIS ARTICLE 5, A TRUSTEE WHO COMMITS
13 A BREACH OF TRUST IS LIABLE TO THE BENEFICIARIES AFFECTED FOR THE
14 GREATER OF:

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

18 (b) THE PROFIT THE TRUSTEE MADE, OR THE BENEFIT THE TRUSTEE
19 RECEIVED, OTHER THAN REASONABLE COMPENSATION, BY REASON OF THE
20 BREACH.

21 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2), IF
22 MORE THAN ONE TRUSTEE IS LIABLE TO THE BENEFICIARIES FOR A BREACH
23 OF TRUST, A TRUSTEE IS ENTITLED TO CONTRIBUTION FROM THE OTHER
24 TRUSTEE OR TRUSTEES. A TRUSTEE IS NOT ENTITLED TO CONTRIBUTION IF
25 THE TRUSTEE WAS SUBSTANTIALLY MORE AT FAULT THAN ANOTHER
26 TRUSTEE OR IF THE TRUSTEE COMMITTED THE BREACH OF TRUST IN BAD
27 FAITH OR WITH RECKLESS INDIFFERENCE TO THE PURPOSES OF THE TRUST

1 OR THE INTERESTS OF THE BENEFICIARIES. A TRUSTEE WHO RECEIVED A
2 BENEFIT FROM THE BREACH OF TRUST IS NOT ENTITLED TO CONTRIBUTION
3 FROM ANOTHER TRUSTEE TO THE EXTENT OF THE BENEFIT RECEIVED.

4 **15-5-1003. Damages in absence of breach.** (1) A TRUSTEE IS
5 ACCOUNTABLE TO AN AFFECTED BENEFICIARY FOR ANY PROFIT MADE BY
6 THE TRUSTEE ARISING FROM THE ADMINISTRATION OF THE TRUST, EVEN
7 ABSENT A BREACH OF TRUST.

8 (2) ABSENT A BREACH OF TRUST, A TRUSTEE IS NOT LIABLE TO A
9 BENEFICIARY FOR A LOSS OR DEPRECIATION IN THE VALUE OF TRUST
10 PROPERTY OR FOR NOT HAVING MADE A PROFIT.

11 **15-5-1004. Compensation and costs.** EXCEPT AS OTHERWISE
12 PROVIDED IN THIS ARTICLE 5, THE PROVISIONS OF PART 6 OF ARTICLE 10 OF
13 THIS TITLE 15 GOVERN THE ENTITLEMENT TO AND PAYMENT OF
14 COMPENSATION AND COSTS TO TRUSTEES, THEIR ATTORNEYS, AND THIRD
15 PARTIES INVOLVED WITH TRUSTS.

16 **15-5-1005. Limitation of actions against trustee.** (1) A
17 BENEFICIARY MAY NOT COMMENCE A PROCEEDING AGAINST A TRUSTEE
18 FOR BREACH OF TRUST MORE THAN ONE YEAR AFTER THE DATE THAT THE
19 BENEFICIARY OR A PERSON WHO MAY REPRESENT AND BIND THE
20 BENEFICIARY, AS PROVIDED IN PART 3 OF THIS ARTICLE 5, WAS SENT A
21 REPORT THAT ADEQUATELY DISCLOSED THE EXISTENCE OF A POTENTIAL
22 CLAIM FOR BREACH OF TRUST AND INFORMED THE BENEFICIARY OF THE
23 TIME ALLOWED FOR COMMENCING A PROCEEDING.

24 (2) A REPORT ADEQUATELY DISCLOSES THE EXISTENCE OF A
25 POTENTIAL CLAIM FOR BREACH OF TRUST IF IT PROVIDES SUFFICIENT
26 INFORMATION SO THAT THE BENEFICIARY OR REPRESENTATIVE KNOWS OF
27 THE POTENTIAL CLAIM OR SHOULD HAVE INQUIRED INTO ITS EXISTENCE.

1 (3) IF SUBSECTION (1) OF THIS SECTION DOES NOT APPLY, A
2 JUDICIAL PROCEEDING BY A BENEFICIARY AGAINST A TRUSTEE FOR BREACH
3 OF TRUST MUST BE COMMENCED WITHIN THREE YEARS AFTER THE FIRST TO
4 OCCUR OF:

5 (a) THE REMOVAL OR RESIGNATION OF THE TRUSTEE;

6 (b) THE TERMINATION OF THE BENEFICIARY'S INTEREST IN THE
7 TRUST; OR

8 (c) THE TERMINATION OF THE TRUST.

9 (4) FOR PURPOSES OF SUBSECTION (1) OF THIS SECTION, A
10 BENEFICIARY IS DEEMED TO HAVE BEEN SENT A REPORT IF:

11 (a) IN THE CASE OF A BENEFICIARY HAVING CAPACITY, IT IS SENT
12 TO THE BENEFICIARY; OR

13 (b) IN THE CASE OF A BENEFICIARY WHO, PURSUANT TO PART 3 OF
14 THIS ARTICLE 5, MAY BE REPRESENTED AND BOUND BY ANOTHER PERSON,
15 IT IS SENT TO THE OTHER PERSON.

