

OKLAHOMA STATUTES  
TITLE 60. PROPERTY

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§60-1. Definition of property.

The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this Chapter the thing of which there may be ownership is called property.  
R.L.1910, § 6586.

§60-2. Ownership, what subject to.

There may be ownership of all inanimate things which are capable of appropriation, or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill, as the composition of an author, the good will of a business, trade marks and signs, and of rights created or granted by statute.  
R.L.1910, § 6587.

§60-3. Wild animals may be owned, when.

Animals, wild by nature, are the subjects of ownership while living only when on the land of the person claiming them, or when tamed, or taken and held in possession, or disabled and immediately pursued.

R.L.1910, § 6588.

§60-4. Property classified.

Property is either:

1. Real or immovable; or
2. Personal or movable.

R.L.1910, § 6589.

§60-5. Real property defined.

Real or immovable property consists of:

1. Land.
2. That which is affixed to land.
3. That which is incidental or appurtenant to land.
4. That which is immovable by law.

R.L.1910, § 6590.

§60-6. Land defined.

A. Land is the solid material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock or other substance, and includes any pore space.

B. 1. As used in this section, "pore space" means any interstitial space not occupied by soil or rock, within the solid material of the earth, and any cavity, hole, hollow or void space within the solid material of the earth.

2. As used in this section, pore space is real property and, until title to the pore space or rights, interests or estates in the pore space are separately transferred, pore space is property of the person or persons holding title to the land surface above it.

3. Notwithstanding the ownership of the pore space, nothing in this section shall alter or be construed to alter the ownership of, or rights associated with the oil or gas, as those terms are defined in Section 86.1 of Title 52 of the Oklahoma Statutes, that may be within the pore space.

R.L.1910, § 6591. Amended by Laws 2011, c. 264, § 6.

§60-7. Fixtures defined.

A thing is deemed to be affixed to land when it is attached to it by roots, as in the case of trees, vines or shrubs, or embedded in it, as in the case of walls, or permanently resting upon it, as in the case of buildings, or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts or screws.

R.L. 1910 Sec. 6592.

R.L.1910, § 6592.

§60-8. Appurtenances defined.

A thing is deemed to be incidental or appurtenant to land when it is by right used with the land for its benefit, as in the case of

a way or watercourse, or of a passage for light, air or heat, from or across the land of another. Sluice boxes, flumes, hose, pipes, railway tracks, cars, blacksmith shops, mills, and all other machinery or tools used in working or developing a mine, are to be deemed affixed to the mine. R.L. 1910 Sec. 6593.  
R.L.1910, § 6593.

§60-9. Personal property defined.

Every kind of property that is not real is personal. R.L. 1910 Sec. 6594.  
R.L.1910, § 6594.

§60-21. Real property, what law governs.

Real property within this state is governed by the law of this state, except where the title is in the United States.  
R.L.1910, § 6595.

§60-22. Classification as to duration.

Estates in real property, in respect to the duration of their enjoyment, are either:

1. Estates of inheritance, or perpetual estates.
2. Estates for life.
3. Estates for years; or,
4. Estates at will.

R.L.1910, § 6596.

§60-23. Estate in fee defined.

Every estate of inheritance is a fee, and every such estate, when not defeasible or conditional, is a fee simple or an absolute fee.  
R.L.1910, § 6597.

§60-24. Estates tail abolished.

Estates tail are abolished; and every estate which would be at common law adjudged to be a fee tail is a fee simple, and if no valid remainder is limited thereon, is a fee simple absolute.  
R.L.1910, § 6598.

§60-25. Limitation of remainder in tail.

Where a remainder in fee is limited upon any estate, which would by the common law be adjudged a fee tail, such remainder is valid as a contingent limitation upon a fee, and vests in possession on the death of the first taker, without issue living at the time of his death.  
R.L.1910, § 6599.

§60-26. Certain estates defined.

Estates of inheritance and for life are called estates of freehold; estates for years are chattels real; and estates at will are chattel interests, but are not liable as such to sale on execution.

R.L.1910, § 6600.

§60-27. Estate pour autre vie.

An estate during the life of a third person, whether limited to heirs or otherwise, is a freehold.

R.L.1910, § 6601.

§60-28. Particular estate not necessary to remainder.

A future estate may be limited by the act of the party to commence in possession at a future day, either without the intervention of a precedent estate, or on the termination, by lapse of time, or otherwise, of a precedent estate, created at the same time.

R.L.1910, § 6602.

§60-29. Reversion defined.

The reversion is the residue of an estate left, by operation of law, in the grantor, or his successors, or in the successors of a testator, commencing in possession on the determination of a particular estate granted or devised.

R.L.1910, § 6603.

§60-30. Remainder defined.

When a future estate, other than a reversion, is dependent on a precedent estate, it may be called a remainder, and may be created and transferred by that name.

R.L.1910, § 6604.

§60-31. Suspension of alienation.

**A. The absolute power of alienation shall not be suspended, by any limitation or condition whatever, for a longer period than during the continuance of the lives of persons in being at the creation of the limitation or condition plus twenty-one (21) years, except as provided in Section 34 of Title 60 of the Oklahoma Statutes.**

B. The provisions of this section apply solely to real property not held in trust.



Added by Laws 1910, § 6605. Amended by Laws 1977, c. 5, § 1; Laws 2015, c. 164, § 1, eff. Nov. 1, 2015.

§60-32. Suspension of ownership limited.

## **A. The absolute ownership of a term of years cannot be suspended for a longer period than the absolute power of alienation can be suspended in respect to a fee.**

B. The provisions of this section apply solely to real property not held in trust.

Added by Laws 1941, p. 266, § 2. Amended by Laws 2015, c. 164, § 2, eff. Nov. 1, 2015.

§60-33. Repealed by Laws 2015, c. 164, § 4, eff. Nov. 1, 2015.

§60-34. Contingent remainder in fee, on prior remainder.

A contingent remainder in fee may be created on a prior remainder in fee, to take effect in the event that the persons to whom the first remainder is limited die under the age of twenty-one (21) years, or upon any other contingency by which the estate of such persons may be determined before they attain majority.

R.L.1910, § 6608.

§60-35. Future estates.

Subject to the rules of this chapter, a freehold estate, as well as an estate for years, may be created to commence at a future day; an estate for life may be created in a term of years, and a remainder limited thereon; a remainder of a freehold or an estate for years, either contingent or vested, may be created, expectant on the determination of a term of years; and a fee may be limited on a fee, upon a contingency, which if it should occur, must happen within the period prescribed herein.

R.L.1910, § 6609.

§60-36. Certain limitations of estates void.

Successive estates for life cannot be limited, except to persons in being at the creation thereof, and all life estates subsequent to those of persons in being are void; and upon the death of those persons, the remainder, if valid in its creation, takes effect in the same manner as if no other life estate had been created.

R.L.1910, § 6610.

§60-36.1. Death of life tenant - Prima facie evidence.

In the event of the death of a life tenant leaving an estate subject to probate, a certified copy of Letters Testamentary or of Administration shall constitute prima facie evidence of the life tenant's death.

Added by Laws 1992, c. 395, § 14, eff. Sept. 1, 1992.

§60-37. Remainder on successive lives must be in fee.

No remainder can be created upon successive estates for life, provided for in the preceding section, unless such remainder is in fee; nor can a remainder be created upon such estate in a term for years unless it is for the whole residue of such term.

R.L.1910, § 6611.

§60-38. Contingent remainder on term of years.

A contingent remainder cannot be created on a term of years, unless the nature of the contingency on which it is limited is such that the remainder must vest an interest during the continuance or at the termination of lives in being at the creation of such remainder.

R.L.1910, § 6612.

§60-39. Estate for life limited as remainder.

No estate for life can be limited as a remainder on a term of years, except to a person in being at the creation of such estate.

R.L.1910, § 6613.

§60-40. Conditional limitations.

A remainder may be limited on a contingency which, in case it should happen, will operate to abridge or determine the precedent estate; and every such remainder is to be deemed a conditional limitation.

R.L.1910, § 6614.

§60-41. Remainder in fee to heirs after life estate.

When a remainder is limited to the heirs, or heirs of the body, of a person to whom a life estate in the same property is given, the persons who, on the termination of the life estate, are the successors or heirs of the body of the owner for life, are entitled to take by virtue of the remainder so limited to them, and not as mere successors of the owner for life.

R.L.1910, § 6615.

§60-42. Remainder not contingent.

When a remainder on an estate for life or for years is not limited on a contingency defeating or avoiding such precedent estate, it is to be deemed intended to take effect only on the death

of the first taker, or the expiration, by lapse of time, of such term of years.

R.L.1910, § 6616.

§60-43. Future estate after unexecuted power.

A general or special power of appointment does not prevent the vesting of a future estate, limited to take effect in case such power is not executed.

R.L.1910, § 6617.

§60-44. Termination of estate at will.

A tenancy or other estate at will, however created, may be terminated by the landlord's giving notice to the tenant, in the manner prescribed by the next section, to remove from the premises within a period specified in the notice, of not less than one (1) month except as provided in the chapter on "Landlord and Tenant."

R.L.1910, § 6618.

§60-45. Notice of termination.

The notice prescribed by the last section must be in writing, and must be served by delivering the same to the tenant, or to some person of discretion residing on the premises; or if neither can, with reasonable diligence, be found, the notice may be served by affixing it on a conspicuous part of the premises, where it may be conveniently read.

R.L.1910, § 6619.

§60-46. Action after notice.

After the notice prescribed by the two preceding sections has been served in the manner therein directed, and the period specified by such notice has expired, but not before, the landlord may reenter or proceed according to law to recover possession.

R.L.1910, § 6620.

§60-47. Reentry, notice of.

Whenever the right of reentry is given to a grantor or lessor in any grant or lease, or otherwise, such reentry may be made at any time after the right has accrued upon three (3) days' previous written notice of intention to reenter, served in the mode prescribed by Section 6619.

R.L.1910, § 6621.

§60-48. Possession, action for.

An action for the possession of real property leased or granted, with a right of reentry, may be maintained at any time after the right to reenter has accrued, without the notice prescribed in the preceding section.

R.L.1910, § 6622.

§60-49. Easements attached to land.

The following land burdens or servitudes upon land, may be attached to other land as incidents or appurtenances, and are then called easements:

1. The right of pasture;
2. The right of fishing;
3. The right of taking game;
4. The right-of-way;
5. The right of taking water, wood, minerals, and other things;
6. The right of transacting business upon land;
7. The right of conducting lawful sports upon land;
8. The right of receiving air, light, or heat from or over, or discharging the same upon or over land;
9. The right of receiving water from or discharging the same upon land;
10. The right of flooding land;
11. The right of having water flow without diminution or disturbance of any kind;
12. The right of using a wall as a party wall;
13. The right of receiving more than natural support from adjacent land or things affixed thereto;
14. The right of having the whole of a division fence maintained by a coterminous owner;
15. The right of having public conveyances stopped, or of stopping the same on land;
16. The right of a seat in church;
17. The right of burial; and
18. The right to impose limitations or affirmative obligations relating to conservation pursuant to the Uniform Conservation Easement Act.

R.L.1910, § 6623. Amended by Laws 1999, c. 384, § 9, eff. Nov. 1, 1999

§60-49.1. Short title.

#### SHORT TITLE

Sections 1 through 8 of this act shall be known and may be cited as the "Uniform Conservation Easement Act".

Added by Laws 1999, c. 384, § 1, eff. Nov. 1, 1999.

§60-49.2. Definitions.

#### DEFINITIONS

As used in this act:

1. "Conservation easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include, but are not limited to,

retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property; and

2. "Holder" means:

- a. a governmental body empowered to hold an interest in real property under the laws of this state or the United States, or
- b. a charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

Added by Laws 1999, c. 384, § 2, eff. Nov. 1, 1999.

§60-49.3. Creation, conveyance, acceptance, and duration.

CREATION, CONVEYANCE, ACCEPTANCE, AND DURATION

A. Except as otherwise provided in the Uniform Conservation Easement Act, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements; provided, however, nothing herein shall authorize any entity or individual to obtain a conservation easement by condemnation.

B. No right or duty in favor of or against a holder arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance.

C. Except as provided in subsection B of Section 49.4 of this title, the term of a conservation easement shall be the term stated in the instrument creating it.

D. An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

E. An owner of real property burdened by a conservation easement shall disclose the existence of such easement to any potential buyer of the real property.

Added by Laws 1999, c. 384, § 3, eff. Nov. 1, 1999. Added by Laws 2024, c. 36, § 1, eff. Nov. 1, 2024.

§60-49.4. Judicial Actions.

## JUDICIAL ACTIONS

A. An action affecting a conservation easement may be brought by:

1. An owner of an interest in the real property burdened by the easement;
2. A holder of the easement; or
3. A person authorized by other law.

B. The Uniform Conservation Easement Act does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

Added by Laws 1999, c. 384, § 4, eff. Nov. 1, 1999.

### §60-49.5. Validity.

#### VALIDITY

A conservation easement is valid even though:

1. It is not appurtenant to an interest in real property;
2. It can be or has been assigned to another holder;
3. It is not of a character that has been recognized traditionally at common law;
4. It imposes a negative burden;
5. It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
6. The benefit does not touch or concern real property; or
7. There is no privity of estate or of contract.

Added by Laws 1999, c. 384, § 5, eff. Nov. 1, 1999.

### §60-49.6. Applicability.

#### APPLICABILITY

A. The Uniform Conservation Easement Act applies to any interest created after November 1, 1999, which complies with the Uniform Conservation Easement Act, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise.

B. The Uniform Conservation Easement Act applies to any interest created before November 1, 1999, if it would have been enforceable had it been created after November 1, 1999, unless retroactive application contravenes the constitution or laws of this state or the United States.

C. The Uniform Conservation Easement Act does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other laws of this state.

Added by Laws 1999, c. 384, § 6, eff. Nov. 1, 1999.

### §60-49.7. Uniformity of application and construction.

#### UNIFORMITY OF APPLICATION AND CONSTRUCTION

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

Added by Laws 1999, c. 384, § 7, eff. Nov. 1, 1999.

§60-49.8. Additional Construction.

ADDITIONAL CONSTRUCTION

Unless the grantor of a conservation easement elects otherwise at the time of and in the same manner as the grant of the easement:

1. Nothing in this act shall be construed to impair the rights of a party with respect to the acquisition of rights-of-way, easements, or other property rights, whether through voluntary conveyance or eminent domain, upon or under which facilities, plant, system, or other improvements including, but not limited to, a pipeline for transmission, gathering, or transportation of hydrocarbons are to be constructed; and

2. The holder of a conservation easement must subordinate, without construction restrictions or other obligations, the conservation easement upon the request of any party owning any of the above rights-of-way, easements, or other property rights whether acquired prior or subsequent to the conservation easement.

Added by Laws 1999, c. 384, § 8, eff. Nov. 1, 1999.

§60-49.11. Short title.

SHORT TITLE.

A. Sections 1 through 13 of this act shall be known and may be cited as the "Uniform Environmental Covenants Act".

B. The provisions of the Uniform Environmental Covenants Act apply to real property in Oklahoma that otherwise qualifies under the provisions of the act.

Added by Laws 2006, c. 182, § 1, eff. Jan. 1, 2007.

§60-49.12. Definitions.

DEFINITIONS.

In the Uniform Environmental Covenants Act:

1. "Activity and use limitations" means restrictions or obligations created under this act with respect to real property;

2. "Agency" means the Department of Environmental Quality or any other state or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created;

3. "Common interest community" means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community;

4. "Environmental covenant" means a servitude arising under an environmental response project that imposes activity and use limitations;

5. "Environmental response project" means a plan or work performed for environmental remediation of real property and conducted:

- a. under a federal or state program governing environmental remediation of real property, including remedial actions provided for in the Oklahoma Environmental Quality Code,
- b. incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of an agency, or
- c. under a state voluntary cleanup program authorized in the Oklahoma Brownfields Voluntary Redevelopment Act;

6. "Holder" means the grantee of an environmental covenant as specified in subsection A of Section 3 of this act;

7. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

8. "Record", used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

9. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Added by Laws 2006, c. 182, § 2, eff. Jan. 1, 2007.

§60-49.13. Nature of rights - Subordination of interests.

NATURE OF RIGHTS; SUBORDINATION OF INTERESTS.

A. Any person, including a person that owns an interest in the real property, the agency, or a municipality or other unit of local government, may be a holder. An environmental covenant may identify more than one holder. The interest of a holder is an interest in real property.

B. A right of an agency under the Uniform Environmental Covenants Act or under an environmental covenant, other than a right as a holder, is not an interest in real property.

C. An agency is bound by any obligation it assumes in an environmental covenant, but an agency does not assume obligations merely by signing an environmental covenant. Any other person that signs an environmental covenant is bound by the obligations the person assumes in the covenant, but signing the covenant does not change obligations, rights, or protections granted or imposed under



law other than the Uniform Environmental Covenants Act except as provided in the covenant.

D. The following rules apply to interests in real property in existence at the time an environmental covenant is created or amended:

1. An interest that has priority under other law is not affected by an environmental covenant unless the person that owns the interest subordinates that interest to the covenant;

2. The Uniform Environmental Covenants Act does not require a person that owns a prior interest to subordinate that interest to an environmental covenant or to agree to be bound by the covenant;

3. A subordination agreement may be contained in an environmental covenant covering real property or in a separate record. If the environmental covenant covers commonly owned property in a common interest community, the record may be signed by any person authorized by the governing board of the owners' association; and

4. An agreement by a person to subordinate a prior interest to an environmental covenant affects the priority of that person's interest but does not by itself impose any affirmative obligation on the person with respect to the environmental covenant.

Added by Laws 2006, c. 182, § 3, eff. Jan. 1, 2007.

§60-49.14. Contents of environmental covenant.

CONTENTS OF ENVIRONMENTAL COVENANT.

A. An environmental covenant must:

1. State that the instrument is an environmental covenant executed pursuant to the Uniform Environmental Covenants Act;

2. Contain a legally sufficient description of the real property subject to the covenant;

3. Describe the activity and use limitations on the real property;

4. Identify every holder;

5. Be signed by the agency, every holder, and every owner of the fee simple of the real property subject to the covenant; and

6. Identify the name and location of any administrative record for the environmental response project reflected in the environmental covenant.

B. In addition to the information required by subsection A of this section, an environmental covenant may contain other information, restrictions, and requirements agreed to by the persons who signed it, including any:

1. Requirements for notice following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the property subject to the covenant;

2. Requirements for periodic reporting describing compliance with the covenant;

3. Rights of access to the property granted in connection with implementation or enforcement of the covenant;

4. Brief narrative description of the contamination and remedy, including the contaminants of concern, the pathways of exposure, limits on exposure, and the location and extent of the contamination;

5. Limitation on amendment or termination of the covenant in addition to those contained in Sections 9 and 10 of this act; and

6. Rights of the holder in addition to its right to enforce the covenant pursuant to Section 11 of this act.

C. In addition to other conditions for its approval of an environmental covenant, the agency may require those persons specified by the agency who have interests in the real property to sign the covenant.

Added by Laws 2006, c. 182, § 4, eff. Jan. 1, 2007.

§60-49.15. Validity - Effective on other instruments.

VALIDITY; EFFECT ON OTHER INSTRUMENTS.

A. An environmental covenant that complies with the Uniform Environmental Covenants Act runs with the land.

B. An environmental covenant that is otherwise effective is valid and enforceable even if:

1. It is not appurtenant to an interest in real property;

2. It can be or has been assigned to a person other than the original holder;

3. It is not of a character that has been recognized traditionally at common law;

4. It imposes a negative burden;

5. It imposes an affirmative obligation on a person having an interest in real property or on the holder;

6. The benefit or burden does not touch or concern real property;

7. There is no privity of estate or contract;

8. The holder dies, ceases to exist, resigns, or is replaced;

or

9. The owner of an interest subject to the environmental covenant and the holder are the same person.

C. An instrument that creates restrictions or obligations with respect to real property that would qualify as activity and use limitations except for the fact that the instrument was recorded before January 1, 2007, is not invalid or unenforceable because of any of the limitations on enforcement of interests described in subsection B of this section or because it was identified as an easement, servitude, deed restriction, or other interest. The

Uniform Environmental Covenants Act does not apply in any other respect to such an instrument.