16 (5) THIS SECTION DOES NOT PRECLUDE AN ACTION TO RECOVER
17 FOR FRAUD OR MISREPRESENTATION RELATED TO THE REPORT.

18 **15-5-1006. Reliance on trust instrument.** A TRUSTEE WHO ACTS
19 IN REASONABLE RELIANCE ON THE TERMS OF THE TRUST IS NOT LIABLE TO
20 A BENEFICIARY FOR A BREACH OF TRUST TO THE EXTENT THE BREACH
21 RESULTED FROM THE RELIANCE.

22 **15-5-1007. Event affecting administration or distribution.** IF
23 THE HAPPENING OF AN EVENT, INCLUDING MARRIAGE, DIVORCE,
24 PERFORMANCE OF EDUCATIONAL REQUIREMENTS, OR DEATH, AFFECTS THE
25 ADMINISTRATION OR DISTRIBUTION OF A TRUST, A TRUSTEE WHO HAS
26 EXERCISED REASONABLE CARE TO ASCERTAIN THE HAPPENING OF THE
27 EVENT IS NOT LIABLE FOR A LOSS RESULTING FROM THE TRUSTEE'S LACK

1 OF KNOWLEDGE.

2 **15-5-1008. Exculpation of trustee.** (1) A TERM OF A TRUST
3 RELIEVING A TRUSTEE OF LIABILITY FOR BREACH OF TRUST IS
4 UNENFORCEABLE TO THE EXTENT THAT IT:

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

8 (b) WAS INSERTED AS THE RESULT OF AN ABUSE BY THE TRUSTEE
9 OF A FIDUCIARY OR CONFIDENTIAL RELATIONSHIP TO THE SETTLOR.

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

16 **15-5-1009. Beneficiary's consent, release, or ratification.** (1) A
17 TRUSTEE IS NOT LIABLE TO A BENEFICIARY FOR BREACH OF TRUST IF THE
18 BENEFICIARY CONSENTED TO THE CONDUCT CONSTITUTING THE BREACH,
19 RELEASED THE TRUSTEE FROM LIABILITY FOR THE BREACH, OR RATIFIED
20 THE TRANSACTION CONSTITUTING THE BREACH, UNLESS:

21 (a) THE CONSENT, RELEASE, OR RATIFICATION OF THE BENEFICIARY
22 WAS INDUCED BY IMPROPER CONDUCT OF THE TRUSTEE; OR

23 (b) AT THE TIME OF THE CONSENT, RELEASE, OR RATIFICATION, THE
24 BENEFICIARY DID NOT KNOW OF THE BENEFICIARY'S RIGHTS OR OF THE
25 MATERIAL FACTS RELATING TO THE BREACH.

26 **15-5-1010. Limitation on personal liability of trustee.**
27 (1) EXCEPT AS OTHERWISE PROVIDED IN THE CONTRACT, A TRUSTEE IS

1 NOT PERSONALLY LIABLE ON A CONTRACT PROPERLY ENTERED INTO IN THE
2 TRUSTEE'S FIDUCIARY CAPACITY IN THE COURSE OF ADMINISTERING THE
3 TRUST IF THE TRUSTEE IN THE CONTRACT DISCLOSED THE FIDUCIARY
4 CAPACITY.

5 (2) A TRUSTEE IS PERSONALLY LIABLE FOR TORTS COMMITTED IN
6 THE COURSE OF ADMINISTERING A TRUST, OR FOR OBLIGATIONS ARISING
7 FROM OWNERSHIP OR CONTROL OF TRUST PROPERTY, INCLUDING LIABILITY
8 FOR VIOLATION OF ENVIRONMENTAL LAW, ONLY IF THE TRUSTEE IS
9 PERSONALLY AT FAULT.

10 (3) A CLAIM BASED ON A CONTRACT ENTERED INTO BY A TRUSTEE
11 IN THE TRUSTEE'S FIDUCIARY CAPACITY, ON AN OBLIGATION ARISING FROM
12 OWNERSHIP OR CONTROL OF TRUST PROPERTY, OR ON A TORT COMMITTED
13 IN THE COURSE OF ADMINISTERING A TRUST, MAY BE ASSERTED IN A
14 JUDICIAL PROCEEDING AGAINST THE TRUSTEE IN THE TRUSTEE'S FIDUCIARY
15 CAPACITY, WHETHER OR NOT THE TRUSTEE IS PERSONALLY LIABLE FOR THE
16 CLAIM.

17 (4) THE QUESTION OF LIABILITY AS BETWEEN THE TRUST ESTATE
18 AND THE TRUSTEE INDIVIDUALLY MAY BE DETERMINED:

19 (a) IN A PROCEEDING PURSUANT TO SECTION 15-10-504;

20 (b) IN A PROCEEDING FOR ACCOUNTING, SURCHARGE,
21 INDEMNIFICATION, SANCTIONS, OR REMOVAL; OR

22 (c) IN OTHER APPROPRIATE PROCEEDINGS.