D. The Uniform Environmental Covenants Act does not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that is otherwise enforceable under the law of this state.

Added by Laws 2006, c. 182, § 5, eff. Jan. 1, 2007.

§60-49.16. Relationship to other land-use law.

RELATIONSHIP TO OTHER LAND-USE LAW.

The Uniform Environmental Covenants Act does not authorize a use of real property that is otherwise prohibited by zoning, by law other than the Uniform Environmental Covenants Act regulating use of real property, or by a recorded instrument that has priority over the environmental covenant. An environmental covenant may prohibit or restrict uses of real property which are authorized by zoning or by law other than the Uniform Environmental Covenants Act.

Added by Laws 2006, c. 182, § 6, eff. Jan. 1, 2007.

§60-49.17. Notice.

NOTICE.

A. A copy of an environmental covenant shall be provided by the persons and in the manner required by the agency to:

1. Each person that signed the covenant;
2. Each person holding a recorded interest in the real property subject to the covenant;
3. Each person in possession of the real property subject to the covenant;
4. Each municipality or other unit of local government in which real property subject to the covenant is located; and
5. Any other person the agency requires.

B. The validity of a covenant is not affected by failure to provide a copy of the covenant as required under this section.

Added by Laws 2006, c. 182, § 7, eff. Jan. 1, 2007.

§60-49.18. Recording.

RECORDING.

A. An environmental covenant and any amendment or termination of the covenant must be recorded in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.

B. Except as otherwise provided in subsection C of Section 9 of this act, an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

Added by Laws 2006, c. 182, § 8, eff. Jan. 1, 2007.

§60-49.19. Duration - Amendment by court action.

DURATION; AMENDMENT BY COURT ACTION.

A. An environmental covenant is perpetual unless it is:

1. By its terms limited to a specific duration or terminated by the occurrence of a specific event;

2. Terminated by consent pursuant to Section 10 of this act;

3. Terminated pursuant to subsection B of this section;

4. Terminated by foreclosure of an interest that has priority over the environmental covenant; or

5. Terminated or modified in an eminent domain proceeding, but only if:

a. the agency that signed the covenant is a party to the proceeding,

b. all persons identified in subsections A and B of Section 10 of this act are given notice of the pendency of the proceeding, and

c. the court determines, after hearing, that the termination or modification will not adversely affect human health or the environment.

B. If the agency that signed an environmental covenant has determined that the intended benefits of the covenant can no longer be realized, a court, under the doctrine of changed circumstances, in an action in which all persons identified in subsections A and B of Section 10 of this act have been given notice, may terminate the covenant or reduce its burden on the real property subject to the covenant. The agency's determination or its failure to make a determination upon request is subject to review pursuant to the Administrative Procedures Act.

C. Except as otherwise provided in subsections A and B of this section, an environmental covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or a similar doctrine.

D. An environmental covenant may not be extinguished, limited, or impaired by application of the provisions of Sections 71 through 85 of Title 16 of the Oklahoma Statutes or the Uniform Unclaimed Property Act.

Added by Laws 2006, c. 182, § 9, eff. Jan. 1, 2007.

§60-49.20. Amendment or termination by consent.

AMENDMENT OR TERMINATION BY CONSENT.

A. An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by:

1. The agency;

2. The current owner of the fee simple of the real property subject to the covenant;

3. Each person that originally signed the covenant, unless the person waived in a signed record the right to consent or a court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence; and

4. Except as otherwise provided in paragraph 2 of subsection D of this section, the holder.

B. If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment of the covenant unless the current owner of the interest consents to the amendment or has waived in a signed record the right to consent to amendments.

C. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.

D. Except as otherwise provided in an environmental covenant:

1. A holder may not assign its interest without consent of the other parties; and

2. A holder may be removed and replaced by agreement of the other parties specified in subsection A of this section.

E. A court of competent jurisdiction may fill a vacancy in the position of holder.

Added by Laws 2006, c. 182, § 10, eff. Jan. 1, 2007.

#### §60-49.21. Enforcement of environmental covenant.

##### ENFORCEMENT OF ENVIRONMENTAL COVENANT.

A. A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by:

1. A party to the covenant;

2. The agency or, if it is not the agency, the Department of Environmental Quality;

3. Any person to whom the covenant expressly grants power to enforce;

4. A person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the covenant; or

5. A municipality or other unit of local government in which the real property subject to the covenant is located.

B. The Uniform Environmental Covenants Act does not limit the regulatory authority of the Department of Environmental Quality or other agency under law other than the Uniform Environmental Covenants Act with respect to an environmental response project including the authority of the Department of Environmental Quality provided in Sections 2-7-123 and 2-15-107 of Title 27A of the Oklahoma Statutes.

C. A person is not responsible for or subject to liability for environmental remediation solely because it has the right to enforce an environmental covenant.

Added by Laws 2006, c. 182, § 11, eff. Jan. 1, 2007.

§60-49.22. Uniformity of application and construction.

UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing the Uniform Environmental Covenants Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Added by Laws 2006, c. 182, § 12, eff. Jan. 1, 2007.

§60-49.23. Relation to Electronic Signatures in Global and National Commerce Act.

RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

The Uniform Environmental Covenants Act modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C., Section 7001 et seq.) but does not modify, limit, or supersede Section 101 of that act (15 U.S.C., Section 7001(a)) or authorize electronic delivery of any of the notices described in Section 103 of that act (15 U.S.C., Section 7003(b)).

Added by Laws 2006, c. 182, § 13, eff. Jan. 1, 2007.

§60-50. Easements not attached to land.

The following land burdens or servitudes upon land may be granted and held, though not attached to land:

1. The right to pasture, and of fishing and taking game.
2. The right of seat in church.
3. The right of burial.
4. The right of taking rents and tolls.
5. The right-of-way.
6. The right of taking water, wood, minerals, or other things.

R.L.1910, § 6624.

§60-51. Dominant and servient tenements.

The land to which an easement is attached is called the dominant tenement; the land upon which a burden or servitude is laid is called the servient tenement. R.L. 1910 Sec. 6625.

R.L.1910, § 6625.

§60-52. Servitude, who may create.

A servitude can be created only by one who has a vested estate in the servient tenement. R.L. 1910 Sec. 6626.

R.L.1910, § 6626.

§60-53. Servitude, who cannot hold.

A servitude thereon cannot be held by the owner of the servient tenement.

R.L. 1910, § 6627.

§60-54. Extent of servitude.

The extent of a servitude is determined by the terms of the grant, or the nature of the enjoyment by which it was acquired.

R.L. 1910 Sec. 6628.

R.L.1910, § 6628.

§60-55. Partition of servitude.

In case of partition of the dominant tenement, the burden must be apportioned according to the division of the dominant tenement, but not in such a way as to increase the burden upon the servient tenement. R.L. 1910 Sec. 6629.

R.L.1910, § 6629.

§60-56. Rights of owner of future estate.

The owner of a future estate in a dominant tenement, may use easements attached thereto, for the purpose of viewing waste, demanding rent, or removing an obstruction to the enjoyment of such easements, although such tenement if occupied by a tenant. R.L. 1910 Sec. 6630.

R.L.1910, § 6630.

§60-57. Action to enforce easement.

The owner of any estate in a dominant tenement, or the occupant of such tenement, may maintain an action for the enforcement of an easement attached thereto. R.L. 1910 Sec. 6631.

R.L.1910, § 6631.

§60-58. Action for possession of servient tenement.

The owner in fee of a servient tenement may maintain an action for the possession of the land, against any one unlawfully possessed thereof, though a servitude exists thereon in favor of the public.

R.L. 1910 Sec. 6632.

R.L.1910, § 6632.

§60-59. Servitude extinguished, how.

A servitude is extinguished:

1. By the vesting of the right to the servitude and the right to the servient tenement in the same person.

2. By the destruction of the servient tenement.

3. By the performance of any act upon either tenement, by the owner of the servitude, or with his assent which is incompatible with its nature or exercise; or,

4. When the servitude was acquired by enjoyment, by disuse thereof by the owner of the servitude for the period prescribed for acquiring title by enjoyment. R.L. 1910 Sec. 6633.

R.L.1910, § 6633.

§60-59.1. Abstracting easement with mortgage or bond indenture - Restrictions.

If a mortgage or bond indenture describes or makes reference to a recorded easement, the abstractor shall identify the mortgage or bond indenture in the abstract of title, state that the land described in the abstract of title is subject to the mortgage or bond indenture, and give the date of the mortgage or bond indenture, the book and page of its recording and the book and page of the recording of the easement described in said mortgage. The abstractor shall not otherwise summarize, abstract or copy the mortgage or bond indenture in full unless authorized in writing by the owner, purchaser or lessee of the land.

Added by Laws 1982, c. 109, § 1, emerg. eff. April 6, 1982.

§60-59.2. Abstracting or copying mortgage or bond indenture without authorization - Damages.

If any abstractor fails to obtain written authorization by the owner, purchaser or lessee of the land and subsequently summarizes, abstracts or copies the mortgage or bond indenture in full, he shall be liable for damages.

Added by Laws 1982, c. 109, § 2, emerg. eff. April 6, 1982.

§60-59.3. Application of act.

The provisions of this act shall be prospective in nature and shall not apply to any documents recorded prior to the effective date of this act.

Added by Laws 1982, c. 109, § 3, emerg. eff. April 6, 1982.

§60-60. Ownership of water - Use of running water.

A. The owner of the land owns water standing thereon, or flowing over or under its surface but not forming a definite stream. The use of groundwater shall be governed by the Oklahoma Groundwater Law. Water running in a definite stream, formed by nature over or under the surface, may be used by the owner of the land riparian to the stream for domestic uses as defined in Section 105.1 of Title 82 of the Oklahoma Statutes, but he may not prevent the natural flow of the stream, or of the natural spring from which it commences its definite course, nor pursue nor pollute the same, as such water then becomes public water and is subject to appropriation for the benefit and welfare of the people of the state, as provided by law; Provided however, that nothing contained herein shall prevent the owner of land from damming up or otherwise using the bed of a stream on his land for the collection or storage of waters in an amount not to exceed that which he owns, by virtue of the first sentence of this section so long as he provides for the continued natural flow of the



stream in an amount equal to that which entered his land less the uses allowed for domestic uses and for valid appropriations made pursuant to Title 82 of the Oklahoma Statutes; provided further, that nothing contained herein shall be construed to limit the powers of the Oklahoma Water Resources Board to grant permission to build or alter structures on a stream pursuant to Title 82 of the Oklahoma Statutes to provide for the storage of additional water the use of which the landowner has or acquires by virtue of this act.

B. All rights to the use of water in a definite stream in this state are governed by this section and other laws in Title 82 of the Oklahoma Statutes, which laws are exclusive and supersede the common law.

Amended by Laws 1988, c. 203, § 1, emerg. eff. June 10, 1988.

§60-61. Life lease rent.

Rent due upon a lease for life may be recovered in the same manner as upon a lease for years. R.L. 1910 Sec. 6635.

R.L.1910, § 6635.

§60-62. Life lease rent, recovery after death.

Rent dependent on the life of a person may be recovered after as well as before his death. R.L. 1910 Sec. 6636.

R.L.1910, § 6636.

§60-63. Action for injury to inheritance.

A person having an estate in fee, in remainder, or reversion, may maintain an action for any injury done to the inheritance, notwithstanding an intervening estate for life or years, and although, after its commission, his estate is transferred, and he has no interest in the property at the commencement of the action.

R.L. 1910 Sec. 6637.

R.L.1910, § 6637.

§60-64. Fee title covers what.

The owner of land in fee has the right to the surface and to everything permanently situated beneath or above it. R.L. 1910 Sec. 6638.

R.L.1910, § 6638.

§60-66. Lateral and subjacent support, right to.

Each coterminous owner is entitled to the lateral and subjacent support which his land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for purposes of construction, on using ordinary care and skill, and taking reasonable precautions to sustain the land of the other, and giving previous reasonable notice

to the other of his intention to make such excavations. R.L. 1910 Sec. 6641.

R.L.1910, § 6641.

§60-67. Trees on land, ownership of.

Trees whose trunks stand wholly upon the land of one owner, belong exclusively to him, although their roots grow into the land of another. R.L. 1910 Sec. 6642.

R.L.1910, § 6642.

§60-68. Trees on line, ownership of.

Trees whose trunks stand partly on the land of two or more coterminous owners belong to them in common. R.L. 1910 Sec. 6643.

R.L.1910, § 6643.

§60-69. Duties of life tenant.

The owner of a life estate must keep the buildings and fences in repair from ordinary waste, and must pay the taxes and other annual charges, and a just proportion of extraordinary assessments benefiting the whole inheritance. R.L. 1910 Sec. 6644.

R.L.1910, § 6644.

§60-70. Boundaries and fences.

Coterminous owners are mutually bound equally to maintain:

1. The boundaries and monuments between them.

2. The fences between them, unless one of them chooses to let his land lie open as a public common, in which case, if he afterwards encloses it, he must refund to the other a just proportion of the value, at that time, of any division fence made by the latter. R.L. 1910 Sec. 6645.

R.L.1910, § 6645.

§60-71. Appointment of trustee where there are contingent remainders.

In any case where, by will or deed or other instrument, title to real estate is in a tenant for life or other person having the right to the use thereof and income therefrom, with the remainder interest left to one or more contingent remaindermen, so that it is impossible to determine until the death of the life tenant or the future happening of some other determining event, what interest, if any, the various contingent remaindermen will take; the district court, upon the application of the life tenant, shall have jurisdiction and authority to appoint a trustee under proper bond, over said real estate, for the purpose of leasing the same for oil and gas developing purposes.

Added by Laws 1939, p. 355, § 1, emerg. eff. May 10, 1939.

§60-72. Trustee may make oil and gas leases and other mining leases.

Said trustee shall have the power and authority to make valid oil and gas leases and other mining leases, upon said lands, for a term not to exceed ten (10) years, and as long thereafter as oil, gas or other minerals may be produced in paying quantities, said leases to be executed and approved under the same procedure now followed in leasing lands for oil and gas purposes in guardianships and estates, the bonus and rentals therefrom to be paid to the life tenant or other person entitled thereto.

Added by Laws 1939, p. 355, § 2, emerg. eff. May 10, 1939.

§60-73. Trustee's authority to invest income from royalties - Payments to life tenant or other person.

Under proper court order the trustee shall be authorized to invest income from royalties pursuant to the provisions of the Oklahoma Uniform Prudent Investor Act, unless otherwise provided by law, which investments shall remain intact until the ultimate taker is determined and shall then be paid over to the ultimate taker and the trust closed. Income from investments shall be paid to the life tenant or other person entitled thereto.

Added by Laws 1939, p. 355, § 3, emerg. eff. May 10, 1939. Amended by Laws 1995, c. 351, § 19, eff. Nov. 1, 1995.

§60-74. Joint tenancy and tenancy by entirety.

A joint interest is one owned by several persons in either real or personal property in equal shares, being a joint title created by a single instrument, will or transfer when expressly declared in the instrument, will or transfer to be a joint tenancy, or as between husband and wife a tenancy by entirety or joint tenancy as the grantor may elect, or when granting or devising to executors or trustees as joint tenants. A tenancy by entirety can only be created between husband and wife.

Such joint tenancy or tenancy by entirety may be created by transfer to persons as joint tenants or tenants by entirety from an owner or a joint owner to himself and one or more persons, or from tenants in common to themselves, or by coparceners in voluntary partition, and such estates may be created by or for persons who have elected to become bound under any community property act now in existence or which may hereafter be enacted. An adjudication of incompetency shall not operate to terminate such an estate.

Where a deed, transfer or conveyance grants an estate in joint tenancy or tenancy by entirety in the granting clause thereof, the granting clause shall control over the habendum clause containing language inconsistent to the granting clause.

In the event of the death of a joint tenant or tenant by entirety, leaving estate subject to probate, a certified copy of

letters testamentary or of administration shall constitute prima facie evidence of such death.

The provisions of this act shall apply to all estates in joint tenancy or tenancy by entirety in either real or personal property heretofore or hereafter created.

Nothing herein contained shall prevent execution, levy and sale of the interest of the judgment debtor in such estates and such sale shall constitute a severance.

Added by Laws 1945, p. 213, § 1, emerg. eff. May 7, 1945.

§60-74.1. Partial invalidity.

The provisions of this act shall be severable and if any section, subsection, sentence or clause of this act is for any reason held to be invalid such holding shall not affect the validity fo the remaining portions thereof.

Added by Laws 1945, p. 213, § 2, emerg. eff. May 7, 1945.

§60-75. Reformation of interests violating rule against perpetuities - Intent.

Any interest in real or personal property that would violate the rule against perpetuities shall be reformed, or construed within the limits of the rule, to give effect to the general intent of the creator of that interest whenever that general intent can be ascertained. This provision shall be liberally construed and applied to validate such interest to the fullest extent consistent with such ascertained intent.

Added by Laws 1971, c. 139, § 1, eff. Oct. 1, 1971.

§60-76. Construction in accordance with cy pres doctrine.

To effectuate the provisions hereof, all courts of this state are, within their otherwise jurisdictional limits, hereby granted the power to reform or construe interests in real or personal property, as provided in Section 1 hereof, in accordance with the doctrine of cy pres.

Added by Laws 1971, c. 139, § 2, eff. Oct. 1, 1971.

§60-77. Reformation of offending instruments.

If an instrument violates the rule against perpetuities, but can be reformed or construed in accordance with the provisions of this act, is shall not be declared totally invalid. Rather, the provisions thereof that do not offend the rule shall be enforced, and only the provisions thereof that do violate, or might violate, the rule shall be subject to reformation or construction under the doctrine of cy pres within the terms of this act.

Added by Laws 1971, c. 139, § 3, eff. Oct. 1, 1971.

§60-78. Applicability to certain inter vivos instruments, wills and appointments.

This act shall apply to inter vivos instruments and wills taking effect after the act becomes effective, and to appointments made after the act becomes effective, including appointments by inter vivos instruments or wills under powers created before the act becomes effective. The act shall apply to both legal and equitable interests.

Added by Laws 1971, c. 139, § 4, eff. Oct. 1, 1971.

§60-121. Alien or foreign government adversary may not hold land – Ownership of personalty.

A. As used in Sections 121 through 127 of this title:

1. "Deed" means any instrument in writing whereby land is assigned, transferred, or otherwise conveyed to, or vested in, the person coming into title or, at his or her direction, any other person;

2. "Foreign government adversary" means a government other than the federal government of the United States, the government of any state, political subdivision of the state, tribe, territory, or possession of the United States and designated by the United States Secretary of State as hostile or a Country of Particular Concern (CPC);

3. "Foreign government enterprise" means a business entity, sovereign wealth fund, or state-backed investment fund in which a foreign government adversary holds a controlling interest;

4. "Foreign government entity" means a government other than the federal government of the United States, the government of any state, political subdivision of the state, tribe, territory, or possession of the United States; and

5. "Land" means the same as defined in Section 6 of this title, but shall not include oil, gas, other minerals, or any interest therein.

B. No alien or any person who is not a citizen of the United States or foreign government adversary shall acquire title to or own land in this state either directly or indirectly through a business entity, trust, or foreign government enterprise, except as hereinafter provided, but they shall have and enjoy in this state such rights as to personal property as are, or shall be, accorded a citizen of the United States under the laws of the nation to which such alien belongs, or by the treaties of such nation with the United States, except as the same may be affected by the provisions of Section 121 et seq. of this title or the Constitution of this state. Provided, however, the requirements of this subsection shall not apply to a business entity that is engaged in regulated interstate commerce or has a national security agreement with the

Committee on Foreign Investment in the United States (CFIUS) in accordance with federal law.

C. On or after November 1, 2023, any deed recorded with a county clerk shall include as an exhibit to the deed an affidavit executed by the person, the person's attorney-in-fact, a court-appointed guardian or personal representative, an authorized officer of the entity, or trustee of the trust coming into title attesting that the person, business entity, or trust is obtaining the land in compliance with the requirements of this section and that no funding source is being used in the sale or transfer in violation of this section or any other state or federal law. A county clerk shall not accept and record any deed without an affidavit as required by this section which is duly notarized pursuant to Title 49 of the Oklahoma Statutes. The requirements of this subsection shall not apply to a:

1. Deed which, without additional consideration, confirms, corrects, modifies, or supplements a deed previously recorded;
2. Deed made by a grantor to cure a defect in title or effectuate a disclaimer of interest in real property;
3. Transfer-on-death deed made by a grantor designating a grantee beneficiary pursuant to the Nontestamentary Transfer of Property Act, Section 1251 et seq. of Title 58 of the Oklahoma Statutes;
4. State or federal court order in an action to quiet title or to cure a defect in title;
5. State or federal court order or decree in probate, partition, quiet title, and divorce actions;
6. Deed which secures a debt or other obligation, or which releases such property as security for a debt or other obligation;
7. Deed of dedication to the public; or
8. Deed in favor of the United States or any of its political subdivisions, a state or any of its political subdivisions, or a tribe.

The applicable exemption shall be shown on the face of the deed prior to the recording of the deed and no affidavit shall be required.

D. The Attorney General shall promulgate a separate affidavit form for individuals and for business entities or trusts to comply with the requirements of this section. The Attorney General may establish additional exemptions which the Attorney General deems necessary to substantially comply with the requirements of this section. The county clerk may accept an affidavit in substantial compliance with the affidavit form promulgated by the Attorney General.

R.L. 1910, § 6646. Amended by Laws 2023, c. 327, § 1, eff. Nov. 1, 2023; Laws 2024, c. 373, § 1, eff. Nov. 1, 2024.

§60-122. Exceptions.

This article shall not apply to lands now owned in this state by aliens so long as they are held by the present owners, nor to any alien who is or shall take up bona fide residence in this state: and any alien who is or shall become a bona fide resident of the State of Oklahoma shall have the right to acquire and hold lands in this state upon the same terms as citizens of the State of Oklahoma during the continuance of such bona fide residence of such alien in this state: Provided, that if any such resident alien shall cease to be a bona fide inhabitant of this state, such alien shall have five (5) years from the time he ceased to be such bona fide resident in which to alienate such lands.

R.L.1910, § 6647.

§60-123. Five-year limitation in certain cases.

All nonresident aliens who may hereinafter acquire real estate in Oklahoma by devise, descent or by purchase, where such purchase is made under any legal proceeding foreclosing liens in favor of such alien, may hold the same for five (5) years from the date of so acquiring such title.

R.L.1910, § 6648.

§60-124. Foreclosure of alien lands – Conveyance – Exception.

Any alien who shall hereafter hold lands in this state in contravention of the provisions of this article, may nevertheless convey the fee simple title thereof at any time before the institution of foreclosure proceedings as hereinafter provided. Provided, however, that if any such conveyance shall be made by such alien either to an alien or a citizen of the United States in trust, and for the purpose and with the intention of evading the provisions of this article, or the provisions of the Constitution of this state, such conveyance shall be null and void, and any such lands so conveyed shall be forfeited and absolutely foreclosed upon.

R.L. 1910, § 6649. Added by Laws 2024, c. 373, § 2, eff. Nov. 1, 2024.

§60-125. Foreclosure procedure – Notice.

It shall be the duty of the Attorney General or the district attorney of the county where the land is situated, when he or she shall be informed or have reason to believe that any lands in the state are being held contrary to the provisions of Section 121 et seq. of this title, or the provisions of the Constitution of this state, to institute suit in behalf of this state in the district court of the county in which such lands are situated, praying for the foreclosure of the same. Provided, that before any such suit is instituted, the Attorney General, or district attorney aforesaid, as the case may be, shall give thirty (30) days' notice by registered letter of his or her intention to sue, directed to the owner of the

lands, at his or her last-known post office address or to the persons who last rendered the same for taxes, or to any known agents of the owner; proof of having mailed such registered letter shall be deemed and held prima facie evidence of the giving of such notice. R.L. 1910, § 6650. Amended by Laws 2024, c. 373, § 3, eff. Nov. 1, 2024.

§60-126. Foreclosure procedure – Minors or persons of unsound mind as owners.

In case the lands, at the time foreclosure proceedings are about to be commenced, are owned by minors, or by persons of unsound mind, such notice shall be addressed to the guardian of the minors, or persons of unsound mind, and if there is no such guardian, the Attorney General of the state or district attorney shall make application in the name of the state to the court and procure the appointment of a guardian ad litem to represent such minor, or person of unsound mind in such proceedings; thereafter the district attorney shall direct the clerk of such court to ascertain the residence or post office address of the next of kin of such minor, or person of unsound mind, and to transmit to such next of kin a copy of the petition or application to foreclose such lands, and such minor or person of unsound mind shall have ninety (90) days after the mailing of such notice to appear and defend the action. R.L. 1910, § 6651. Amended by Laws 2024, c. 373, § 4, eff. Nov. 1, 2024.

§60-127. Trial and judgment.

If it shall be determined upon the trial of any such foreclosure proceedings that lands are held contrary to the provisions of this article, or the Constitution of this state, the court trying such cause shall render judgment condemning such lands, and order the same to be sold under the order of court, at such time, terms, and conditions as to the court may seem best; the proceeds of such sale, after deducting the cost of the proceeding, shall be paid to any lienholders of the property if applicable, then the rest shall be paid to the clerk of the court rendering the judgment where the same shall remain for one (1) year from the date of such payment, subject to the order of the alien owner of such lands, his or her heirs and legal representatives, and if not claimed within the period of one (1) year, such clerk shall pay the same into the State Treasury for the benefit of the available school fund of the state. Provided, that when any money shall have been paid to the State Treasurer as hereinabove provided, an alien or his or her heirs may procure the same to be returned by applying for and procuring an order from the court condemning the property showing that such judgment foreclosing the property was procured by fraud, or mistake, or that there was material irregularity in the proceedings; this application, however,



must be made within two (2) years from the date such monies were turned over into the State Treasury; and in no event shall the state be liable or called on to refund any further sum than the actual cash transmitted and delivered to such Treasurer. Provided further, that the defendant in such foreclosure proceedings may at any time before final judgment suggest and prove to the court that he or she has conformed to or complied with the law, under and by which he or she will be entitled to hold such estate; which, it being admitted or proved, the suit shall be dismissed on payment by defendant of the costs and reasonable attorney fees, to be fixed by the court. R.L. 1910, § 6652. Amended by Laws 2024, c. 373, § 5, eff. Nov. 1, 2024.

§60-131. Trusts of real property.

Uses and trusts, in relation to real property, are those only which are specified in this article.

R.L.1910, § 6653.

§60-132. Former uses confirmed.

Every estate which is now held as a use, executed under any former statute of this state, is confirmed as a legal estate.

R.L.1910, § 6654.

§60-136. Requisites of a trust.

No trust in relation to real property is valid, unless created or declared:

1. By a written instrument, subscribed by the grantor or by his agent thereto authorized by writing.

2. By the instrument under which the trustee claims the estate affected; or,

3. By operation of law.

R.L.1910, § 6659.

§60-137. Trust presumed, when.

When a transfer of real property is made to one person, and the consideration therefor is paid by or for another, a trust is presumed to result in favor of the person by or for whom such payment is made.

R.L.1910, § 6660.

§60-140. Surplus liable to creditors.

Where a trust is created to receive the rents and profits of real property, and no valid direction for accumulation is given, the surplus of such rents and profits, beyond the sum that may be necessary for the education and support of the person for whose benefit the trust is created, is liable to the claims of the

creditors of such person, in the same manner as personal property which cannot be reached by execution.

R.L.1910, § 6664.

§60-143. Realty passes subject to power.

In every case where a trust is valid as a power in trust, the real property to which the trust relates, remains in or passes by succession to the persons otherwise entitled, subject to the execution of the trust as a power in trust.

R.L.1910, § 6667.

§60-156. Deeds and conveyances - Works not giving notice of existence of trust - Recorded written evidence.

A. The appearance of the words "trustee" or "as trustee" or "agent" following the names of the grantee in any deed of conveyance of land or other property, or an interest therein, heretofore or hereafter executed, without other language showing a trust, shall not be deemed to give notice to or put on inquiry any person dealing with said property that a trust exists, or that there are other beneficiaries of said conveyance except the grantee named therein, and such conveyance shall vest the title to such property in such grantee and a conveyance by such grantee, whether followed by the words "trustee" or "as trustee" or "agent" or not, shall vest title in his grantee free from any claims of all persons or corporations.

B. Subsection A of this section shall not apply if other written evidence is recorded, whether before or after the grantor's death, which establishes that an express trust does exist with respect to property which the grantor has conveyed by deed to his grantee followed by the words "trustee" or "as trustee" provided such other written evidence is recorded prior to conveyance of such property by such grantee.

Amended by Laws 1988, c. 319, § 4, eff. Nov. 1, 1988.

§60-157. Mortgages - Words not giving notice of existence of trust.

The appearance of the words "trustee" or "as trustee" or "agent" following the name of the mortgagee in any mortgage on real estate or personal property heretofore or hereafter executed, without other language showing a trust, shall not be deemed to give notice to or put on inquiry any person dealing with said property or mortgage that a trust exists, or that there are other beneficiaries of said mortgage except the mortgagee named therein, and such mortgage shall vest full rights and ownership to such mortgage and lien created thereby in such mortgagee, and an assignment or release of said mortgage by such mortgagee, whether followed by the words "trustee" or "as trustee" or "agent" or not, shall vest full and complete title and ownership in said mortgage in the assignee, or shall constitute a full and complete release of said mortgage, free from

any claims of all persons or corporations. This act shall not apply to any suits now pending.

Laws 1953, p. 65, § 2.

§60-161. Property in which trustee may invest - Judgment and care required.

Unless otherwise authorized, directed or restricted by order of court or by the will, trust agreement, or other document which is the source of the trust, the trustee may invest trust funds in any property, real, personal or mixed, in which an individual may invest the individual's own funds. In making investments, the trustee shall comply with the provisions of the Oklahoma Uniform Prudent Investor Act. The provisions of this section shall not be construed to authorize a trustee to buy or sell property and investments from or to the trustee personally or to commingle trust funds with the individual funds of the trustee.

Added by Laws 1949, p. 412, § 1. Amended by Laws 1995, c. 351, § 20, eff. Nov. 1, 1995.

§60-162. Repealed by Laws 1995, c. 351, § 27, eff. Nov. 1, 1995.

§60-163. Retention of property originally received.

A trustee may retain in trust any property originally received into the trust and any substitution therefor without liability for such retention.

Laws 1949, p. 413, § 3.

§60-164. Trust as furtherance of public function.

The uses and purposes of the said Oklahoma Ordinance Works Authority Trust are hereby declared to be in furtherance of a public function and purpose and vital to the public welfare of the people of Oklahoma, and all actions heretofore taken by said authority are hereby in all respects approved and ratified.

Added by Laws 1961, p. 730, § 1.

§60-165. Acquisition of property.

It is hereby declared to be the intention and desire of the State of Oklahoma that the Oklahoma Ordinance Works Authority, as an agency of the State of Oklahoma, continue its negotiations with the General Services Administration and complete the acquisition of said property for the use and benefit of the State of Oklahoma and its people.

Added by Laws 1961, p. 730, § 2.

§60-166. Appropriation.

It is hereby directed that the State Contingency and Emergency Fund Board allocate and pay over to the Oklahoma Ordinance Works

Authority Trust the sum of One Thousand Dollars (\$1,000.00) in aid of such acquisition, to be expended by said Oklahoma Ordinance Works Authority Trust for expenses necessarily incurred in the acquisition and operation of said property.

Laws 1961, p. 730, § 3.

§60-171. Trusts authorized - Powers of trustee.

Express trusts may be created in real or personal property or both, with power in the trustee, or a majority of the trustees, if there be more than one, to receive title to, hold, buy, sell, exchange, transfer and convey real and personal property for the use of such trust; to take, receive, invest or disburse the receipts, earnings, rents, profits or returns from the trust estate; to carry on and conduct any lawful business designated in the instrument of trust, generally to do any lawful act in relation to the trust property which any individual owning the same absolutely might do and to comply with the provisions of the Oklahoma Uniform Prudent Investor Act.

Added by Laws 1919, c. 16, p. 30, § 1. Amended by Laws 1988, c. 117, § 1, eff. Nov. 1, 1988; Laws 1989, c. 223, § 3, eff. Nov. 1, 1989; Laws 1995, c. 351, § 21, eff. Nov. 1, 1995.

§60-172. Express trust, how created - Duration - Specification of duration - Extension of term.

No such express trust shall be valid unless created first, by a written instrument subscribed by the grantor or grantors duly acknowledged, as conveyances of real estate are acknowledged, and recorded in the office of the county clerk of each county wherein is situated any real estate conveyed to such trustee, as well as in the county where the principal property is located or business conducted; or, second, by a will duly executed, as required by the law of the state. Such express trusts shall be limited in the duration thereof either to a definite period of not to exceed twenty-one (21) years, or to the period of the life or lives of the beneficiary or beneficiaries thereof in being at the time of the creation of the trust. The instrument creating the trust shall specify the period of duration thereof within the limitations herein provided. When such express trust has originally been created for a definite term of years by a writing other than a will, the time of the existence of such express trust may be extended for a period of not exceeding twenty-one (21) years at any one time, by a written instrument subscribed by all beneficiaries of such express trust, duly acknowledged as are conveyances of real estate, and recorded in the office of the county clerk of the county where is located the principal office of said trust, and in each county where is situated any real estate owned by such express trust. Provided the

provisions of this section shall be applicable and limited to business trusts and shall have no application to personal trusts. Added by Laws 1919, c. 16, p. 30, § 2, emerg. eff. March 22, 1919. Amended by Laws 1947, p. 364, § 1, emerg. eff. May 16, 1947; Laws 1949, p. 412, § 1.

§60-173. Succession of trustees.

Instruments creating express trusts may provide for succession to any trustee, in case of the death, resignation, removal, or incapacity of such trustee. In case of any such succession, the title to the trust property shall at once vest in the succeeding trustee.

Laws 1919, c. 16, p. 30, § 3.

§60-174. Liability of trustees and beneficiaries.

Liability to third persons for any act, omission, or obligation of a trustee or trustees of an express trust when acting in such capacity, shall extend to the whole of the trust estate held by such trustee or trustees, or so much thereof as may be necessary to discharge such liability, but no personal liability shall attach to the trustee or the beneficiaries of such trust for any such act, omission or liability.

Laws 1919, c. 16, p. 30, § 4.

§60-174.1. Private foundations - Governing instrument deemed to contain certain provisions - Amendment without judicial proceedings.

A. Notwithstanding any provision of Oklahoma law or in the governing instrument to the contrary, except as provided in subsection C hereof, the governing instrument of each trust which is a private foundation as described in Section 509 of the Federal Internal Revenue Code of 1954, including each nonexempt charitable trust described in Section 4947(a)(1) of the Code which is treated as a private foundation, and the governing instrument of each nonexempt split-interest trust as described in Section 4947(a)(2) of the Code, but only to the extent that Section 508(e) of the Code is applicable to such nonexempt split-interest trust under Section 4947(a)(2) of the Code, shall be deemed to contain the following provisions: "The trust shall make distributions at such time and in such manner as not to subject the trust to tax under Section 4942 of the Federal Internal Revenue Code; the trust shall not engage in any act of self-dealing which would subject it to tax under Section 4941 of the Code; the trust shall not retain any excess business holdings which would subject it to tax under Section 4943 of the Code; the trust shall not make any investments which would subject it to tax under Section 4944 of the Code; and the trust shall not make any taxable expenditures which would subject it to tax under Section 4945 of the Code." With respect to any such trust created prior to

January 1, 1970, this subsection A shall apply only for its taxable years beginning on or after January 1, 1972.

B. The trustee of any trust described in subsection A hereof, with the consent of the trustor, if then living and competent to give consent, may, without judicial proceedings, amend the governing instrument to expressly include the provisions required by Section 508(e) of the Code by executing a written amendment to the trust and filing a duplicate original of such amendment with the Secretary of State of the State of Oklahoma.

C. The trustee of any trust described in subsection A hereof, with the consent of the trustor, if then living and competent to give consent, may, without judicial proceedings, amend such trust to expressly exclude the application of subsection A by executing a written amendment to the trust and filing a duplicate original of such amendment with the Secretary of State of the State of Oklahoma, and, upon the filing of such amendment, subsection A shall not apply to such trust.

D. All references in this section to the "Code" are to the Federal Internal Revenue Code of 1954, and all references in this section to specific sections of this Code include corresponding provisions of any subsequent federal tax laws.  
Laws 1971, c. 303, § 1, emerg. eff. June 17, 1971.

§60-174.2. Articles of incorporation deemed to contain certain provisions - Amendment.

A. Notwithstanding any provisions of Oklahoma law or in the articles of incorporation to the contrary, except as provided in subsection B hereof, the articles of incorporation of each corporation which is a private foundation as described in Section 509 of the Federal Internal Revenue Code of 1954 shall be deemed to contain the following provisions: "The corporation shall make distributions at such time and in such manner as not to subject it to tax under Section 4942 of the Federal Internal Revenue Code; the corporation shall not engage in any act of self-dealing which would subject it to tax under Section 4941 of the Code; the corporation shall not retain any excess business holdings which would subject it to tax under Section 4943 of the Code; the corporation shall not make any investments which would subject it to tax under Section 4944 of the Code; and the corporation shall not make any taxable expenditures which would subject it to tax under Section 4945 of the Code." With respect to any such corporation organized prior to January 1, 1970, this subsection A shall apply only for its taxable years beginning on or after January 1, 1972.

B. The articles of incorporation of any corporation described in subsection A hereof may be amended to expressly exclude the application of subsection A, and, in the event of such amendment, subsection A shall not apply to such corporation.

C. All references in this section to the "Code" are to the Federal Internal Revenue Code of 1954, and all references in this section to specific sections of the Code include corresponding provisions of any subsequent federal tax laws.  
Laws 1971, c. 303, § 2, emerg. eff. June 17, 1971.

§60-175. Trust for benefit of spouse revoked upon death of maker - Annulment or divorce - Exemptions.

A. If, after making an express trust, the trustor is divorced, all provisions in such express trust in favor of the trustor's former spouse, which are to take effect upon the death of the trustor, are thereby revoked. Annulment of the trustor's marriage shall have the same effect as a divorce. In the event of either divorce or annulment, the trustor's former spouse shall be treated for all purposes under the express trust, as having predeceased the trustor. For purposes of this section, "express trust" shall include a "Totten Trust" as described in Section 902 of Title 6 of the Oklahoma Statutes and shall not include a "business trust".

B. Subsection A of this section shall not apply:

1. If the decree of divorce or annulment is vacated;
2. If the trustor had remarried said former spouse and was married to said spouse at the time of the trustor's death;
3. If the decree of divorce or annulment contains a provision expressing an intention contrary to subsection A of this section;
4. If the trustor makes the express trust subsequent to the divorce or annulment;
5. To the extent, if any, the express trust contains a provision expressing an intention contrary to subsection A of this section; or
6. If prior to the death of the trustor and subsequent to the divorce or annulment, the trustor executes an amendment to said express trust which is not revoked or held invalid.