23 (5) A TRUSTEE IS NOT PERSONALLY LIABLE FOR MAKING A
24 DISTRIBUTION OF PROPERTY THAT DOES NOT TAKE INTO CONSIDERATION
25 THE POSSIBLE BIRTH OF A POSTHUMOUSLY CONCEIVED CHILD UNLESS,
26 PRIOR TO THE DISTRIBUTION, THE TRUSTEE RECEIVED NOTICE OR ACQUIRED
27 ACTUAL KNOWLEDGE THAT:

1 (a) THERE IS OR MAY BE AN INTENTION TO USE AN INDIVIDUAL'S
2 GENETIC MATERIAL TO CREATE A CHILD; AND

3 (b) THE BIRTH OF THE CHILD COULD AFFECT THE DISTRIBUTION OF
4 THE TRUST ASSETS.

5 (6) IF A TRUSTEE HAS REVIEWED THE RECORDS OF THE COUNTY
6 CLERK AND RECORDER IN EVERY COUNTY IN COLORADO IN WHICH THE
7 TRUSTEE HAS ACTUAL KNOWLEDGE THAT THE DECEDENT WAS DOMICILED
8 AT ANY TIME DURING THE THREE YEARS PRIOR TO THE DECEDENT'S DEATH
9 AND THE TRUSTEE DOES NOT HAVE ACTUAL NOTICE OR ACTUAL
10 KNOWLEDGE OF THE EXISTENCE OF A VALID, UNREVOKED DESIGNATED
11 BENEFICIARY AGREEMENT IN WHICH THE DECEDENT GRANTED THE RIGHT
12 OF INTESTATE SUCCESSION, THE TRUSTEE IS NOT INDIVIDUALLY LIABLE
13 FOR DISTRIBUTIONS MADE TO DEVISEES OR HEIRS AT LAW THAT DO NOT
14 TAKE INTO CONSIDERATION THE DESIGNATED BENEFICIARY AGREEMENT.

15 **15-5-1011. Interest as a general partner.** (1) EXCEPT AS
16 PROVIDED IN SUBSECTION (3) OF THIS SECTION, OR UNLESS PERSONAL
17 LIABILITY IS IMPOSED IN THE CONTRACT, A TRUSTEE WHO HOLDS AN
18 INTEREST AS A GENERAL PARTNER IN A GENERAL OR LIMITED PARTNERSHIP
19 IS NOT PERSONALLY LIABLE ON A CONTRACT ENTERED INTO BY THE
20 PARTNERSHIP AFTER THE TRUST'S ACQUISITION OF THE INTEREST IF THE
21 FIDUCIARY CAPACITY WAS DISCLOSED IN THE CONTRACT OR IN A
22 STATEMENT PREVIOUSLY FILED PURSUANT TO THE "COLORADO UNIFORM
23 PARTNERSHIP ACT (1997)", ARTICLE 64 OF TITLE 7, OR THE "COLORADO
24 UNIFORM LIMITED PARTNERSHIP ACT OF 1981", ARTICLE 62 OF TITLE 7.

25 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
26 SECTION, A TRUSTEE WHO HOLDS AN INTEREST AS A GENERAL PARTNER IS
27 NOT PERSONALLY LIABLE FOR TORTS COMMITTED BY THE PARTNERSHIP OR

1 FOR OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF THE
2 INTEREST UNLESS THE TRUSTEE IS PERSONALLY AT FAULT.

3 (3) THE IMMUNITY PROVIDED BY THIS SECTION DOES NOT APPLY IF
4 AN INTEREST IN THE PARTNERSHIP IS HELD BY THE TRUSTEE IN A CAPACITY
5 OTHER THAN THAT OF TRUSTEE OR IS HELD BY THE TRUSTEE'S SPOUSE OR
6 ONE OR MORE OF THE TRUSTEE'S DESCENDANTS, SIBLINGS, OR PARENTS, OR
7 THE SPOUSE OF ANY OF THEM.

8 (4) IF THE TRUSTEE OF A REVOCABLE TRUST HOLDS AN INTEREST
9 AS A GENERAL PARTNER, THE SETTLOR IS PERSONALLY LIABLE FOR
10 CONTRACTS AND OTHER OBLIGATIONS OF THE PARTNERSHIP AS IF THE
11 SETTLOR WERE A GENERAL PARTNER.

12 **15-5-1012. Protection of person dealing with trustee.** (1) A
13 PERSON OTHER THAN A BENEFICIARY WHO IN GOOD FAITH ASSISTS A
14 TRUSTEE, OR WHO IN GOOD FAITH AND FOR VALUE DEALS WITH A TRUSTEE,
15 WITHOUT KNOWLEDGE THAT THE TRUSTEE IS EXCEEDING OR IMPROPERLY
16 EXERCISING THE TRUSTEE'S POWERS, IS PROTECTED FROM LIABILITY AS IF
17 THE TRUSTEE WERE PROPERLY EXERCISING THE POWER.