C. This section shall apply to any express trust, the trustor of which dies on or after November 1, 1987.

Added by Laws 1987, c. 201, § 3, eff. Nov. 1, 1987.

§60-175.1. Citation of act.

This act may be cited as the Oklahoma Trust Act.

Added by Laws 1941, p. 250, § 1.

§60-175.2. Purposes of trust.

A trust in relation to real and personal property, or either of them, may be created for any purpose or purposes for which a contract may be made.

Laws 1941, p. 250, § 2.

§60-175.3. Definitions of terms used.

As used in this act unless the context or subject matter otherwise requires:

A. "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or two or more persons having a joint or common interest.

B. "Trustor" means the maker, creator, donor, settlor, grantor, of a trust and the testator or testatrix of a will containing trust provisions.

C. "Trustee" includes trustees, a corporate trustee and the judicially ordered successor of the corporate trustee in the event of assumption by a financial institution of fiduciary accounts for all trusts of the corporate trustee in existence on the date of the assumption, including testamentary trusts which come into existence after the date of assumption, as well as a natural person and a successor or substitute trustee. Provided, a successor in interest shall include a judicially ordered successor in the event of an assumption by a financial institution of fiduciary accounts for all trusts in existence on the date of the assumption, together with those testamentary trusts which come into existence after the date of assumption.

D. "Relative" means a spouse, ancestor, descendant, brother, or sister, by blood or adoption.

E. "Affiliate" means any person directly or indirectly controlling or controlled by another person, or any person under direct or indirect common control with another person. It includes, but is not limited to, any person with whom a trustee has an express or implied agreement regarding the purchase of trust investments by each from the other, directly or indirectly, except a broker or stock exchange. It does not include a bank, trust company or affiliate of a bank or trust company which is providing services to an investment company or trust as investment advisor, sponsor, distributor, custodian, transfer agent, administrator, registrar or otherwise.

F. "Trust" means an express trust only, and does not include so called "business trusts".

G. "Principal" means any real or personal property which has been so set aside or limited by the owner thereof, or a person thereto, legally empowered that it and any substitutions for it are eventually to be conveyed, delivered, or paid to a person, while the return therefrom, or use thereof, or any part of such return or use is in the meantime to be taken or received by or held for accumulation for the same or another person.

H. "Income" means the return derived from principal.

I. "Tenant" means the person to whom income is presently or currently payable, or for whom it is accumulated or who is entitled



to the beneficial use of the principal presently and for a time prior to its distribution.

J. "Remainderman" means the person ultimately entitled to the principal, whether named or designated by the terms of the transaction by which the principal was established or determined by operation of law.

K. "Beneficiary" means any person entitled to receive from a trust any benefit of whatsoever kind or character.

L. "Trustee's compensation," as used in this act, means the normal, recurring fee of the trustee for services in the management and administration of the trust estate, irrespective of the manner of computation of such fee. "Trustee's commission," as used in this act, means the fee of the trustee for services rendered, other than in the normal management and administration of the trust estate, and includes extraordinary services, remuneration of the trustee for acceptance, distribution, termination, and all other fees of similar nature, as distinguished from regularly recurring compensation for management and supervision of the trust estate by the trustee.

M. "Trustee advisor" means a person appointed by the terms of the trust instrument to act as an advisor to the trustee with regard to all or some of the matters relating to the property of the trust. Unless otherwise provided by the terms of the trust instrument, if a trustee advisor is appointed, the property and management of the trust and the exercise of all powers and discretionary acts exercisable by the trustee remain vested in the trustee as fully and effectively as if an advisor were not appointed, the trustee is not required to follow the advice of the trustee advisor, and the trustee advisor is not liable as or considered to be a trustee of the trust or a fiduciary when acting as an advisor to the trust. Added by Laws 1941, p. 250, § 3. Amended by Laws 1988, c. 319, § 5, eff. Nov. 1, 1988; Laws 1990, c. 260, § 34, operative July 1, 1990; Laws 2012, c. 135, § 1, eff. Nov. 1, 2012.

§60-175.4. Legal estate of person in possession and entitled to rents and profits.

Every person who, by virtue of any transfer or devise, is entitled to the actual possession of real property, and the receipts of the rents and profits thereof, is deemed to have a legal estate therein, of the same quality and duration, and subject to the same conditions as his beneficial interest.

Laws 1941, p. 251, § 4.

§60-175.5. Trustee's title, when not divested by preceding section.

The last preceding section does not divest the estate of any trustee in a trust heretofore existing, where the title of such trustee is not merely nominal, but is connected with some power of

actual disposition or management in relation to the real property, which is the subject of the trust.

Laws 1941, p. 251, § 5.

§60-175.6. Manner of creating trust - Beneficiary as cotrustee.

A trust may be created by:

A. A declaration by the owner of property that he holds it as trustee for another person, or for himself and another person or persons; or

B. A transfer inter vivos by the owner of property to another person as trustee for the transferor or for a third person; or

C. A transfer by will by the owner of property to another person as trustee for a third person; or

D. An appointment by one person having a power of appointment to another person as trustee for the donee of the power or for a third person; or

E. A promise by one person to another person whose rights thereunder are to be held in trust for a third person; or

F. A beneficiary may be a cotrustee and the legal and equitable title to the trust estate shall not merge by reason thereof.

Provided, however, that no trust in relation to real property shall be valid, unless created or declared:

1. By a written instrument subscribed by the trustor or by his agent thereto authorized by writing;

2. By the instrument under which the trustee claims the estate affected.

Laws 1941, p. 251, § 6.

§60-175.6a. Acquiring and holding real property in name of express trust - Transfer - Memorandum - Presumption for conveyance by trustee.

Any estate in real property may be acquired and held in the name of an express private trust which is a legal entity. Where real property is so acquired, any conveyance, assignment or other transfer shall be made in the name of such trust by the trustee or trustees of said trust. When real property is transferred or acquired in the name of the trust after the effective date of this act, the trustee shall file a memorandum of trust with the county clerk in which the real property is located. The memorandum of trust shall include the date of creation and the name of the trustee or trustees of the trust.

Any person or persons making such conveyances and executing instruments while purporting to be the trustee or trustees of such trusts shall be presumed to be acting in the capacity indicated and within the scope of their authority in any action to set aside such conveyance brought against a bona fide purchaser for value.

Added by Laws 1989, c. 223, § 1, eff. Nov. 1, 1989.

§60-175.6b. Time limit for challenges to validity of prior conveyances.

Any conveyance made and filed of record prior to the effective date of this act placing real property or any interest therein in a trust naming the trust itself as the grantee shall be valid for all purposes unless any person claiming adversely to such trust or to its successors shall file an affidavit setting forth the basis of such in the office of the county clerk of the county or counties wherein said property is located within one (1) year from the effective date of this act.

Added by Laws 1989, c. 223, § 2, eff. Nov. 1, 1989.

§60-175.7. Rights of transferee of trust property for value and without notice.

If the trustee in breach of trust transfers trust property to, or creates a legal interest in the subject matter of the trust in, a person who takes for value and without notice of breach of the trust, actual or constructive under the recording act, and who is not knowingly taking part in an illegal transaction, the latter holds the interest so transferred or created free of the trust and is under no liability to the beneficiary.

Laws 1941, p. 251, § 7.

§60-175.8. Transferor of money or property not responsible for application by trustee.

A person who, with or without knowledge of the trust, in good faith pays or transfers to a trustee any money or other property which the trustee as such is authorized to receive, is not responsible for the proper application thereof by the trustee; and any right or title acquired from the trustee in consideration of such payment or transfer is not invalid in consequence of a misapplication by the trustee.

Laws 1941, p. 251, § 8.

§60-175.9. Trustee lending funds to self, affiliate, etc.

Except as provided in Section 10, no corporate trustee shall lend trust funds to itself or an affiliate, or to any director, officer, or employee of itself or of an affiliate; nor shall any noncorporate trustee lend trust funds to himself, or to his relative, employer, employee, partner, or other business associate.

Laws 1941, p. 252, § 9.

§60-175.10. Deposits by corporate trustee with itself - Security.

A corporate trustee may deposit with itself trust funds in checking and savings accounts, savings certificates, certificates of deposit, and any other type of demand or time deposit, provided it

maintains under control of its trust department, if it has a trust department separate from its banking department, as security for such deposit a separate fund consisting of securities legal for trust investments which have at all times during the deposit a total market value exceeding the amount of the deposit. No such security shall be required to the extent said deposit is guaranteed by or under state or federal law.

The separate fund of securities shall be marked as such. Withdrawals from or additions to it may be made from time to time, as long as the required value is maintained. The income of such securities shall belong to the corporate trustee.  
Laws 1941, p. 252, § 10; Laws 1981, c. 143, § 1.

§60-175.11. Trustee buying from, or selling to, self, affiliate, etc.

No trustee shall directly or indirectly buy or sell any property for the trust from or to itself or an affiliate; or from or to a director, officer, or employee of such trustee or of an affiliate; or from or to himself, a relative, employer, partner, or other business associate; provided a national banking association or a state bank and trust company performing trust functions, where acting as executor, administrator, guardian, or trustee, may sell stock of itself to one or more of its officers, stockholders, or directors upon a court of competent jurisdiction finding that such sale will be for the best interest of the trust estate and making an order for such sale.  
Laws 1941, p. 252, § 11.

§60-175.11a. Trust powers.

A national banking association, a credit union, a state-chartered corporation, including a state-chartered bank or trust company, or a state or federal savings and loan association that has the right to exercise trust powers and that is serving as trustee, may:

1. Employ an affiliate or division within a financial institution to provide brokerage, investment, administrative, custodial, or other account services for the trust and charge the trust for the services; and

2. Receive compensation, directly or indirectly, for the services performed by the affiliate or division within the financial institution, whether in the form of shared commissions, fees, or otherwise, provided that any amount charged by the affiliate or division for the services is disclosed and does not exceed the customary or prevailing amount that is charged by the affiliate or division, or a comparable entity, for comparable services rendered to a person other than the trust.

Added by Laws 2006, c. 325, § 1, eff. Nov. 1, 2006.

§60-175.12. Trustee selling to self as trustee of another trust.

No trustee shall as trustee of one trust sell property to himself as trustee of another trust, except bonds, notes, and obligations fully guaranteed as to both principal and interest, by the United States of America, which may be so sold at the current market price.

Laws 1941, p. 252, § 12.

§60-175.13. Trustee purchasing stock, bond or securities of self, affiliate, etc.

No corporate trustee shall purchase for a trust, shares of its own stock, or its bonds, or other securities, or the stock, bonds or other securities of an affiliate.

This section shall not prohibit the exercise of stock rights issued in connection with shares of the trustee bank or its affiliates owned in a fiduciary capacity, nor payments for the rounding out of fractional shares received in connection with the stock dividends issued by the trustee bank or its affiliates; provided that,

(1) in the election of directors, shares of its own stock held by a bank as sole trustee, whether registered in its own name as such trustee or in the name of its nominee, shall not be voted by the registered owner unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how such shares shall be voted,

(2) shares of its own stock held by a bank and one or more persons as trustees may be voted by such other person or persons, as trustees, in the same manner as if he or they were the sole trustee. No noncorporate trustee shall purchase for a trust the stock, bonds, or other securities of a corporation with which he is connected as director, owner, manager, or in executive capacity.

Laws 1941, p. 252, § 13; Laws 1968, c. 15, § 3, emerg. eff. Feb. 19, 1968.

§60-175.14. Trustee voting corporate stock.

A trustee owning corporate stock may vote it by proxy, with or without power of substitution, but shall be liable for any loss resulting to the beneficiaries from a failure to use reasonable care in deciding how to vote the stock and in voting it.

Laws 1941, p. 252, § 14.

§60-175.15. Trustee owning stock in name of nominee - Exemption.

A trustee owning stock may hold it in the name of a nominee, without mention of the trust in the stock certificate or stock registration book; provided that:

A. The trust records and all reports or accounts rendered by the trustee, clearly show the ownership of the stock by the trustee, and the facts regarding its holdings;

B. The nominee deposits with the trustee a signed statement showing the trust ownership, endorses the stock certificate in blank, and does not have possession of the stock certificate or access thereto except under the immediate supervision of the trustee. The trustee shall be personally liable for any loss to the trust resulting from any wrongful or negligent act of such nominee in connection with stock so held; and

C. The provisions of this section shall not apply to a bank, trust company or national banking association.

Laws 1941, p. 252, § 15; Laws 1975, c. 123, § 2, emerg. eff. May 13, 1975.

§60-175.16. Powers of trustee attached to office.

Unless it is otherwise provided by the trust instrument, or an amendment thereof, or by court order, all powers of a trustee shall be attached to the office and shall not be personal.

Laws 1941, p. 253, § 16.

§60-175.17. Cotrustees - Powers and liabilities.

Unless it is otherwise provided by the trust instrument, or an amendment thereof, or by court order:

A. Any power vested in three or more trustees may be exercised by a majority of the trustees; but no trustee who has not joined in exercising a power shall be liable to the beneficiaries or to others for the consequences of the exercise, nor shall a dissenting trustee be liable for the consequences of an act in which the trustee joins at the direction of the majority trustees, if the trustee expressed his dissent in writing to any of the cotrustees at or before the time of the joinder.

B. Where two or more trustees are appointed by will or a voluntary trust to execute a trust and one or more of them die, the survivor may execute the trust and may exercise the discretionary powers given to the trustees jointly, unless the terms of the will or agreement express a contrary opinion.

C. Any cotrustee may give a power of attorney to another trustee or authorize a cotrustee to perform any act in the administration of the trust, but the trustee giving a power of attorney or authorizing an act to be performed by the cotrustee shall have the same liability and responsibility as if the trustee had performed the act done pursuant to the authorization.

D. Nothing in this section shall excuse a cotrustee from liability for inactivity in the administration of the trust, nor for failure to attempt to prevent a breach of trust.

E. Where two or more trustees, none of whom is the settlor, have the power as trustees to make discretionary distributions of either principal or income to or for the benefit of one of them, the trustee beneficiary may only make such discretionary distributions which provide for the health, education, or maintenance of the trustee beneficiary or to support the trustee beneficiary in an accustomed manner of living. The provisions of this subsection shall apply to any trust created under a document executed on or before the effective date of this act unless:

1. The trust is revocable or amendable and the settlor revokes or amends the trust at any time to provide otherwise; or

2. The trust is irrevocable and all parties in interest elect affirmatively not to be subject to this subsection. Such election must be made on or before the later of three (3) years after the effective date of this act, or three (3) years after the date on which the trust becomes irrevocable.

Added by Laws 1941, p. 253, § 17. Amended by Laws 2001, c. 374, § 1, eff. Nov. 1, 2001.

§60-175.18. Action on trustee contract - Personal liability of trustee - Trustee as general or limited partner.

Whenever a trustee shall make a contract which is within his powers as trustee, or a predecessor trustee shall have made such a contract, and a cause of action arises thereon:

1. The party in whose favor the cause of action has accrued may sue the trustee in his representative capacity, and any judgment rendered in such action in favor of the plaintiff shall be collectible by execution out of the trust property. In such an action the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if he had paid the plaintiff's claim.

2. No judgment shall be rendered in favor of the plaintiff in such action unless he proves that within thirty (30) days after the beginning of such action, or within such other time as the court may fix, and more than thirty (30) days prior to obtaining the judgment, he notified each of the beneficiaries known to the trustee who then had a present or contingent interest, or in the case of a charitable trust the Attorney General and any corporation which is a beneficiary or agency in the performance of such charitable trust, of the existence and nature of the action. Such notice shall be given by mailing copies thereof in postpaid envelopes addressed to the parties to be notified at their last-known addresses. The trustee shall furnish the plaintiff a list of the parties to be notified, and their addresses, within ten (10) days after written demand therefor, and notification of the persons on such list shall constitute compliance with the duty placed on the plaintiff by this section. Any beneficiary, or in the case of charitable trusts, the

Attorney General and any corporation which is a beneficiary or agency in the performance of such charitable trust, may intervene in such action and contest the right of the plaintiff to recover. If any beneficiary is a minor or has been adjudged incompetent, the court shall appoint a guardian ad litem, whose duty it shall be to defend such action.

3. The plaintiff may also hold the trustee who made the contract personally liable on such contract, if the contract does not exclude such personal liability. The addition of the word "trustee" or the words "as trustee" after the signature of a trustee to a contract shall be deemed prima facie evidence of an intent to exclude the trustee from personal liability.

4. If a decedent was a partner in a general partnership and the articles of partnership so provide, on the death of a partner, his or her trustee shall be entitled to the place of the deceased partner in the partnership. Likewise, any other trustee contracting to enter into a general partnership in its capacity as trustee shall have its liability limited to the trust assets contributed to the partnership and the other assets of that trust under the control and management of the contract. A trustee so entering the partnership shall be liable to third persons only to the extent of the decedent's capital in the partnership and the funds of the trust under the control and management of the trustee. This paragraph does not exonerate a trustee from liability for negligence.

5. Unless otherwise authorized, directed or restricted by order of court or by the instrument creating the trust, a trustee may contract to enter into a limited partnership pursuant to the Limited Partnership Act and may contribute to the partnership the assets designated by the instrument creating the trust. The trustee shall be liable only to the extent of the assets contributed by the trustee pursuant to the instrument creating the trust, notwithstanding the occurrence of any act or event which would otherwise have the effect of changing the limited partnership into a general partnership. This paragraph does not exonerate a trustee from liability for negligence.

Laws 1941, p. 253, § 18; Laws 1981, c. 196, § 2.

§60-175.19. Torts of trustee - Exoneration or reimbursement.

A trustee who has incurred personal liability for a tort committed in the administration of the trust is entitled to exoneration therefor from the trust property;

A. If he has not discharged the claim, or to be reimbursed therefor out of trust funds if he has paid the claim; if

1. The tort was a common incident of the kind of business activity in which the trustee was properly engaged for the trust; or
2. Although the tort was not a common incident of such activity, if



neither the trustee nor any officer or employee of the trustee was guilty of actionable negligence in incurring the liability.

B. If a trustee commits a tort which increases the value of the trust property, he shall be entitled to exoneration or reimbursement with respect thereto to the extent of such increase in value, even though he would not otherwise be entitled to exoneration or reimbursement.

Where the trust instrument reserves to the trustor or vests in an advisory or investment committee or any other person, including a cotrustee, authority to direct the making or retention of investments, the excluded trustee or trustees shall not be liable as a trustee for any loss resulting from the making or retention of any investment pursuant to such mandatory direction, except to the extent the excluded trustee is negligent in carrying out the execution of the directed investment or other directed action, and nothing herein shall relieve any trustee having custody of any asset from liability for exercising due diligence in the safekeeping thereof.

Laws 1941, p. 254, § 19; Laws 1968, c. 15, § 4, emerg. eff. Feb. 19, 1968.

§60-175.20. Actions for trustee's torts - Personal liability of trustee.

Where a trustee or his predecessor has incurred personal liability for a tort committed in the course of his administration:

A. The trustee in his representative capacity may be sued and collection had from the trust property, if the court shall determine in such action:

1. That the tort was a common incident of the kind of business activity in which the trustee or his predecessor was properly engaged for the trust; or

2. That although the tort was not a common incident of such activity neither the trustee nor his predecessor, nor any officer or employee of the trustee or his predecessor, was guilty of actionable negligence in incurring the liability; or

3. That although the tort did not fall within Classes 1 or 2 above, it increased the value of the trust property. If the tort is within Classes 1 or 2 above, collection may be had of the full amount of damage proved; and if the tort is within Class 3 above, collection may be had only to the extent of the permanent increase in the value of the trust property.