18 (2) A PERSON OTHER THAN A BENEFICIARY WHO IN GOOD FAITH
19 DEALS WITH A TRUSTEE IS NOT REQUIRED TO INQUIRE INTO THE EXTENT OF
20 THE TRUSTEE'S POWERS OR THE PROPRIETY OF THEIR EXERCISE.

21 (3) A PERSON WHO IN GOOD FAITH DELIVERS ASSETS TO A TRUSTEE
22 NEED NOT ENSURE THEIR PROPER APPLICATION.

23 (4) A PERSON OTHER THAN A BENEFICIARY WHO IN GOOD FAITH
24 ASSISTS A FORMER TRUSTEE, OR WHO IN GOOD FAITH AND FOR VALUE
25 DEALS WITH A FORMER TRUSTEE, WITHOUT KNOWLEDGE THAT THE
26 TRUSTEESHIP HAS TERMINATED, IS PROTECTED FROM LIABILITY AS IF THE
27 FORMER TRUSTEE WERE STILL A TRUSTEE.

1 (5) COMPARABLE PROTECTIVE PROVISIONS OF OTHER LAWS
2 RELATING TO COMMERCIAL TRANSACTIONS OR TRANSFER OF SECURITIES
3 BY FIDUCIARIES PREVAIL OVER THE PROTECTION PROVIDED BY THIS
4 SECTION.

5 **15-5-1013. Certification of trust.** (1) INSTEAD OF FURNISHING A
6 COPY OF THE TRUST INSTRUMENT TO A PERSON OTHER THAN A
7 BENEFICIARY, THE TRUSTEE MAY FURNISH TO THE PERSON A
8 CERTIFICATION OF TRUST CONTAINING THE FOLLOWING INFORMATION:

9 (a) THAT THE TRUST EXISTS AND THE DATE THE TRUST
10 INSTRUMENT WAS EXECUTED;

11 (b) THE IDENTITY OF THE SETTLOR;

12 (c) THE IDENTITY AND ADDRESS OF THE CURRENTLY ACTING
13 TRUSTEE;

14 (d) THE POWERS OF THE TRUSTEE IN THE PENDING TRANSACTION;

15 (e) THE REVOCABILITY OR IRREVOCABILITY OF THE TRUST AND THE
16 IDENTITY OF ANY PERSON HOLDING A POWER TO REVOKE THE TRUST;

17 (f) THE AUTHORITY OF COTRUSTEES TO SIGN OR OTHERWISE
18 AUTHENTICATE AND WHETHER ALL OR LESS THAN ALL ARE REQUIRED IN
19 ORDER TO EXERCISE POWERS OF THE TRUSTEE; AND

20 (g) THE NAME IN WHICH TITLE TO TRUST PROPERTY MAY BE TAKEN.

21 (2) A CERTIFICATION OF TRUST MAY BE SIGNED OR OTHERWISE
22 AUTHENTICATED BY ANY TRUSTEE.

23 (3) A CERTIFICATION OF TRUST MUST STATE THAT THE TRUST HAS
24 NOT BEEN REVOKED, MODIFIED, OR AMENDED IN ANY MANNER THAT
25 WOULD CAUSE THE REPRESENTATIONS CONTAINED IN THE CERTIFICATION
26 OF TRUST TO BE INCORRECT.

27 (4) A CERTIFICATION OF TRUST NEED NOT CONTAIN THE

1 DISPOSITIVE TERMS OF A TRUST.

2 (5) A RECIPIENT OF A CERTIFICATION OF TRUST MAY REQUIRE THE
3 TRUSTEE TO FURNISH COPIES OF THOSE EXCERPTS FROM THE ORIGINAL
4 TRUST INSTRUMENT AND LATER AMENDMENTS THAT DESIGNATE THE
5 TRUSTEE AND CONFER UPON THE TRUSTEE THE POWER TO ACT IN THE
6 PENDING TRANSACTION.

7 (6) A PERSON WHO ACTS IN RELIANCE UPON A CERTIFICATION OF
8 TRUST WITHOUT KNOWLEDGE THAT THE REPRESENTATIONS CONTAINED
9 THEREIN ARE INCORRECT IS NOT LIABLE TO ANY PERSON FOR SO ACTING
10 AND MAY ASSUME WITHOUT INQUIRY THE EXISTENCE OF THE FACTS
11 CONTAINED IN THE CERTIFICATION. KNOWLEDGE OF THE TERMS OF THE
12 TRUST MAY NOT BE INFERRED SOLELY FROM THE FACT THAT A COPY OF
13 ALL OR PART OF THE TRUST INSTRUMENT IS HELD BY THE PERSON RELYING
14 UPON THE CERTIFICATION.