B. In an action against the trustee in his representative capacity under this section the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if he had paid the plaintiff's claim.

C. No judgment shall be rendered in favor of the plaintiff in such action unless he proves that within thirty (30) days after the

beginning of the action, or within such other period as the court may fix, and more than thirty (30) days prior to obtaining the judgment, he notified each of the beneficiaries known to the trustee who then had a present or contingent interest of the existence and nature of the action. Such notice shall be given by mailing copies thereof in postpaid envelopes addressed to such beneficiaries at their last known addresses. The trustee shall furnish the plaintiff a list of such beneficiaries and their addresses, within ten (10) days after written demand therefor, and notification of the persons on such list shall constitute compliance with the duty placed on the plaintiff by this action. Any beneficiary may intervene in such action and contest the right of the plaintiff to recover. If any beneficiary is a minor or has been adjudged incompetent, the court shall appoint a guardian ad litem, whose duty it shall be to defend such action.

D. The trustee may also be held personally liable for any tort committed by him, or his agents or employees in the course of their employments, subject to the rights of exoneration or reimbursement provided in Section 19 of this act.

Laws 1941, p. 254, § 20.

§60-175.21. Duties, restrictions or liabilities of trustee - Trustor may relieve trustee or add others.

The trustor of any trust affected by this act may, by provisions in the instrument creating the trust, or by an amendment of the trust if the trustor reserved the power to amend the trust, relieve his trustee from any or all of the duties, restrictions, and liabilities which would otherwise be imposed upon him by this act; or alter or deny to his trustee any or all of the privileges and powers conferred upon the trustee by this act; or add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by this act; but no act of the trustor shall relieve a corporate trustee from the duties, restrictions, and liabilities imposed upon it by Sections 9, 10, and 11 of this act.

Laws 1941, p. 255, § 21.

§60-175.22. Repealed by Laws 1999, c. 419, § 4, emerg. eff. June 10, 1999.

§60-175.23. Jurisdiction of district court regarding trusts - Venue - Parties - Applicable statutes.

A. The district court shall have original jurisdiction to construe the provisions of any trust instrument; to determine the law applicable thereto; the powers, duties, and liability of trustee; the existence or nonexistence of facts affecting the administration of the trust estate; to require accounting by trustees; to surcharge trustee; and in its discretion to supervise

the administration of trusts; and all actions hereunder are declared to be proceedings in rem.

B. The venue of such actions shall be in the county where the trustees or any cotrustee resides. Upon obtaining jurisdiction the same shall not be divested by the removal of the trustee from the county where the action is commenced.

C. Actions hereunder may be brought by a trustee, beneficiary, or any person affected by the administration of the trust estate. If the action is predicated upon any act or obligation of any beneficiary, the beneficiary shall be a necessary party to the proceedings. The only necessary parties to such actions shall be those persons designated as beneficiaries by name or class in the instrument creating the trust and who have a vested interest in the trust which is the subject of the action, those persons currently serving as trustees of the trust, and any persons who may be actually receiving distributions from the trust estate at the time the action is filed. Contingent beneficiaries designated by name or class shall not be necessary parties.

D. The provisions of the statutes governing civil procedure, commencement of action, process, process by publication, appointment of guardians ad litem, supersedeas and appeal, shall govern all actions and proceedings brought under provisions of this act.

E. A court of competent jurisdiction may, for cause shown and upon notice to the beneficiaries, relieve a trustee from any or all of the duties and restrictions which would otherwise be placed upon the trustee by this act, or wholly or partly excuse a trustee who has acted honestly and reasonably from liability for violations of the provisions of this act.

Added by Laws 1941, p. 255, § 23. Amended by Laws 1993, c. 345, § 14, eff. Sept. 1, 1993; Laws 1995, c. 351, § 22, eff. Nov. 1, 1995.

§60-175.24. Powers of trustees - Enumeration - Others not excluded - Bond of trustee.

A. In the absence of contrary or limiting provisions in the trust agreement or a subsequent order or decree of a court of competent jurisdiction, the trustee of an express trust is authorized:

1. To exchange, reexchange, subdivide, develop, improve, dedicate to public use, make or vacate public plats, adjust boundaries, or partition real property, and to adjust differences in valuation by giving or receiving money or money's worth. Easements may be dedicated to public use without consideration if deemed by the trustee to be for the best interest of the trust;

2. To grant options and to sell real or personal property at public auction or at private sale for cash, or upon credit secured by lien upon the property sold or upon such property or a part thereof or other property;

3. To grant or take leases of real property and of all rights and privileges above or below the surface of real property for any term or terms, including exploration for and removal of oil, gas, and other minerals, with or without options of purchase, and with or without covenants as to erection of buildings or as to renewals thereof, through the term of the lease or renewals thereof, or of such options extend beyond the term of the trust;

4. To raze existing party walls or buildings or erect new party walls or buildings alone or jointly with owners of adjacent property. To make ordinary repairs and in addition thereto such extraordinary alterations in buildings or other structures which are necessary to make the property productive. To effect and keep in force, fire, rent, title, liability, casualty, or other insurance of any nature, in any form and in any amount;

5. To compromise, contest, arbitrate, or settle any and all claims of or against the trust estate or the trustee as such. To abandon property deemed by the trustee burdensome or valueless;

6. To pay calls, assessments, and any other sums chargeable or accruing against, or on account of shares of stock or other securities in the hands of the trustee where such payment may be legally enforceable against the trustee or any property of the trust, or the trustee deems payment expedient and for the best interest of the trust. To sell or exercise stock subscription or conversion rights, participate in foreclosures, reorganizations, consolidations, mergers, liquidations, pooling agreements and voting trusts; to assent to corporate sales, leases, and encumbrances, and in general, except as limited by the particular trust agreement, have and exercise all powers of an absolute owner in respect of such securities. In the exercise of the foregoing powers the trustee shall be authorized, where he or she deems such course expedient, to deposit stocks, bonds, or other securities with any protective or other committee formed by or at the instance of persons holding similar securities, under such terms and conditions respecting the deposit thereof as the trustee may approve. Any stock or other securities obtained by conversion, reorganization, consolidation, merger, liquidation, or the exercise of subscription rights shall be free, unless the trust agreement provides otherwise, from any restrictions on sale or otherwise contained in the trust agreement relative to the securities originally held;

7. To make such investment directly or in the form of securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C.A., Section 80a-1 et seq.; provided, that the portfolio of such investment company or investment trust is limited to United States government obligations and to repurchase agreements fully collateralized by such United States government obligations, and provided further, that any such

investment company or investment trust shall take delivery of such collateral, either directly or through an authorized custodian;

8. To borrow money or create an indebtedness or obligation including any bond indebtedness or obligation, except as limited by the provisions of the Oklahoma Trust Act, and generally to execute any deed or other instrument and to do all things in relation to such trust necessary or desirable for carrying out any of the above powers or incident to the purposes of such trust; and

9. To employ attorneys, accountants, agents, and brokers reasonably necessary in the administration of the trust estate; permit real estate held in trust to be occupied by a surviving spouse or minor child of the trustor and, where reasonably necessary for the maintenance of the surviving spouse or minor child or children, invest trust funds in real property to be used for a home by such beneficiary; make any contracts pertaining to oil, gas, or other natural resources as are customary in the community where the real property held in trust is situated; in the trustee's discretion pay funeral expenses of any beneficiary actually receiving benefits from the trust estate at the time of the death of the beneficiary.

B. 1. In the exercise of its authority under paragraph 9 of subsection A of this section, a trustee may pay, from the assets of the trust, reasonable compensation and costs incurred in connection with employment of attorneys, accountants, agents, and brokers reasonably necessary in the administration of the trust estate.

2. In the event of any legal proceeding regarding the trust, a trustee may pay the costs or attorney fees incurred in any proceeding from the assets of the trust without the approval of any person and without court authorization unless otherwise ordered by the court in such legal proceeding.

3. Unless expressly provided otherwise in a written employment agreement, the creation of an attorney-client relationship between an attorney and a person serving as a fiduciary shall not impose upon the attorney any duties or obligations to other persons interested in the estate, trust estate, or other fiduciary property, even though fiduciary funds may be used to compensate the attorney for legal services rendered to the fiduciary. This paragraph is intended to be declaratory of the common law and governs relationships in existence between attorneys and persons serving as fiduciaries and any such relationship hereafter created.

4. Whenever an attorney-client relationship exists between an attorney and a fiduciary, communications between the attorney and the fiduciary shall be subject to attorney-client privilege unless waived by the fiduciary, even though fiduciary funds may be used to compensate the attorney for legal services rendered to the fiduciary. The existence of a fiduciary relationship between a fiduciary and a beneficiary does not constitute or give rise to any

waiver of the privilege for communications between the attorney and the fiduciary.

C. The following rules of administration shall be applicable to all express trusts but such rules shall not be exclusive of those otherwise imposed by law unless contrary to these rules:

1. Where a trustee is authorized to sell or dispose of land, such authority shall include the right to sell or dispose of part thereof, whether the division is horizontal, vertical, or made in any other way, or undivided interests therein;

2. Where a trustee is authorized by the trust agreement creating the trust or by law to pay or apply capital money subject to the trust for any purpose or in any manner, the trustee shall have and shall be deemed always to have had power to raise the money required by selling, converting, calling in, or mortgaging or otherwise encumbering all or any part of the trust property for the time being in possession;

3. A trustee shall have a lien and may be reimbursed with interest for, or pay or discharge out of the trust property, either principal or income or both, all advances made for the benefit or protection of the trust or its property and all expenses, losses, and liabilities, not resulting from the negligence of the trustee, incurred in or about the execution or protection of the trust or because of the trustee holding or ownership of any property subject thereto; and

4. When the happening of any event, including marriage, divorce, attainment of a certain age, performance of educational requirements, death, or any other event, affects distribution of income or principal of trust estates, the trustees shall not be liable for mistakes of fact prior to the actual knowledge or written notice of such fact.

D. The powers, duties, and responsibilities stated in the Oklahoma Trust Act or the Oklahoma Uniform Prudent Investor Act shall not be deemed to exclude other implied powers, duties, or responsibilities not inconsistent herewith.

E. The trustee shall pay all taxes and assessments levied or assessed against the trust estate or the trustee by governmental taxing or assessing agencies.

F. No trustee shall be required to give bond unless the instrument creating the trust, or a court of competent jurisdiction in its discretion upon the application of an interested party, requires a bond to be given.

Added by Laws 1941, p. 255, § 24. Amended by Laws 1949, p. 413, § 1; Laws 1986, c. 106, § 2, emerg. eff. April 5, 1986; Laws 1994, c. 306, § 1, eff. Sept. 1, 1994; Laws 1995, c. 351, § 23, eff. Nov. 1, 1995; Laws 2024, c. 369, § 40, eff. Nov. 1, 2024.

§60-175.25. Alienation of interest of beneficiary - Rights and remedies of creditors - Spendthrift trusts - Trustor's interest alienable and subject to claims of creditors.

A. Any instrument creating a trust may provide by specific words that the interest of any beneficiary in the income of the trust shall not be subject to voluntary or involuntary alienation by such beneficiary. Subject to the following provisions of this section, a direction to this effect shall be valid and enforceable.

B. Notwithstanding a provision in the terms of a trust restraining the alienation of the interest of a beneficiary, such interest shall be entitled to be reached in the satisfaction of claims to the following extent:

1. All income due or to accrue in the future to the beneficiary shall be subject to enforceable claims under the laws of this state for:

- a. support of a husband, wife, or child of the beneficiary,
- b. necessary services rendered or necessary supplies furnished to the beneficiary, or
- c. a judgment based on any such claim under subparagraph a or b; and

2. In all cases not mentioned in paragraph 1 of this subsection, all income due or to accrue in the future to the beneficiary in excess of Twenty-five Thousand Dollars (\$25,000.00) per calendar year shall be subject to garnishment by creditors of the beneficiary and shall be fully alienable by the beneficiary.

C. Where two or more creditors undertake to reach the interest of any beneficiary of a trust, pursuant to the provisions of this section, they shall be subject to priority of payment in the order of the service of a notice of garnishment on the trustee. The pendency of any attachment or garnishment shall not prevent the filing of a further attachment or garnishment by the same or any other creditor.

D. Where the beneficiary of any spendthrift trust is also the beneficiary under any other spendthrift trust created or administered either within or without this state, the aggregate income payable under all such trusts to the beneficiary shall be considered together for the purpose of determining the rights of creditors and assignees under this section.

E. The right of any beneficiary of a trust to receive the principal of the trust or any part of it, presently or in the future, shall not be alienable and shall not be subject to the claims of his creditors.

F. Where the interest of the beneficiary of a trust is subject to the exercise of discretion by the trustee or by another, the provisions of this act as to the rights of creditors and assignees

shall apply with respect to any sums which the trustee or such other person determines shall be paid to or for the beneficiary.

G. A trust in which the interest of the beneficiary is subject to restraints on alienation as provided in this act may be called a "spendthrift trust" and a direction in any instrument creating a trust that the interest of any beneficiary shall be held on or subject to a spendthrift trust shall be sufficient to restrain the alienation of such interest to the extent provided in this act.

H. Nothing in this act shall authorize a person to create a spendthrift trust or other inalienable interest for his own benefit. The interest of the trustor as a beneficiary of any trust shall be freely alienable and subject to the claims of his creditors.

I. The provisions of this section may be enforced only by an action in a court of competent jurisdiction and the obligor beneficiary shall be a party defendant in such action. The trustee shall not be required to recognize any of the obligations provided for in this section or to withhold any income from the beneficiary until said trustee has been served with summons or garnishment summons. Such action shall be governed by the rules of civil procedure under the laws of this state.

Added by Laws 1941, p. 257, § 25. Amended by Laws 1994, c. 306, § 2, eff. Sept. 1, 1994.

§60-175.26. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.27. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.28. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.29. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.30. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.31. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.32. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.33. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.34. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.35. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.36. Repealed by Laws 1998, c. 115, § 33, eff. Nov. 1, 1998.

§60-175.37. Death of trustee - Appointment of successor.



Upon the death of a sole or surviving trustee of an express trust and in the absence of the trust providing for a practical method of appointment, the power to appoint a trustee shall vest in the court having jurisdiction thereof, and on petition of any person interested such court shall appoint a successor in whom the trust shall vest.

Laws 1941, p. 262, § 37.

§60-175.38. Resignation of trustee.

Upon petition of any trustee of an express trust, a court having jurisdiction may accept his resignation, and discharge him from the trust upon such terms as the rights of the persons interested in the execution of the trust may require.

Laws 1941, p. 263, § 38.

§60-175.39. Removal of trustee - Filling vacancies.

Trustees having violated or attempted to violate any express trust, or becoming incompetent or insolvent, or of whose solvency or that of their sureties there is reasonable doubt, or for other cause, in the discretion of the court having jurisdiction, may, on petition of any person interested, after hearing, be removed by such court and denied compensation in whole or in part; and any beneficiary, cotrustee, or successor may treat the violation as a breach of trust; and all vacancies in express trusteeships may be filled by such court.

Laws 1941, p. 263, § 39.

§60-175.40. Rights, duties, etc. of trustees appointed by court.

Trustees appointed by the district courts of Oklahoma shall be vested with all the rights, powers, trusts, privileges, discretion and title to properties conferred upon the trustee by the trust instrument, and by statute, unless otherwise provided by the court in the order of appointment; and shall be charged with all the duties, responsibilities and liabilities enjoined by said trust instrument and by statute.

Laws 1941, p. 263, § 40.

§60-175.41. Revocation of trust by trustor.

Every trust shall be revocable by the trustor, unless expressly made irrevocable by the terms of the instrument creating the same. Provided, that any trust may be revoked by the trustor upon the written consent of all living persons having vested or contingent interest therein. The term "contingent interest," as used in this section, shall include an interest which a beneficiary may take by purchase, and exclude any interest which a beneficiary may take by descent. Provided further that this section shall not apply to a

spendthrift trust unless same is created by the trustor for his own benefit.

Laws 1941, p. 263, § 41.

§60-175.42. Designation of person to whom property shall belong on failure or termination of trust - Transfer subject to trust.

Notwithstanding anything contained in the last section, the trustor of a trust may, in its creation, prescribe to whom the real or personal property to which the trust relates shall belong, in the event of the failure or termination of the trust, and may transfer or devise such property, subject to the execution of the trust.

Laws 1941, p. 263, § 42.

§60-175.43. Legal estate of grantee or devisee of property subject to trust.

The grantee or devisee of real or personal property subject to a trust acquires a legal estate in the property, against all persons except the trustees and those lawfully claiming under them.

Laws 1941, p. 263, § 43.

§60-175.44. Estates remaining in trustor.

Where an express trust is created in relation to real or personal property, every estate not embraced in the trust, and not otherwise disposed of, is left in the trustor of the trust or his successors.

Laws 1941, p. 263, § 44.

§60-175.45. Grant deemed absolute as to purchasers or encumbrances for value - Notice of restrictions - Intent of Legislature.

(a) Where an express trust is created in relation to real property; any grant, deed, conveyance, lease, easement, encumbrance, assignment, or release by the trustee with respect to such real property or interest therein shall be deemed authorized and binding upon the trust in favor of purchasers or encumbrances for value without either (i) actual notice of restrictions or limitations established by the trust upon the trustee, or (ii) the constructive notice as provided in subsection (b) hereof.

(b) If the instrument establishing the trust is recorded in the county where the real property is located, said purchasers or encumbrances for value shall be charged with constructive notice of the restrictions and limitations contained in such instrument.

(c) It is the intent of the Legislature that trusts are private instruments and it shall not be necessary to record the instrument establishing a trust unless the trustor desires to put the public on notice of restrictions or limitations upon the powers of the trustee, in which case the same must be recorded.

Laws 1941, p. 263, § 45; Laws 1979, c. 157, § 1.

§60-175.47. Suspension of absolute power of alienation - Period of suspension.

A. Except as otherwise provided in subsection B of this section, the absolute power of alienation of real and personal property, or either of them, shall not be suspended by any limitations or conditions for a longer period than during the continuance of a life or lives of the beneficiaries in being at the creation of the estate and twenty-one (21) years thereafter. The absolute power of alienation is not suspended if there is any person in being who, alone or in combination with one or more others, has the power to sell, exchange, or otherwise convey the real or personal property. If the terms of a trust do not suspend the absolute power of alienation of any trust property beyond the term permitted in this subsection, the trust may exist in perpetuity.

B. The provisions of this section shall not apply when property is given, granted, bequeathed, or devised to:

1. A charitable use;
2. Literary, educational, scientific, religious, or charitable corporations for their sole use and benefit;
3. Any cemetery corporation, society or association;
4. The Department of Mental Health and Substance Abuse Services as provided in Section 2-111 of Title 43A of the Oklahoma Statutes; or
5. Gifts absolute, limited, or in trust, for the advancement of medical science to an incorporated state society of physicians and surgeons.

C. Except as provided in this section, the common law rule against perpetuities shall not apply to a trust subject to the trust laws of this state. A trust created in this state or subject to the trust laws of this state may have a perpetual duration if a timing provision or limit is not specified in the trust document.

Added by Laws 1941, p. 264, § 47. Amended by Laws 2003, c. 217, § 6, eff. Nov. 1, 2003; Laws 2015, c. 164, § 3, eff. Nov. 1, 2015; Laws 2024, c. 369, § 41, eff. Nov. 1, 2024.

§60-175.48. Compensation or commissions of trustee.

A trustee acting in a fiduciary capacity, as herein authorized, is entitled to receive such compensation or commission as provided for in the trust agreement or other contract. If the amount of such compensation or commission is not regulated by or stipulated in the trust agreement, the trustee may charge and deduct a reasonable compensation or commission for the services rendered and the responsibilities assumed. Where the trustee is acting under appointment by a court, such compensation or commission shall be paid, irrespective of the provisions in the trust instrument, as allowed or approved by that court.

Laws 1941, p. 264, § 48.

§60-175.49. Trust ceases when purpose ceases.

When the purpose for which an express trust was created ceases, the estate of the trustee also ceases.

Laws 1941, p. 265, § 49.

§60-175.50. Repeals as reinstating common law rules.

The repeal of any section of the statutory law of this state by this act, which section abrogated or restated the common-law rule, shall operate to reinstate and reestablish the common-law rule applicable thereto, except as the subject matter thereof may be changed by the provisions of this act.

Laws 1941, p. 265, § 50.

§60-175.51. Tax statutes to supersede act.

For the purposes of assessments and collection of taxes by the State of Oklahoma and its political subdivisions, the statutes of the State of Oklahoma relating to and governing taxation shall supersede the provisions of this act.

Laws 1941, p. 265, § 51.

§60-175.53. Agreements, wills and trust relations to which statute applicable.

The terms of this act shall apply in the construction of, and operation under,

A. All agreements containing trust provisions entered into subsequent to the effective date hereof;

B. All wills made by testators who shall die subsequent to the effective date hereof; and

C. All other wills and trust agreements and trust relations in so far as such terms do not impair the obligation of contract or deprive persons of property without due process of law under the Constitution of the State of Oklahoma or the United States of America.

Laws 1941, p. 265, § 54.

§60-175.54. Situs in jurisdiction where trustee not qualified to act - Powers of trustee.

A trustee, whether an individual or a corporation, shall have the power to appoint a natural or corporate trustee to act with respect to the portion of the trust estate that has situs in a jurisdiction in which the trustee is not qualified to act and shall have the power to remove each such appointee at any time with or without cause. Each such appointee shall: (1) have all of the powers granted in this act or under the trust instrument to the trustee with respect to the management of the trust estate, (2)

transfer to the trustee as soon as practicable all gross receipts derived from the portion of the trust estate that remains under his control, and (3) be liable to the trustee for any wrongful act or mismanagement of the trust estate in the same manner that the trustee is liable to the beneficiaries.

Laws 1971, c. 201, § 1, eff. Oct. 1, 1971.

§60-175.55. Investment of trust assets by bank, trust company or affiliate of bank or trust company.

A. A bank, trust company, or affiliate of a bank or trust company which serves as a fiduciary, trustee, custodian, managing agent, personal representative, or otherwise may invest and reinvest assets that it maintains in its trust department or trust company in the securities of any open-end or closed-end management investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C., Section 80a-1 through 80a-64, as amended.

B. Any investment or reinvestment made pursuant to subsection A of this section shall comply with the provisions of the Oklahoma Uniform Prudent Investor Act.

C. A bank, trust company or an affiliate of a bank or trust company which is providing services to an investment company or investment trust as investment adviser, sponsor, distributor, custodian, transfer agent, administrator, registrar, or otherwise and who is receiving reasonable remuneration for such services, may make investments and reinvestments pursuant to subsections A and B of this section in said investment company or investment trust.

D. Any bank, trust company or affiliate of a bank or trust company which makes investments or reinvestments pursuant to subsection C of this section:

1. Shall not be required to reduce or waive its fees or charges for services provided in connection with the investment and management of funds it holds as fiduciary, trustee, custodian, managing agent, personal representative, or otherwise because such funds are invested, reinvested, or retained in an investment company or investment trust so long as the total compensation paid, including any fees or charges payable by the investment company or investment trust in connection with the investment of such funds, is reasonable; and

2. May receive fees in accordance with Rule 12b-1 of the Investment Company Act of 1940, or similar fees, from the investment company or investment trust in the same amount that would be paid by such investment company or investment trust to any other party, without reducing or waiving other fees it receives for serving as a fiduciary, trustee, custodian, managing agent, personal representative or otherwise. Any fees received by a bank, trust company, or affiliate of a bank or trust company pursuant to this

paragraph shall be disclosed to the customer of such bank, trust company, or affiliate of the bank or trust company. Added by Laws 1990, c. 260, § 35, operative July 1, 1990. Amended by Laws 1995, c. 351, § 26, eff. Nov. 1, 1995; Laws 1997, c. 58, § 1, eff. Nov. 1, 1997.

§60-175.56. Death of beneficiary before distribution - Distribution to beneficiary's lineal descendants.

When the declaration or agreement of an express trust provides for any of the property held in trust to be distributed to a beneficiary related by blood to the grantor or to a grantor of the trust, and the beneficiary is living at the time the trust is created but dies before the time for distribution of the trust leaving one or more lineal descendants who are living at the time for distribution of the trust, and no provision is made in the trust declaration or agreement for disposition of the property in the event that the beneficiary is not living at the time for distribution of the trust, the beneficiary's lineal descendants take the share of the trust property so given to the beneficiary in the trust declaration or agreement, by right of representation, in the same manner as the beneficiary would have done had he been living at the time for distribution of the trust.

Added by Laws 1993, c. 345, § 15, eff. Sept. 1, 1993.

§60-175.57. Breach of trust - Remedies - Liability.

A. A violation by a trustee of a duty the trustee owes a beneficiary is a breach of trust.

B. To remedy a breach of trust that has occurred or may occur, the court may:

1. Compel the trustee to perform the trustee's duties;
2. Enjoin the trustee from committing a breach of trust;
3. Compel the trustee to redress a breach of trust by payment of money or otherwise;
4. Order a trustee to account;
5. Appoint a receiver or temporary trustee to take possession of the trust property and administer the trust;
6. Suspend or remove the trustee;
7. Reduce or deny compensation to the trustee;
8. Subject to subsection I of this section, void an act of the trustee, impose an equitable lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds; or
9. Grant any other appropriate remedy.

C. A beneficiary may charge a trustee who commits a breach of trust with the amount required to restore the value of the trust property and trust distributions to what they would have been had

the breach not occurred, or, if greater, the profit that the trustee made by reason of the breach.

D. In a judicial proceeding involving a trust, the court may in its discretion, as justice and equity may require, award costs and expenses, including reasonable attorney fees, to any party, to be paid by another party or from the trust which is the subject of the controversy.

E. 1. For purposes of this subsection, "accounting" means any interim or final report or other statement provided by a trustee reflecting all transactions, receipts, and disbursements during the reporting period and a list of assets as of the end of the period covered by the report or statement.

2. For any trust that is before a district court under subsection A of Section 175.23 of this title, the trustee may submit an accounting and seek approval of the accounting by the court. Such accounting and the final approval by a district court, whether or not such accounting is contested, shall be conclusive against all persons interested in the trust, and the trustee, absent fraud, intentional misrepresentation, or material omission, shall be released and discharged from any and all liability as to all matters set forth in the accounting.

3. If a trust is not before a district court under subsection A of Section 175.23 of this title and if no objection has been made by a beneficiary who is an eligible distributee or permissible distributee of the trust's income or principal within one hundred eighty (180) days after a copy of the trustee's accounting has been provided to such beneficiaries together with written notice of the provisions of this section, the distribution beneficiary is deemed to have approved such accounting of the trustee, and the trustee, absent fraud, intentional misrepresentation, or material omission, shall be released and discharged from any and all liability to all beneficiaries of the trust as to all matters set forth in such accounting.

4. If paragraphs 2 and 3 of this subsection do not apply, absent fraud, intentional misrepresentation, or material omission, an action to recover for breach of trust against a trustee who is a resident of this state or who has its principal place of business in this state, or an officer, director, or employee of such trustee may be commenced only within two (2) years of a trustee's accounting for the period of the breach. In the case of fraud, intentional misrepresentation, or material omission, the limitation period shall not commence until discovery of the breach of trust.

5. For the purpose of this subsection, a beneficiary is deemed to have received a report or other statement:

- a. in the case of an adult, if it is received by the adult personally, or if the adult lacks capacity, if

it is received by the adult's conservator, guardian, or agent with authority, or

- b. in the case of a minor, if it is received by the minor's guardian or conservator or, if the minor does not have a guardian or conservator, if it is received by a parent of the minor who does not have a conflict of interest.

6. Except as otherwise provided by the terms of a trust, while the trust is revocable and the settlor has capacity to revoke, the rights of the beneficiaries are held by, and the duties of the trustee are owed exclusively to, the settlor; the rights to be held by and owed to the beneficiaries arise only upon the settlor's death or incapacity. The trustee may follow a written direction of the settlor, even if contrary to the terms of the trust. The holder of a presently exercisable power of withdrawal or a testamentary general power of appointment has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

F. 1. A term of the trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it:

- a. relieves a trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interest of the beneficiaries, or
- b. was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor.

2. An exculpatory term drafted by or on behalf of the trustee is presumed to have been inserted as a result of an abuse of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair under the circumstances and that its existence and contents were adequately communicated to the settlor.

G. A beneficiary may not hold a trustee liable for a breach of trust if the beneficiary, while having capacity, consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

1. The beneficiary at the time of the consent, release, or ratification did not know of the beneficiary's rights and of the material facts that the trustee knew, or with the exercise of reasonable inquiry, the beneficiary should have known, and that the trustee did not reasonably believe that the beneficiary knew; or

2. The consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee.

H. 1. Except as otherwise agreed, a trustee is not personally liable on a contract properly entered into in the trustee's



fiduciary capacity in the course of administration of the trust if the trustee in the contract discloses the fiduciary capacity.

2. A trustee is personally liable for obligations arising from ownership or control of trust property, or for torts committed in the course of administering a trust, only if the trustee is personally at fault, whether negligently or intentionally.

3. A trustee who does not join in exercising a power held by three or more trustees is not liable to third persons for the consequences of the exercise of the power. A dissenting trustee who joins in an action at the direction of the majority cotrustees is not liable to third persons for the action if the dissenting trustee expressed the dissent in writing to any other cotrustee at or before the time the action was taken.

4. A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted against the trust in a judicial proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable on the claim.

I. 1. A person who in good faith assists a trustee or who in good faith and for value deals with a trustee without knowledge that the trustee is exceeding or improperly exercising the trustee's powers is protected from liability as if the trustee properly exercised the power.

2. Dealing in good faith with another person with knowledge that the other person is a trustee does not place a third person on notice to inquire into the extent of the trustee's powers or the propriety of his or her exercise.

3. A person who in good faith deals with another person with knowledge that the other person is a trustee is not solely on that account placed on notice to inquire into the extent of the trustee's powers or the propriety of his or her exercise or to see to the proper application of assets of the trust paid or delivered to a trustee.

4. A person who in good faith assists a former trustee or who for value and in good faith deals with a former trustee without knowledge that the person is no longer a trustee is protected from liability as if the former trustee were still a trustee.

5. The protection provided by this section to persons assisting or dealing with a trustee is secondary to that provided under comparable provisions of other laws relating to commercial transactions or to the transfer of securities by fiduciaries.

Added by Laws 1999, c. 419, § 1, emerg. eff. June 10, 1999. Amended by Laws 2024, c. 369, § 42, eff. Nov. 1, 2024.

§60-175.60. Short title.

Short Title.

Sections 1 through 13 of this act shall be known and may be cited as the "Oklahoma Uniform Prudent Investor Act".  
Added by Laws 1995, c. 351, § 1, eff. Nov. 1, 1995.

§60-175.61. Prudent investor rule.

Prudent Investor Rule.

A. Except as otherwise provided in subsection B of this section, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in the Oklahoma Uniform Prudent Investor Act.

B. The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

Added by Laws 1995, c. 351, § 2, eff. Nov. 1, 1995.

§60-175.62. Standard of care - Portfolio strategy - Risk and return objectives.

Standard of Care; Portfolio Strategy; Risk and Return Objectives.

A. A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

B. A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation, but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

C. Among circumstances that a trustee shall consider in investing and managing trust assets are those of the following as are relevant to the trust or its beneficiaries:

1. General economic conditions;
2. The possible effect of inflation or deflation;
3. The expected tax consequences of investment decisions or strategies;
4. The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
5. The expected total return from income and the appreciation of capital;
6. Other resources of the beneficiaries;

7. Needs for liquidity, regularity of income, and preservation or appreciation of capital; and

8. An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

D. A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

E. A trustee may invest in any kind of property or type of investment consistent with the standards of the Oklahoma Uniform Prudent Investor Act.

F. A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

Added by Laws 1995, c. 351, § 3, eff. Nov. 1, 1995.

#### §60-175.63. Diversification.

##### Diversification.

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

Added by Laws 1995, c. 351, § 4, eff. Nov. 1, 1995.

#### §60-175.64. Duties at inception of trusteeship.

##### Duties at Inception of Trusteeship.

Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust and with the requirements of the Oklahoma Uniform Prudent Investor Act.

Added by Laws 1995, c. 351, § 5, eff. Nov. 1, 1995.

#### §60-175.65. Loyalty.

##### Loyalty.

A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

Added by Laws 1995, c. 351, § 6, eff. Nov. 1, 1995.

#### §60-175.66. Impartiality.

##### Impartiality.

If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

Added by Laws 1995, c. 351, § 7, eff. Nov. 1, 1995.

§60-175.67. Investment costs.

Investment Costs.

In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of the trustee.

Added by Laws 1995, c. 351, § 8, eff. Nov. 1, 1995.

§60-175.68. Reviewing compliance.

Reviewing Compliance.

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

Added by Laws 1995, c. 351, § 9, eff. Nov. 1, 1995.

§60-175.69. Delegation of investment and management functions.

Delegation of Investment and Management Functions.

A. A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

1. Selecting an agent;

2. Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and

3. Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

B. In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

C. A trustee who complies with the requirements of subsection A of this section is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

D. By accepting the delegation of a trust function from the trustee of a trust that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state.

Added by Laws 1995, c. 351, § 10, eff. Nov. 1, 1995.

§60-175.70. Language invoking standard of the Oklahoma Uniform Prudent Investor Act.

Language Invoking Standard of the Oklahoma Uniform Prudent Investor Act.

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under the Oklahoma Uniform Prudent Investor Act: "Investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using

the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", "prudent trustee rule", "prudent person rule", and "prudent investor rule".  
Added by Laws 1995, c. 351, § 11, eff. Nov. 1, 1995.

§60-175.71. Application to existing trusts.

Application to Existing Trusts.

The Oklahoma Uniform Prudent Investor Act applies to trusts existing on and created after its effective date. As applied to trusts existing on its effective date, this act governs only decisions or actions occurring after that date.

Added by Laws 1995, c. 351, § 12, eff. Nov. 1, 1995.

§60-175.72. Uniformity of application and construction.

Uniformity of Application and Construction.

The Oklahoma Uniform Prudent Investor Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among the states enacting it.

Added by Laws 1995, c. 351, § 13, eff. Nov. 1, 1995.

§60-175.81. Oklahoma Discretionary and Special Needs Trust Act.

This act shall be known and may be cited as the "Oklahoma Discretionary and Special Needs Trust Act".

Added by Laws 2010, c. 280, § 1, eff. Nov. 1, 2010.

§60-175.82. Definitions.

As used in the Oklahoma Discretionary and Special Needs Trust Act:

1. "Beneficial interest" means a distribution interest or a remainder interest, and excludes a power of appointment or a power reserved by the settlor;

2. "Beneficiary" means a person who has a present or future beneficial interest in a trust, vested or contingent. However, the holder of a power of appointment shall not be considered a beneficiary;

3. "Child" means any person for whom an order or judgment for child support has been entered in this state or another state;

4. "Current distribution interest" means a distribution interest where on the date of qualification the beneficiary is an eligible distributee or permissible distributee of trust income or principal;

5. "Discretionary interest" means any interest for which a trustee has discretion to make or withhold a distribution. A discretionary interest includes permissive language such as "may make distributions" or it may include mandatory language that is inconsistent with the intent of the settlor to create a discretionary trust, such as "The trustee shall make distributions in the sole and absolute discretion of the trustee";

6. "Distribution interest" means a beneficiary's equitable interest to enforce the distribution terms of the trust subject to the judicial review standard. A distribution interest is classified as a mandatory interest, a support interest, a discretionary interest, or a combination of any such interests. A distribution interest includes both current distribution interests and future distribution interests;

7. "Exception creditor" means a child of a beneficiary who has a judgment or court order against the beneficiary for support;

8. "Future distribution interest" means all distribution interests other than a current distribution interest;

9. "Mandatory interest" means a distribution interest for which the trustee has no discretion in determining whether the distribution shall be made, or the amount or timing of the distribution;

10. "Power of appointment" means an inter vivos or testamentary power to direct the disposition of trust property, other than a distribution decision by a trustee to a beneficiary. Powers of appointment are held by donees, not the settlor. A power of appointment includes any right or power granted by statute to any person other than the settlor;

11. "Remainder interest" means an interest for which a trust beneficiary will receive the property outright in the future;

12. "Reserved power" means a power held by the settlor;

13. "Special Needs Trust" means a trust created for the partial or exclusive benefit of a disabled or incapacitated person, in order to allow the disabled or incapacitated beneficiary to avoid loss of eligibility for government benefit programs, including, but not limited to, Medicaid, Supplemental Security Income, Social Security Disability Income or other state or federal benefit programs; and

14. "Support interest" means any interest which is not a mandatory interest or a discretionary interest. A support interest shall include mandatory language such as "shall make distributions" and be coupled with a standard capable of judicial interpretation, such as an "ascertainable standard" as defined in Internal Revenue Code (IRC) Section 2041.

Added by Laws 2010, c. 280, § 2, eff. Nov. 1, 2010.

§60-175.83. Applicable provisions for trusts created or modified after November 1, 2010.

The following provisions apply to all trusts created or modified from and after November 1, 2010, regardless of whether a spendthrift provision is included in a trust:

1. A distribution interest shall not be judicially sold. A distribution interest in a trust includes, but is not limited to, a current distribution interest, future distribution interest or income interest;

2. A remainder interest, power of appointment or a reserved power in a trust shall not be judicially sold;

3. Except as to a settlor who is also a trustee of a revocable trust, trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt;

4. A beneficiary of a trust has an equitable interest in the trust to bring an action against the trustee to enforce the terms of the trust subject to the judicial review standard set forth in paragraph 4 of Section 9 of this act; and

5. Subject to the provisions of the Uniform Fraudulent Transfer Act, the Oklahoma Discretionary and Special Needs Trust Act provides for the sole and exclusive remedies that are available to a creditor or other nonbeneficiary claiming an interest in the trust.

Added by Laws 2010, c. 280, § 3, eff. Nov. 1, 2010.

§60-175.84. Applicable provisions for trusts created pursuant to Oklahoma Discretionary and Special Needs Trust Act.

The following provisions apply to all trusts created pursuant to the Oklahoma Discretionary and Special Needs Trust Act:

1. A creditor shall not attach, exercise, or otherwise reach an interest of a beneficiary or any other person who holds an unconditional or conditional removal or replacement power over a trustee. Further, this power is personal to the beneficiary and may not be exercised by the creditors of the beneficiary, nor may a court direct any person to exercise this power;

2. A creditor shall not reach an interest of a beneficiary nor otherwise compel a distribution because the beneficiary is then serving as a trustee or a cotrustee;

3. If a party challenges a settlor or the influence of a beneficiary over a trust, the following factors, alone or in combination, shall not be considered dominion and control over a trust:

- a. a beneficiary serving as a trustee or a cotrustee as described in paragraph 2 of this section,
- b. the settlor or a beneficiary holds an unrestricted power to remove or replace a trustee,
- c. the settlor or a beneficiary, as provided in the applicable trust instrument, is:
  - (1) a trust administrator,
  - (2) a trust protector,

- (3) a special trustee, or
- (4) a general partner of a partnership, a manager of a limited liability company, an officer of a corporation, or any other managerial function of any other type of entity, and part or all of the trust property consists of an interest in said entity,
- d. a person related by blood or adoption to a settlor or a beneficiary is appointed as trustee, or
- e. an accountant of a settlor or a beneficiary, attorney, financial advisor, business associate, or a friend is appointed as trustee; and

4. The settlor or any beneficiary shall not be deemed to be the alter ego of a trustee. The following factors, alone or in combination, shall not be sufficient evidence for a court to conclude that the settlor controls a trustee or is the alter ego of a trustee:

- a. any combination of the factors listed in paragraph 3 of this section,
- b. occasional occurrences in which the settlor or a beneficiary may have signed checks, made disbursements or executed other documents related to the trust as a trustee, when in fact the settlor or a beneficiary was not a trustee,
- c. making requests for distributions on behalf of beneficiaries, or
- d. making requests to the trustee to hold, purchase, or sell any trust property.