15 (7) A PERSON WHO IN GOOD FAITH ENTERS INTO A TRANSACTION
16 IN RELIANCE UPON A CERTIFICATION OF TRUST MAY ENFORCE THE
17 TRANSACTION AGAINST THE TRUST PROPERTY AS IF THE REPRESENTATIONS
18 CONTAINED IN THE CERTIFICATION WERE CORRECT.

19 (8) A PERSON MAKING A DEMAND FOR THE TRUST INSTRUMENT IN
20 ADDITION TO A CERTIFICATION OF TRUST OR EXCERPTS IS LIABLE FOR
21 COSTS, EXPENSES, ATTORNEY FEES, AND DAMAGES IF THE COURT
22 DETERMINES THAT THE PERSON DID NOT ACT IN GOOD FAITH IN
23 DEMANDING THE TRUST INSTRUMENT.

24 (9) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PERSON TO
25 OBTAIN A COPY OF THE TRUST INSTRUMENT IN A JUDICIAL PROCEEDING
26 CONCERNING THE TRUST.

27

PART 11

1 (Reserved)

2 PART 12

3 (Reserved)

4 PART 13

5 LIFE INSURANCE POLICY OWNED BY A TRUSTEE

6 **15-5-1301. Life insurance policy owned by a trustee -**

7 **definition.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND
8 THE PROVISIONS OF THE "COLORADO UNIFORM PRUDENT INVESTOR ACT",
9 ARTICLE 1.1 OF THIS TITLE 15, A TRUSTEE MAY NOT ACQUIRE OR HOLD AS
10 A TRUST ASSET A LIFE INSURANCE POLICY ON THE LIFE OF A PERSON
11 UNLESS THE TRUSTEE HAS AN INSURABLE INTEREST, AS DESCRIBED IN
12 SECTION 15-5-114, IN THE PERSON. A TRUSTEE WHO ACQUIRES AS A TRUST
13 ASSET A LIFE INSURANCE POLICY ON THE LIFE OF A PERSON IN WHOM THE
14 TRUSTEE HAS AN INSURABLE INTEREST MAY CONTINUE TO HOLD THE LIFE
15 INSURANCE POLICY WITHOUT LIABILITY FOR LOSS ARISING FROM THE
16 TRUSTEE'S FAILURE TO:

17 (a) DETERMINE WHETHER THE POLICY IS OR REMAINS A PROPER
18 INVESTMENT;

19 (b) INVESTIGATE THE FINANCIAL STRENGTH OF THE LIFE
20 INSURANCE COMPANY;

21 (c) EXERCISE OR NOT EXERCISE ANY OPTION, RIGHT, OR PRIVILEGE
22 AVAILABLE UNDER THE POLICY, INCLUDING FINANCING THE PAYMENT OF
23 PREMIUMS, UNLESS THERE IS SUFFICIENT CASH OR THERE ARE OTHER
24 READILY MARKETABLE TRUST ASSETS FROM WHICH TO PAY PREMIUMS,
25 REGARDLESS OF WHETHER THE EXERCISE OR NONEXERCISE OF THESE
26 POWERS RESULTS IN THE LAPSE OR TERMINATION OF THE POLICY;

27 (d) INQUIRE ABOUT OR INVESTIGATE THE HEALTH OR FINANCIAL

1 CONDITION OF ANY INSURED UNDER THE POLICY; OR

2 (e) RETAIN THE POLICY WITHOUT REGARD TO ANY LACK OF
3 DIVERSIFICATION OF TRUST ASSETS RESULTING FROM OWNERSHIP OF SUCH
4 POLICY AND WITHOUT REGARD TO THE TERMS AND CONDITIONS OF THE
5 POLICY.

6 (2) (a) THIS SECTION DOES NOT RELIEVE A TRUSTEE OF LIABILITY
7 WITH RESPECT TO ANY LIFE INSURANCE POLICY PURCHASED FROM AN
8 AFFILIATED COMPANY, OR WITH RESPECT TO WHICH THE TRUSTEE OR ANY
9 AFFILIATED COMPANY OF THE TRUSTEE RECEIVES ANY COMMISSION,
10 UNLESS EITHER:

11 (I) THE TRUSTEE HAS GIVEN WRITTEN NOTICE OF SUCH INTENDED
12 PURCHASE TO ALL QUALIFIED BENEFICIARIES OF THE TRUST AS DEFINED IN
13 SECTION 15-1-402 (10.5), OR TO THEIR LEGAL REPRESENTATIVES, AND
14 EITHER RECEIVES WRITTEN CONSENT TO SUCH PURCHASE FROM QUALIFIED
15 BENEFICIARIES OR DOES NOT RECEIVE FROM A QUALIFIED BENEFICIARY A
16 RESPONSE TO WRITTEN NOTICE BY THE TRUSTEE WITHIN THIRTY DAYS
17 AFTER THE MAILING OF SUCH NOTICE TO THE QUALIFIED BENEFICIARY OR
18 LEGAL REPRESENTATIVE AT HIS OR HER LAST KNOWN ADDRESS; OR

19 (II) THE TRUST AGREEMENT CONTAINS A PROVISION THAT PERMITS
20 PURCHASES OF LIFE INSURANCE FROM AN AFFILIATE.

21 (b) FOR PURPOSES OF THIS SECTION, AN "AFFILIATED COMPANY"
22 HAS THE SAME MEANING AS SET FORTH IN 15 U.S.C. SEC. 80a-2 (a)(2).

23 (3) THIS SECTION APPLIES TO A TRUST ESTABLISHED BEFORE, ON,
24 OR AFTER AUGUST 7, 2013, AND TO A LIFE INSURANCE POLICY ACQUIRED,
25 RETAINED, OR OWNED BY A TRUSTEE BEFORE, ON, OR AFTER AUGUST 7,
26 2013.

27 (4) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THIS

1 SECTION DOES NOT APPLY TO ANY TRUST THAT EXPRESSLY PROVIDES THAT
2 THIS SECTION DOES NOT APPLY TO SUCH TRUST, OR TO ANY TRUST THAT
3 OTHERWISE PROVIDES FOR A DIFFERENT STANDARD OF FIDUCIARY CARE OR
4 OBLIGATION GREATER THAN THAT PROVIDED IN THIS SECTION; EXCEPT
5 THAT A TRUST MAY NOT PERMIT A TRUSTEE TO ACQUIRE OR HOLD AS A
6 TRUST ASSET A LIFE INSURANCE POLICY ON THE LIFE OF A PERSON IN WHOM
7 THE TRUSTEE DOES NOT HOLD AN INSURABLE INTEREST.

8 PART 14

9 MISCELLANEOUS PROVISIONS

10 **15-5-1401. Uniformity of application and construction.** IN
11 APPLYING AND CONSTRUING THE LANGUAGE OF THIS ARTICLE 5 THAT IS
12 CONSISTENT WITH UNIFORM LAW, CONSIDERATION MUST BE GIVEN TO THE
13 NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT
14 MATTER AMONG STATES THAT ENACT IT.

15 **15-5-1402. Electronic records and signatures.** THE PROVISIONS
16 OF THIS ARTICLE 5 GOVERNING THE LEGAL EFFECT, VALIDITY, OR
17 ENFORCEABILITY OF ELECTRONIC RECORDS OR ELECTRONIC SIGNATURES,
18 AND OF CONTRACTS FORMED OR PERFORMED WITH THE USE OF SUCH
19 RECORDS OR SIGNATURES, CONFORM TO THE REQUIREMENTS OF SECTION
20 102 OF THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND
21 NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7002, AND SUPERSEDE,
22 MODIFY, AND LIMIT THE REQUIREMENTS OF THE FEDERAL "ELECTRONIC
23 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC.
24 7001 ET SEQ.

25 **15-5-1403. Severability clause.** IF ANY PROVISION OF THIS
26 ARTICLE 5 OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCES IS
27 HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OF

1 APPLICATIONS OF THIS ARTICLE 5 THAT CAN BE GIVEN EFFECT WITHOUT
2 THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE
3 PROVISIONS OF THIS ARTICLE 5 ARE SEVERABLE.

4 **15-5-1404. Application to existing relationships.** (1) EXCEPT AS
5 OTHERWISE PROVIDED IN THIS ARTICLE 5, ON THE EFFECTIVE DATE OF THIS
6 ARTICLE 5:

7 (a) THIS ARTICLE 5 APPLIES TO ALL TRUSTS CREATED BEFORE, ON,
8 OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE 5;

9 (b) THIS ARTICLE 5 APPLIES TO ALL JUDICIAL PROCEEDINGS
10 CONCERNING TRUSTS COMMENCED ON OR AFTER THE EFFECTIVE DATE OF
11 THIS ARTICLE 5;

12 (c) THIS ARTICLE 5 APPLIES TO JUDICIAL PROCEEDINGS
13 CONCERNING TRUSTS COMMENCED BEFORE THE EFFECTIVE DATE OF THIS
14 ARTICLE 5 UNLESS THE COURT FINDS THAT APPLICATION OF A PARTICULAR
15 PROVISION OF THIS ARTICLE 5 WOULD SUBSTANTIALLY INTERFERE WITH
16 THE EFFECTIVE CONDUCT OF THE JUDICIAL PROCEEDINGS OR PREJUDICE
17 THE RIGHTS OF THE PARTIES, IN WHICH CASE THE PARTICULAR PROVISION
18 OF THIS ARTICLE 5 DOES NOT APPLY AND THE SUPERSEDED LAW APPLIES;

19 (d) ANY RULE OF CONSTRUCTION OR PRESUMPTION PROVIDED IN
20 THIS ARTICLE 5 APPLIES TO TRUST INSTRUMENTS EXECUTED BEFORE THE
21 EFFECTIVE DATE OF THIS ARTICLE 5 UNLESS THERE IS A CLEAR INDICATION
22 OF A CONTRARY INTENT IN THE TERMS OF THE TRUST; AND

23 (e) AN ACT DONE BEFORE THE EFFECTIVE DATE OF THIS ARTICLE 5
24 IS NOT AFFECTED BY THIS ARTICLE 5.