Added by Laws 2010, c. 280, § 4, eff. Nov. 1, 2010.

§60-175.85. Spendthrift provision.

A. A spendthrift provision is valid if it restrains either the voluntary or involuntary transfer of a beneficiary's interest. If the applicable trust instrument so provides, a spendthrift provision may permit the voluntary transfer of an interest of a beneficiary even if the transfer is subject to the approval by the trustee if the trustee is not also the transferring beneficiary. The trustee may honor a transfer even if the transfer violates a spendthrift provision. The trustee shall not be liable to either the beneficiary or the assignee whether or not the trustee honors the transfer.

B. If a trust provides that the interest of a beneficiary is held subject to a spendthrift provision, or words of similar import, it shall restrain both the voluntary or involuntary transfer of the interest of the beneficiary.

C. Except for an exception creditor of a support interest under paragraph 4 of Section 8 of this act, if a trust contains a



spendthrift provision, a creditor or assignee of the beneficiary may not reach an interest in a trust or a distribution by the trustee until such distribution is received by the beneficiary.

D. A creditor shall wait until a distribution is received by a beneficiary before attachment; provided, however, an exception creditor may attach current and future distributions at the trust level.

E. A spendthrift provision applies to both current distribution interests, future distribution interests, and remainder interests.

F. A power of appointment in any trust is personal in nature and cannot be attached or forced to be exercised by a creditor or a court regardless of the presence of a spendthrift provision. A power of appointment is not a property interest.

G. A reserved power is not protected by a spendthrift provision. If a reserved power does not constitute a power of withdrawal for the settlor to withdraw income or principal, the holder of a reserved power may exercise the power in the sole and absolute discretion of the holder unencumbered by any court.

H. A spendthrift provision is a material provision of a trust. Added by Laws 2010, c. 280, § 5, eff. Nov. 1, 2010.

§60-175.86. Distribution interest - Mandatory, support, and discretionary interests.

A. A distribution interest in a trust shall be classified as a mandatory interest, a support interest or a discretionary interest.

B. A beneficiary may concurrently hold a mandatory interest, support interest or discretionary interest. To the extent a trust contains a combination of a discretionary interest, a support interest or a mandatory interest, the trust shall be a mandatory interest only to the extent of the mandatory language and a support interest only to the extent of the support language. The remaining trust property shall be held as a discretionary interest.

Added by Laws 2010, c. 280, § 6, eff. Nov. 1, 2010.

§60-175.87. Creditor attachment of mandatory distributions.

A. If a trust created on or after November 1, 2010, contains a spendthrift provision, a creditor shall not attach present and future mandatory distributions from the trust. A creditor shall wait until a distribution is received by a beneficiary before attachment. However, an exception creditor may attach present and future mandatory distributions for child support.

B. If a trust does not contain a spendthrift provision, a creditor may attach present and future mandatory distributions from the trust at the trust level.

C. A beneficiary holding a mandatory distribution interest may enforce the interest. A court may review the distribution

discretion of a trustee if the trustee acts beyond the bounds of reasonableness.

Added by Laws 2010, c. 280, § 7, eff. Nov. 1, 2010.

§60-175.88. Applicable trust provisions for beneficiaries holding support interests.

The following provisions apply only to trusts with one or more beneficiaries holding support interests:

1. The fact that a court would have exercised the distribution power under a support interest differently than the trustee is not sufficient reason for interfering with the exercise of the distribution power by the trustee. However, a court may review the distribution discretion of a trustee if the trustee acts beyond the bounds of reasonableness;

2. A support interest relies on spendthrift provisions for protection of a beneficial interest as well as the additional protection provided by protective or restrictive distribution language under Section 10 of this act;

3. The only exception creditor under the Oklahoma Discretionary and Special Needs Trust Act is a child of a beneficiary who has a judgment or court order against the beneficiary for support;

4. As provided by the Oklahoma Discretionary and Special Needs Trust Act, the sole and exclusive remedy of an exception creditor is the attachment of the beneficiary's support interest at the trust level. The court may limit the amount subject to attachment as appropriate under the circumstances to provide for the needs of the beneficiary and the family of the beneficiary; and

5. A beneficiary holding a support interest has an enforceable right to a distribution pursuant to a court review. This does not raise the interest of the beneficiary to the level of a property interest.

Added by Laws 2010, c. 280, § 8, eff. Nov. 1, 2010.

§60-175.89. Applicable trust provisions for beneficiaries holding discretionary interests.

The following provisions apply only to trusts with one or more beneficiaries holding discretionary interests:

1. A discretionary interest is neither a property interest nor an enforceable right to a distribution; it is a mere expectancy; provided, however, a beneficiary holding a discretionary interest has an equitable interest to bring an action against the trustee within the judicial review standard of paragraph 4 of this section. No creditor, regardless of whether the Oklahoma Discretionary and Special Needs Trust Act provides for any exception creditors, shall attach, require the trustee to exercise the trustee's discretion to make a distribution, or cause a court to judicially sell a discretionary interest;

2. Regardless of whether a beneficiary has any outstanding creditor, a trustee may directly pay any expense on behalf of the beneficiary and may exhaust the income and principal of the trust for the benefit of the beneficiary. A trustee shall not be liable to any creditor or beneficiary for paying the expenses of a beneficiary;

3. A creditor, including an exception creditor, of a beneficiary has no greater rights in a discretionary interest than a beneficiary, and shall not compel a distribution that is subject to the discretion of the trustee, nor may a court order a distribution;

4. A court may review a distribution discretion of a trustee only if it is proved by clear and convincing evidence that the trustee:

- a. acts dishonestly,
- b. acts with an improper motive, or
- c. fails to act.

The sole factor not to make a distribution does not constitute a failure to act. There is no standard of reasonableness under the above review standard;

5. In addition to any limitations of rights of creditors, if the trust contains a spendthrift provision, a current interest in a discretionary trust also receives the benefits of any spendthrift protection; and

6. Absent express language to the contrary, in the event that the distribution language permits unequal distributions between beneficiaries or distributions to the exclusion of other beneficiaries, the trustee may distribute all of the accumulated, accrued, or undistributed income and principal to one beneficiary in the discretion of the trustee.

Added by Laws 2010, c. 280, § 9, eff. Nov. 1, 2010.

§60-175.90. Attachment of present or future distributions - Restrictions limiting distribution powers.

A. A trustee may only make distributions for the purposes designated by the settlor. A creditor, including an exception creditor, has no greater rights than a beneficiary. In this respect, a creditor, including an exception creditor, cannot attach present or future distributions if the claim of the creditor does not come within the distribution standard.

B. A restriction limiting the distribution powers of a trustee as to a trustee, which distribution might result in the loss of a beneficiary's eligibility for participation in a federal or state benefits program, including, but not limited to, Medicaid, Supplemental Security Income, Social Security Disability Income, or other state or federal benefits program is valid, and no creditor, including an exception creditor, may attach present or future distributions from such a trust. All other restrictions curtailing

the distribution power of a trustee are void as to exception creditors, if any exception creditors are provided by the Oklahoma Discretionary and Special Needs Trust Act.

Added by Laws 2010, c. 280, § 10, eff. Nov. 1, 2010.

§60-175.91. Validity of trust provisions.

A. A provision which provides that a current distribution interest shall either become a discretionary interest or shall terminate upon the attachment by a creditor, including an exception creditor, is valid.

B. A provision that provides a remainder interest shall terminate or change into a dynasty interest upon attachment by a creditor, including an exception creditor, is valid.

Added by Laws 2010, c. 280, § 11, eff. Nov. 1, 2010.

§60-175.92. Existence of a spendthrift provision - Amount the creditor or assignee may reach.

Subject to the provisions of the Family Wealth Preservation Trust Act:

1. Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

a. during the lifetime of the settlor, the property of a revocable trust is subject to the claims of the creditors of the settlor, and

b. a spendthrift provision is ineffective with respect to the settlor of a revocable trust while the trust is revocable; and

2. A creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the benefit of the settlor. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the interest of the settlor in the portion of the trust attributable to the contribution of that settlor.

Added by Laws 2010, c. 280, § 12, eff. Nov. 1, 2010.

§60-175.101. Short title.

#### SHORT TITLE

This act shall be known and may be cited as the "Oklahoma Uniform Principal and Income Act".

Added by Laws 1998, c. 115, § 1, eff. Nov. 1, 1998.

§60-175.102. Definitions.

#### DEFINITIONS

As used in this act:

1. "Accounting period" means a calendar year unless another twelve-month period is selected by a fiduciary. The term includes a

portion of a calendar year or other twelve-month period that begins when an income interest begins or ends when an income interest ends;

2. "Beneficiary" includes, in the case of a decedent's estate, an heir, legatee, and devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary;

3. "Fiduciary" means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function;

4. "Income" means money or property that a fiduciary receives as current return from a principal asset. The term includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in Article 4 of this act;

5. "Income beneficiary" means a person to whom net income of a trust is or may be payable;

6. "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion;

7. "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute;

8. "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under this act to or from income during the period;

9. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity;

10. "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates;

11. "Remainder beneficiary" means a person entitled to receive principal when an income interest ends;

12. "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct; and

13. "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

Added by Laws 1998, c. 115, § 2, eff. Nov. 1, 1998.

§60-175.103. Fiduciary duties - General principles.

FIDUCIARY DUTIES; GENERAL PRINCIPLES

A. In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of Articles 2 and 3 of this act, a fiduciary:

1. Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this act;

2. May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this act;

3. Shall administer a trust or estate in accordance with this act if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and

4. Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this act do not provide a rule for allocating the receipt or disbursement to or between principal and income.

B. In exercising the power to adjust under subsection A of Section 4 of this act or a discretionary power of administration regarding a matter within the scope of this act, whether granted by the terms of a trust, a will, or this act, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with this act is presumed to be fair and reasonable to all of the beneficiaries. Added by Laws 1998, c. 115, § 3, eff. Nov. 1, 1998.

§60-175.104. Trustee's power to adjust.

#### TRUSTEE'S POWER TO ADJUST

A. A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or must be distributed to a beneficiary by referring to the trust's income, and the trustee determines, after applying the rules in subsection A of Section 175.103 of Title 60 of the Oklahoma Statutes, that the trustee is unable to comply with subsection B of Section 175.103 of Title 60 of the Oklahoma Statutes.

B. In deciding whether and to what extent to exercise the power conferred by subsection A of this section, a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

1. The nature, purpose, and expected duration of the trust;

2. The intent of the settlor;
  3. The identity and circumstances of the beneficiaries;
  4. The needs for liquidity, regularity of income, and preservation and appreciation of capital;
  5. The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the settlor;
  6. The net amount allocated to income under the other sections of this act and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;
  7. Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;
  8. The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and
  9. The anticipated tax consequences of an adjustment.
- C. A trustee may not make an adjustment:
1. That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;
  2. That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;
  3. That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;
  4. From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;
  5. If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;
  6. If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment;

7. If the trustee is a beneficiary of the trust (except where the trustee is a charitable, religious or educational organization recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code and as a beneficiary will hold the beneficial interest as an institutional endowment fund as that term is defined in the Oklahoma Uniform Management of Institutional Endowment Funds Act solely for the benefit of one or more other charitable, religious or educational organizations recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code); or

8. If the trustee is not a beneficiary, but the adjustment would benefit the trustee directly or indirectly.

D. If paragraph 5, 6, 7, or 8 of subsection C of this section applies to a trustee and there is more than one trustee, a cotrustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust.

E. A trustee may release the entire power conferred by subsection A of this section or may release only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in paragraphs 1 through 6 or 8 of subsection C of this section or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection C of this section. The release may be permanent or for a specified period, including a period measured by the life of an individual.

F. Terms of a trust that limit the power of a trustee to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power of adjustment conferred by subsection A of this section.

Added by Laws 1998, c. 115, § 4, eff. Nov. 1, 1998. Amended by Laws 1998, c. 422, § 36, eff. Nov. 1, 1998; Laws 1999, c. 91, § 1, eff. Nov. 1, 1999.

§60-175.201. Determination and distribution of net income.

DETERMINATION AND DISTRIBUTION OF NET INCOME

After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

1. A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in Articles 3 through 5 of this act which apply to trustees and the rules in paragraph 5 of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property;



2. A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Articles 3 through 5 of this act which apply to trustees and by:
- a. including in net income all income from property used to discharge liabilities,
  - b. paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction, and
  - c. paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law;

3. A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or applicable law from net income determined under paragraph 2 of this section or from principal to the extent that net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no interest or other amount is provided for by the terms of the trust or applicable law, the fiduciary shall distribute the interest or other amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will;

4. A fiduciary shall distribute the net income remaining after distributions required by paragraph 3 of this section in the manner described in Section 6 of this act to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust;

5. A fiduciary may not reduce principal or income receipts from property described in paragraph 1 of this section because of a payment described in Section 25 or 26 of this act to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the

payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.  
Added by Laws 1998, c. 115, § 5, eff. Nov. 1, 1998.

§60-175.202. Distribution to residuary and remainder beneficiaries.  
DISTRIBUTION TO RESIDUARY AND REMAINDER BENEFICIARIES

A. Each beneficiary described in paragraph 4 of Section 175.201 of Title 60 of the Oklahoma Statutes is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

B. In determining a beneficiary's share of net income, the following rules apply:

1. The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations;

2. The beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust;

3. The beneficiary's fractional interest in the undistributed principal assets must be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation; and

4. The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

C. If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

D. A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.  
Added by Laws 1998, c. 115, § 6, eff. Nov. 1, 1998. Amended by Laws 1998, c. 422, § 37, eff. Nov. 1, 1998.

§60-175.301. When right to income begins and ends.

WHEN RIGHT TO INCOME BEGINS AND ENDS

A. An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

B. An asset becomes subject to a trust:

1. On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;

2. On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or

3. On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

C. An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection D of this section, even if there is an intervening period of administration to wind up the preceding income interest.

D. An income interest ends on the day before an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

Added by Laws 1998, c. 115, § 7, eff. Nov. 1, 1998.

§60-175.302. Apportionment of receipts and disbursements when decedent dies or income interest begins.

APPORTIONMENT OF RECEIPTS AND DISBURSEMENTS

WHEN DECEDENT DIES OR INCOME INTEREST BEGINS

A. A trustee shall allocate an income receipt or disbursement other than one to which paragraph 1 of Section 5 of this act applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

B. A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due

date. An income receipt or disbursement must be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins must be allocated to principal and the balance must be allocated to income.

C. An item of income or an obligation is due on the date the payer is required to make a payment. If a payment date is not stated, there is no due date for the purposes of this act. Distributions to shareholders or other owners from an entity to which Section 10 of this act applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

Added by Laws 1998, c. 115, § 8, eff. Nov. 1, 1998.

§60-175.303. Apportionment when income interest ends.

APPORTIONMENT WHEN INCOME INTEREST ENDS

A. In this section, "undistributed income" means net income received before the date on which an income interest ends. The term does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

B. When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than five percent (5%) of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked must be added to principal.

C. When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate, or other tax requirements.

Added by Laws 1998, c. 115, § 9, eff. Nov. 1, 1998.

§60-175.401. Character of receipts.

CHARACTER OF RECEIPTS

A. In this section, "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in

which a trustee has an interest other than a trust or estate to which Section 11 of this act applies, a business or activity to which Section 12 of this act applies, or an asset-backed security to which Section 24 of this act applies.

B. Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

C. A trustee shall allocate the following receipts from an entity to principal:

1. Property other than money;

2. Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

3. Money received in total or partial liquidation of the entity; and

4. Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

D. Money is received in partial liquidation:

1. To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or

2. If the total amount of money and property received in a distribution or series of related distributions is greater than twenty percent (20%) of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

E. Money is not received in partial liquidation, nor may it be taken into account under paragraph 2 of subsection D of this section, to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the money.

F. A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

Added by Laws 1998, c. 115, § 10, eff. Nov. 1, 1998.

§60-175.402. Distribution from trust or estate.

#### DISTRIBUTION FROM TRUST OR ESTATE

A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers

an interest in such a trust to a trustee, Section 10 or 24 of this act applies to a receipt from the trust.

Added by Laws 1998, c. 115, § 11, eff. Nov. 1, 1998.

§60-175.403. Business and other activities conducted by trustee.

BUSINESS AND OTHER ACTIVITIES CONDUCTED BY TRUSTEE

A. If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

B. A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

C. Activities for which a trustee may maintain separate accounting records include:

1. Retail, manufacturing, service, and other traditional business activities;
2. Farming;
3. Raising and selling livestock and other animals;
4. Management of rental properties;
5. Extraction of minerals and other natural resources;
6. Timber operations; and
7. Activities to which Section 23 of this act applies.

Added by Laws 1998, c. 115, § 12, eff. Nov. 1, 1998.

§60-175.404. Principal receipts.

PRINCIPAL RECEIPTS

A trustee shall allocate to principal:

1. To the extent not allocated to income under this act, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest, or a payer under a contract naming the trust or its trustee as beneficiary;

2. Money or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this article;

3. Amounts recovered from third parties to reimburse the trust because of disbursements described in paragraph 7 of subsection A of Section 26 of this act or for other reasons to the extent not based on the loss of income;

4. Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;

5. Net income received in an accounting period during which there is no beneficiary to whom a trustee may or must distribute income; and

6. Other receipts as provided in Part 3 of this article.  
Added by Laws 1998, c. 115, § 13, eff. Nov. 1, 1998.

§60-175.405. Rental property.

#### RENTAL PROPERTY

To the extent that a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, must be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

Added by Laws 1998, c. 115, § 14, eff. Nov. 1, 1998.

§60-175.406. Obligation to pay money.

#### OBLIGATION TO PAY MONEY

A. An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, must be allocated to income without any provision for amortization of premium.

B. A trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than one year after it is purchased or acquired by the trustee, including an obligation the purchase price or value of which when it is acquired is less than its value at maturity. If the obligation matures within one (1) year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust must be allocated to income.

C. This section does not apply to obligations to which Section 18, 19, 20, 21, 23, or 24 of this act applies.  
Added by Laws 1998, c. 115, § 15, eff. Nov. 1, 1998.

§60-175.407. Insurance policies and similar contracts.

INSURANCE POLICIES AND SIMILAR CONTRACTS

A. Except as otherwise provided in subsection B of this section, a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income, and to principal if the premiums are paid from principal.

B. A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or, subject to Section 12 of this act, loss of profits from a business.

C. This section does not apply to a contract to which Section 18 of this act applies.

Added by Laws 1998, c. 115, § 16, eff. Nov. 1, 1998.

§60-175.408. Insubstantial allocations not required.

INSUBSTANTIAL ALLOCATIONS NOT REQUIRED

If a trustee determines that an allocation between principal and income required by Section 18, 19, 20, 21, or 24 of this act is insubstantial, the trustee may allocate the entire amount to principal unless one of the circumstances described in subsection C of Section 4 of this act applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in subsection D of Section 4 of this act and may be released for the reasons and in the manner described in subsection E of Section 4 of this act. An allocation is presumed to be insubstantial if:

1. The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent (10%); or

2. The value of the asset producing the receipt for which the allocation would be made is less than ten percent (10%) of the total value of the trust's assets at the beginning of the accounting period.