25 (2) IF A RIGHT IS ACQUIRED, EXTINGUISHED, OR BARRED UPON THE
26 EXPIRATION OF A PRESCRIBED PERIOD THAT HAS COMMENCED TO RUN
27 PURSUANT TO ANY OTHER STATUTE BEFORE THE EFFECTIVE DATE OF THIS

1 ARTICLE 5, THEN THE PERIOD PRESCRIBED BY THAT STATUTE AS IT EXISTED
2 PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE 5 CONTINUES TO APPLY TO
3 THE RIGHT, EVEN IF THE STATUTE HAS BEEN REPEALED OR SUSPENDED.

4 **SECTION 2.** In Colorado Revised Statutes, **repeal** parts 1, 2, 3,
5 4, 5, 6, and 7 of article 16 of title 15.

6 **SECTION 3.** In Colorado Revised Statutes, 10-7-704, **amend**
7 (1)(d) as follows:

8 **10-7-704. Insurable interest.** (1) An insurable interest, with
9 reference to insurance on the life of another, exists only as follows:

10 (d) A trustee of a trust has an insurable interest in the life of an
11 insured under a life insurance policy as provided in ~~section 15-16-501,~~
12 ~~C.R.S.~~ SECTION 15-5-114;

13 **SECTION 4.** In Colorado Revised Statutes, 11-106-105, **amend**
14 (1) introductory portion as follows:

15 **11-106-105. Substitution of Colorado bank or Colorado trust**
16 **company.** (1) In addition to the procedures initiated by an interested
17 party concerning internal affairs of ~~their~~ THE PARTY'S trust ~~under section~~
18 ~~15-16-201, C.R.S.~~ PURSUANT TO PART 2 OF ARTICLE 5 OF TITLE 15, or
19 procedures otherwise permitted by Colorado law, and unless a will,
20 agreement, or trust instrument otherwise provides, a company may be
21 substituted as fiduciary for all or a part of the fiduciary business of
22 another company without court approval if:

23 **SECTION 5.** In Colorado Revised Statutes, 13-32-102, **amend**
24 (1) introductory portion and (1)(e) as follows:

25 **13-32-102. Fees in probate proceedings.** (1) On and after July
26 1, 2008, for services rendered by judges and clerks of district or probate
27 courts in all counties of the state of Colorado in proceedings had pursuant

1 to articles 10 to 17 of title 15, ~~C.R.S.~~, THE COURT SHALL CHARGE the
2 following fees: ~~shall be charged:~~

3 (e) Registration fee for registration of trust pursuant to ~~article 16~~
4 ARTICLE 5 of title 15 ~~C.R.S.~~ 163.00

5 **SECTION 6.** In Colorado Revised Statutes, 15-1-1512, **amend**
6 (1)(b) as follows:

7 **15-1-1512. Disclosure of contents of electronic**
8 **communications held in trust when trustee not original user.**

9 (1) Unless otherwise ordered by the court, directed by the user, or
10 provided in a trust, a custodian shall disclose to a trustee that is not an
11 original user of an account the content of an electronic communication
12 sent or received by an original or successor user and carried, maintained,
13 processed, received, or stored by the custodian in the account of the trust
14 if the trustee gives the custodian:

15 (b) A certified copy of the trust instrument or a registration of the
16 trust under ~~part 1 of article 16~~ PART 2 OF ARTICLE 5 of this ~~title~~ TITLE 15
17 that includes consent to disclosure of the content of electronic
18 communications to the trustee;

19 **SECTION 7.** In Colorado Revised Statutes, 15-1-1513, **amend**
20 (1)(b) as follows:

21 **15-1-1513. Disclosure of other digital assets held in trust when**
22 **trustee not original user.** (1) Unless otherwise ordered by the court,

23 directed by the user, or provided in a trust, a custodian shall disclose, to
24 a trustee that is not an original user of an account, a catalog of electronic
25 communications sent or received by an original or successor user and
26 stored, carried, or maintained by the custodian in an account of the trust
27 and any digital assets, other than the content of electronic

1 communications, in which the trust has a right or interest if the trustee
2 gives the custodian:

3 (b) A certified copy of the trust instrument or a registration of the
4 trust under ~~part 1 of article 16~~ PART 2 OF ARTICLE 5 of this ~~title~~ TITLE 15;

5 **SECTION 8.** In Colorado Revised Statutes, 15-10-301, **amend**
6 (1)(e) as follows:

7 **15-10-301. Territorial application.** (1) Except as otherwise
8 provided in this code, this code applies to:

9 (e) Trusts subject to administration in this state, TO THE EXTENT
10 SUCH APPLICATION IS NOT INCONSISTENT WITH THE "COLORADO TRUST
11 CODE", ARTICLE 5 OF THIS TITLE 15; and

12 **SECTION 9.** In Colorado Revised Statutes, 15-10-601, **amend**
13 (1) as follows:

14 **15-10-601. Definitions.** As used in this part 6, unless the context
15 otherwise requires:

16 (1) "Estate" means the property of the decedent, trust, or other
17 person whose affairs are subject to this code OR ANY CODE INCLUDED AS
18 PART OF THIS TITLE 15 as the estate is originally constituted and as the
19 estate exists from time to time during administration. "Estate" includes
20 custodial property as described in the "Colorado Uniform Transfers to
21 Minors Act", article 50 of title 11; ~~C.R.S.~~; custodial trust property as
22 described in the "Colorado Uniform Custodial Trust Act", article 1.5 of
23 this ~~title~~ TITLE 15; and the property of a principal that is subject to a
24 power of attorney.

25 **SECTION 10.** In Colorado Revised Statutes, **amend** 15-11-806
26 as follows:

27 **15-11-806. Reformation to correct mistakes.** The court may

1 reform the terms of a governing instrument OTHER THAN A TRUST THAT
2 IS GOVERNED BY SECTION 15-5-415, even if unambiguous, to conform the
3 terms to the transferor's intention if it is proved by clear and convincing
4 evidence ~~that~~ WHAT the transferor's intent WAS and THAT the terms of the
5 governing instrument were affected by a mistake of fact or law, whether
6 in expression or inducement.

7 **SECTION 11.** In Colorado Revised Statutes, **amend** 15-11-807
8 as follows:

9 **15-11-807. Modification to achieve transferor's tax objectives.**

10 To achieve the transferor's tax objectives, the court may modify the terms
11 of a governing instrument OTHER THAN A TRUST THAT IS GOVERNED BY
12 SECTION 15-5-416 in a manner that is not contrary to the transferor's
13 probable intention. The court may provide that the modification has
14 retroactive effect.

15 **SECTION 12.** In Colorado Revised Statutes, 15-12-703, **amend**
16 (1) as follows:

17 **15-12-703. General duties - relation and liability to persons**
18 **interested in estate - duty to search for a designated beneficiary**

19 **agreement - standing to sue.** (1) A personal representative is a fiduciary
20 who shall observe the standards of care applicable to trustees as described
21 by ~~section 15-16-302~~ PART 8 OF ARTICLE 5 OF THIS TITLE 15. A personal
22 representative ~~is under~~ HAS a duty to settle and distribute the estate of the
23 decedent in accordance with the terms of any probated and effective will
24 and this code, and as expeditiously and efficiently as is consistent with the
25 best interests of the estate. ~~He~~ A PERSONAL REPRESENTATIVE shall use the
26 authority conferred upon him OR HER by this code, the terms of the will,
27 if any, and any order in proceedings to which he OR SHE is party for the

1 best interests of successors to the estate.

2 **SECTION 13.** In Colorado Revised Statutes, 15-12-913, **amend**
3 (1) as follows:

4 **15-12-913. Distributions to trustee.** (1) Before distributing to
5 a trustee, the personal representative may require that the trust be
6 registered if the state in which it is to be administered provides for
7 registration and that the trustee inform the beneficiaries as provided in
8 ~~section 15-16-303~~ SECTION 15-5-206.

9 **SECTION 14.** In Colorado Revised Statutes, 15-16-806, **amend**
10 (3) as follows:

11 **15-16-806. Duty to communicate - no duty to warn.** (3) A trust
12 advisor has a duty to keep the beneficiaries of a trust reasonably informed
13 of the trust and its administration, to the extent that such information
14 relates to a duty or function being performed by the trust advisor. This
15 duty is governed by ~~section 15-16-303~~ SECTION 15-5-206.

16 **SECTION 15.** In Colorado Revised Statutes, 15-17-101, **amend**
17 (2) introductory portion as follows:

18 **15-17-101. Time of taking effect - provisions for transition.**
19 (2) Except as provided elsewhere in this code, including but not limited
20 to sections 15-11-601, 15-11-701, 15-11-1106, ~~15-16-702~~, and
21 15-17-103, on the effective date of this code or of any amendment to this
22 code:

23 **SECTION 16. Act subject to petition - effective date.** This act
24 takes effect January 1, 2019; except that, if a referendum petition is filed
25 pursuant to section 1 (3) of article V of the state constitution against this
26 act or an item, section, or part of this act within the ninety-day period
27 after final adjournment of the general assembly, then the act, item,

1 section, or part will not take effect unless approved by the people at the
2 general election to be held in November 2018 and, in such case, will take
3 effect on January 1, 2019, or on the date of the official declaration of the
4 vote thereon by the governor, whichever is later.