Added by Laws 1998, c. 115, § 17, eff. Nov. 1, 1998.

§60-175.409. Deferred compensation, annuities, and similar payments.

DEFERRED COMPENSATION, ANNUITIES, AND SIMILAR PAYMENTS

A. In this section:



1. "Payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer. For purposes of subsections D, E, F, and G of this section, the term also includes any payment from any separate fund, regardless of the reason for the payment; and

2. "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

B. To the extent that a payment is characterized as interest or a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate it to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

C. If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income ten percent (10%) of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

D. Except as otherwise provided in subsection E of this section, subsections F and G of this section apply, and subsections B and C of this section do not apply in determining the allocation of a payment made from a separate fund to:

1. A trust to which an election to qualify for a marital deduction under Section 2056(b)(7) of the Internal Revenue Code of 1986, as amended, has been made; or

2. A trust that qualifies for the marital deduction under Section 2056(b)(5) of the Internal Revenue Code of 1986, as amended.

E. Subsections D, F, and G of this section do not apply if and to the extent that the series of payments would, without the application of subsection D of this section, qualify for the marital deduction under Section 2056(b)(7)(C) of the Internal Revenue Code of 1986, as amended.

F. A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to the Oklahoma Uniform Principal and Income Act. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute the internal income to the trust. The trustee shall allocate a payment from the

separate fund to income to the extent of the internal income of the separate fund and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period.

G. If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund shall be an amount of not less than three percent (3%) or more than four percent (4%) of the fund's value, as determined annually by the trustee in a manner that fulfills the trustee's duty of impartiality between the income and remainder beneficiaries, according to the most recent statement of value preceding the beginning of the accounting period. If the trustee can determine neither the internal income of the separate fund nor the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments, as determined under Section 7520 of the Internal Revenue Code of 1986, as amended, for the month preceding the accounting period for which the computation is made.

H. This section does not apply to a payment to which Section 175.410 of this title applies.

Added by Laws 1998, c. 115, § 18, eff. Nov. 1, 1998. Amended by Laws 2009, c. 90, § 1, eff. Nov. 1, 2009.

§60-175.410. Liquidating asset.

#### LIQUIDATING ASSET

A. In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one (1) year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term does not include a payment subject to Section 18 of this act, resources subject to Section 20 of this act, timber subject to Section 21 of this act, an activity subject to Section 23 of this act, an asset subject to Section 24 of this act, or any asset for which the trustee establishes a reserve for depreciation under Section 27 of this act.

B. A trustee shall allocate to income ten percent (10%) of the receipts from a liquidating asset and the balance to principal. Added by Laws 1998, c. 115, § 19, eff. Nov. 1, 1998.

§60-175.411. Minerals, water, and other natural resources.

#### MINERALS, WATER, AND OTHER NATURAL RESOURCES

A. To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

1. If received as a bonus, delay rental or annual rent on a lease, a receipt of less than One Thousand Dollars (\$1,000.00) must be allocated to income and a receipt of One Thousand Dollars (\$1,000.00) or more must be allocated fifteen percent (15%) to principal and eighty-five percent (85%) to income;

2. If received from a production payment, a receipt must be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal;

3. If received as a royalty, shut-in-well payment, or take-or-pay payment, a receipt must be allocated fifteen percent (15%) to principal and eighty-five percent (85%) to income;

4. If an amount is received from a working interest or any other interest not provided for in paragraph 1, 2, or 3 of this subsection, a receipt must be allocated fifteen percent (15%) to principal and eighty-five percent (85%) to income.

B. An amount received on account of an interest in water that is renewable must be allocated to income. If the water is not renewable, ninety percent (90%) of the amount must be allocated to principal and the balance to income.

C. This act applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

D. If a trust exists on the effective date of this act, the trustee may allocate receipts from an interest in minerals, water, or other natural resources as provided in this act or in the manner used by the trustee before the effective date of this act. For every trust created after the effective date of this act, the trustee shall allocate receipts from an interest in minerals, water, or other natural resources as provided in this act. If and to the extent that the terms of a trust expressly provide for a different allocation of receipts or grants the trustee discretionary authority to determine the amount of the allocation, this act shall not apply to those receipts.

Added by Laws 1998, c. 115, § 20, eff. Nov. 1, 1998. Amended by Laws 1999, c. 419, § 2, emerg. eff. June 10, 1999.

§60-175.412. Timber.

#### TIMBER

A. To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

1. To income to the extent that the amount of timber removed from the land does not exceed the estimated rate of growth of the

timber during the accounting periods in which a beneficiary has a mandatory income interest;

2. To principal to the extent that the amount of timber removed from the land exceeds the estimated rate of growth of the timber or the net receipts are from the sale of standing timber;

3. To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs 1 and 2 of this subsection; or

4. To principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to paragraph 1, 2, or 3 of this subsection.

B. In determining net receipts to be allocated pursuant to subsection A of this section, a trustee may deduct and transfer to principal a reasonable amount for depletion.

C. This act applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

D. If a trust exists on the effective date of this act, the trustee may allocate receipts from an interest in timber as provided in this act or in the manner used by the trustee before the effective date of this act. For every trust created after the effective date of this act, the trustee shall allocate receipts from an interest in timber as provided in this act. If and to the extent that the terms of a trust expressly provide for a different allocation of receipts or grants the trustee discretionary authority to determine the amount of the allocation, this act shall not apply to those receipts.

Added by Laws 1998, c. 115, § 21, eff. Nov. 1, 1998. Amended by Laws 1999, c. 419, § 3, emerg. eff. June 10, 1999.

§60-175.413. Property not productive of income.

PROPERTY NOT PRODUCTIVE OF INCOME

A. If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under Section 175.104 of Title 60 of the Oklahoma Statutes and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by subsection A of Section 175.104 of Title 60 of the Oklahoma Statutes. The trustee may decide which action or combination of actions to take.

B. In cases not governed by subsection A of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

Added by Laws 1998, c. 115, § 22, eff. Nov. 1, 1998. Amended by Laws 1998, c. 422, § 38, eff. Nov. 1, 1998.

§60-175.414. Derivatives and options.

#### DERIVATIVES AND OPTIONS

A. In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments which gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

B. To the extent that a trustee accounts for transactions in derivatives pursuant to this section, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

C. If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option must be allocated to principal. An amount paid to acquire the option must be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, must be allocated to principal.

Added by Laws 1998, c. 115, § 23, eff. Nov. 1, 1998.

§60-175.415. Asset-backed securities.

#### ASSET-BACKED SECURITIES

A. In this section, "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The term does not include an asset to which Section 10 or 18 of this act applies.

B. If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment

which the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

C. If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate ten percent (10%) of the payment to income and the balance to principal. Added by Laws 1998, c. 115, § 24, eff. Nov. 1, 1998.

§60-175.501. Disbursements from income.

#### DISBURSEMENTS FROM INCOME

A trustee shall make the following disbursements from income to the extent that they are not disbursements to which subparagraph b or c of paragraph 2 of Section 5 of this act applies:

1. One-half of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee;

2. One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

3. All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

4. Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

Added by Laws 1998, c. 115, § 25, eff. Nov. 1, 1998.

§60-175.502. Disbursements from principal.

#### DISBURSEMENTS FROM PRINCIPAL

A. A trustee shall make the following disbursements from principal:

1. The remaining one-half of the disbursements described in paragraph 1 and 2 of Section 25 of this act;

2. All of the trustee's compensation calculated on principal as a fee for acceptance, distribution, or termination, and disbursements made to prepare property for sale;

3. Payments on the principal of a trust debt;

4. Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

5. Premiums paid on a policy of insurance not described in paragraph 4 of Section 25 of this act of which the trust is the owner and beneficiary;

6. Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust; and

7. Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

B. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Added by Laws 1998, c. 115, § 26, eff. Nov. 1, 1998.

§60-175.503. Transfers from income to principal for depreciation.

TRANSFERS FROM INCOME TO PRINCIPAL FOR DEPRECIATION

A. In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more than one (1) year.

B. A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

1. Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary;

2. During the administration of a decedent's estate; or

3. Under this section if the trustee is accounting under Section 12 of this act for the business or activity in which the asset is used.

C. An amount transferred to principal need not be held as a separate fund.

Added by Laws 1998, c. 115, § 27, eff. Nov. 1, 1998.

§60-175.504. Transfers from income to reimburse principal.

TRANSFERS FROM INCOME TO REIMBURSE PRINCIPAL

A. If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more

accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

B. Principal disbursements to which subsection A of this section applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

1. An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;

2. A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments;

3. Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;

4. Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and

5. Disbursements described in paragraph 7 of subsection A of Section 26 of this act.

C. If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection A of this section. Added by Laws 1998, c. 115, § 28, eff. Nov. 1, 1998.

§60-175.505. Income taxes.

#### INCOME TAXES

A. A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.

B. A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

C. A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be paid:

1. From income to the extent that receipts from the entity are allocated only to income;

2. From principal to the extent that receipts from the entity are allocated only to principal;

3. Proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and

4. From principal to the extent that the tax exceeds the total receipts from the entity.

D. After applying subsections A through C of this section, the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payments made to a beneficiary.



Added by Laws 1998, c. 115, § 29, eff. Nov. 1, 1998. Amended by Laws 2009, c. 90, § 2, eff. Nov. 1, 2009.

§60-175.506. Adjustments between principal and income because of taxes.

ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME BECAUSE OF TAXES

A. A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

1. Elections and decisions, other than those described in subsection B of this section, that the fiduciary makes from time to time regarding tax matters;

2. An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or

3. The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or a beneficiary.

B. If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement must equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust, or beneficiary whose income taxes are reduced must be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

Added by Laws 1998, c. 115, § 30, eff. Nov. 1, 1998.

§60-175.601. Uniformity of application and construction.

UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Added by Laws 1998, c. 115, § 31, eff. Nov. 1, 1998.

§60-175.602. Application of act to existing trusts and estates.

APPLICATION OF ACT TO EXISTING TRUSTS AND ESTATES

This act applies to every trust or decedent's estate existing on the effective date of this act except as otherwise expressly provided in the will or terms of the trust or in this act.  
Added by Laws 1998, c. 115, § 32, eff. Nov. 1, 1998.

§60-175.603. Application of Section 175.409 of Title 60 to trusts - Particular dates.

#### TRANSITIONAL MATTERS

Section 175.409 of Title 60 of the Oklahoma Statutes applies to a trust described in subsection D of Section 175.409 of Title 60 of the Oklahoma Statutes on and after the following dates:

1. If the trust is not funded as of November 1, 2009, the date of the decedent's death;

2. If the trust is initially funded in the calendar year beginning January 1, 2009, the date of the decedent's death; or

3. If the trust is not described in paragraph 1 or 2 of this section, January 1, 2009.

Added by Laws 2009, c. 90, § 3, eff. Nov. 1, 2009.

§60-175.701. Short title - Oklahoma Decanting Act.

##### SHORT TITLE

This act shall be known and may be cited as the "Oklahoma Decanting Act" and shall apply to any trust administered under the laws of this state including a trust whose governing jurisdiction is transferred to this state.

Added by Laws 2021, c. 268, § 1, eff. Nov. 1, 2021.

§60-175.702. Definitions.

##### DEFINITIONS

As used in this act, unless the context or subject matter otherwise requires:

1. "Authorized trustee" means a person, other than the settlor, who has authority under the terms of a first trust to distribute the principal or income of the trust to or for the benefit of one or more current beneficiaries or a special needs fiduciary under Section 5 of this act;

2. "Charity" means a charitable organization or a charitable trust, as those terms are defined by Section 301.3 of Title 60 of the Oklahoma Statutes or Section 552.2 of Title 18 of the Oklahoma Statutes;

3. "Current beneficiary" with respect to a particular date, means a person who is receiving or is eligible to receive a distribution of income or principal from a trust on that date;

4. "First trust" means an existing irrevocable inter vivos or testamentary trust all or part of the principal of which is distributed in further trust under Section 3 or 4 of this act;

5. "Full discretion" means a power to distribute principal or income to or for the benefit of one or more of the beneficiaries of a trust that is not a trust with limited discretion;

6. "Limited discretion" means:

- a. a power to distribute principal or income according to mandatory distribution provisions under which the trustee has no discretion, or
- b. a power to distribute principal or income to or for the benefit of one or more beneficiaries of a trust that is limited by an ascertainable standard, including the health, education, support or maintenance of the beneficiary;

7. "Presumptive remainder beneficiary", with respect to a particular date, means a beneficiary of a trust on that date who, in the absence of notice to the trustee of the exercise of the power of appointment and assuming that any other powers of appointment under the trust are not exercised, would be eligible to receive a distribution from the trust if:

- a. the trust terminated on that date, or
- b. the interests of all current beneficiaries ended on that date without causing the trust to terminate;

8. "Principal" means property held in trust for distribution including accumulated income, that, at the time of the exercise of a power of distribution under Section 3 or 4 of this act, is not currently required to be distributed;

9. "Second trust" means any irrevocable trust to which principal is distributed under Section 3 or 4 of this act; and

10. "Successor beneficiary" means a beneficiary other than a current or presumptive remainder beneficiary. The term does not include a potential appointee under a power of appointment held by a beneficiary.

Added by Laws 2021, c. 268, § 2, eff. Nov. 1, 2021.

§60-175.703. Distribution to second trust - Trustee with full discretion.

DISTRIBUTION TO SECOND TRUST: TRUSTEE WITH FULL DISCRETION

A. An authorized trustee who has the full discretion to distribute the principal or income of a trust may distribute all or part of the principal of that trust in favor of a trustee of a second trust for the benefit of one, more than one or all of the current beneficiaries of the first trust and for the benefit of one, more than one or all of the successor or presumptive remainder beneficiaries of the first trust.

B. The authorized trustee may, in connection with the exercise of a power of distribution under this section, grant a power of appointment including a currently exercisable power of appointment, in the second trust to one or more of the current beneficiaries of

the first trust who, at the time the power of appointment is granted, is eligible to receive a distribution of principal under the terms of the first trust.

C. If the authorized trustee grants a power of appointment to a beneficiary under subsection B of this section, the class of permissible appointees in whose favor the beneficiary may appoint under that power may be broader or different than the current, successor, and presumptive remainder beneficiaries of the first trust.

D. If the beneficiaries of the first trust are described as a class of persons, the beneficiaries of the second trust may include one or more persons who become members of that class after the distribution to the second trust.

E. The authorized trustee shall exercise a power to distribute under this section in good faith, in accordance with the terms and purposes of the trust, and in the interests of the beneficiaries.  
Added by Laws 2021, c. 268, § 3, eff. Nov. 1, 2021.

§60-175.704. Distribution to second trust - Trustee with limited discretion.

DISTRIBUTION TO SECOND TRUST: TRUSTEE WITH LIMITED DISCRETION

A. An authorized trustee who has limited discretion to distribute the principal of a trust may distribute all or part of the principal of that trust in favor of a trustee of a second trust as provided by this section.

B. The current beneficiaries of the second trust shall be substantially the same as the current beneficiaries of the first trust, and the successor and presumptive remainder beneficiaries of the second trust shall be substantially the same as the successor and presumptive remainder beneficiaries of the first trust, as determined in the reasonable discretion of the authorized trustee.

C. If the beneficiaries of the first trust are described as a class of persons, the beneficiaries of the second trust shall include substantially the same persons who become members of that class after the distribution to the second trust, as determined in the reasonable discretion of the authorized trustee.

D. If the first trust grants a power of appointment to a beneficiary of the trust, the second trust shall grant the power of appointment to the beneficiary in the second trust, and the class of permissible appointees under that power shall be the same as the class of permissible appointees under the power granted by the first trust.

E. The exercise of a power of distribution under this section shall be made by the authorized trustee in good faith, in accordance with the terms and purposes of the trust, and in the interests of the beneficiaries.

Added by Laws 2021, c. 268, § 4, eff. Nov. 1, 2021.

§60-175.705. Trust for beneficiary with disability.

TRUST FOR BENEFICIARY WITH DISABILITY

A. As used in this act:

1. "Beneficiary with a disability" means a beneficiary of a first trust who the special-needs fiduciary believes may qualify for governmental benefits based on disability, whether or not the beneficiary currently receives those benefits or is an individual who has been adjudicated incompetent;

2. "Governmental benefits" means financial aid or services from a state, federal or other public agency;

3. "Special-needs fiduciary" means, with respect to a trust that has a beneficiary with a disability:

a. a trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the principal of a first trust to one or more current beneficiaries,

b. if no trustee or fiduciary has discretion under subparagraph a of this section, a trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the income of the first trust to one or more current beneficiaries, or

c. if no trustee or fiduciary has discretion under subparagraphs a and b of this section, a trustee or other fiduciary, other than a settlor, that is required to distribute part or all of the income or principal of the first trust to one or more current beneficiaries; and

4. "Special-needs trust" means a trust the trustee believes would not be considered a resource for purposes of determining whether a beneficiary with a disability is eligible for governmental benefits.

B. A special-needs fiduciary may exercise the decanting power under Section 3 of this act over the principal of a first trust as if the fiduciary had authority to distribute principal to a beneficiary with a disability subject to expanded distributive discretion if:

1. A second trust is a special-needs trust that benefits the beneficiary with a disability; and

2. The special-needs fiduciary determines that exercise of the decanting power will further the purposes of the first trust.

C. In an exercise of the decanting power under this section, the following rules apply:

1. Notwithstanding Section 3 of this act, the interest in the second trust of a beneficiary with a disability may:

- a. be a pooled trust as defined by Medicaid law for the benefit of the beneficiary with a disability under 42 U.S.C., Section 1396p(d)(4)(C), as amended, or
- b. contain payback provisions complying with reimbursement requirements of Medicaid law under 42 U.S.C., Section 1396p(d)(4)(A), as amended; and

2. Except as affected by any change to the interests of the beneficiary with a disability, the second trust, or if there are two or more second trusts, the second trusts in the aggregate, shall comply with Section 3 or 4 of this act with respect to the interest or interests of each other current beneficiary, presumptive remainder beneficiary or successor beneficiary.

Added by Laws 2021, c. 268, § 5, eff. Nov. 1, 2021.

§60-175.706. Notice required.

NOTICE REQUIRED

A. An authorized trustee may exercise a power of distribution under Section 3 or 4 of this act without the consent of the settlor or beneficiaries of the first trust and without court approval if the trustee provides to all of the current beneficiaries and presumptive remainder beneficiaries written notice of the trustee's decision to exercise the power.

B. For the purpose of determining who is a current beneficiary or presumptive remainder beneficiary entitled to the notice, a beneficiary is determined as of the date the notice is sent. A beneficiary includes a person entitled to receive property under the terms of the first trust.

C. Except as provided by paragraph 5 of subsection E of this section, in addition to the notice required under subsection A of this section, the authorized trustee shall give written notice of the trustee's decision to the attorney general if:

1. A charity is entitled to notice;
2. A charity entitled to notice is no longer in existence;
3. The trustee has the authority to distribute trust assets to one or more charities that are not named in the trust instrument; or
4. The trustee has the authority to make distributions for a charitable purpose described in the trust instrument, but no charity is named as a beneficiary for that purpose.

D. If the beneficiary has a court-appointed guardian or conservator, the notice required to be given by this section shall be given to that guardian or conservator. If the beneficiary is a minor for whom no guardian or conservator has been appointed, the notice required to be given by this section shall be given to a parent of the minor. For purposes of paragraph 3 of subsection E of this section, a beneficiary is considered to have waived the requirement that notice be given under this section if a person to whom notice is required to be given with respect to that beneficiary

under this subsection waives the requirement that notice be given under this section.

E. The authorized trustee is not required to provide notice:

1. To a beneficiary who is known to the trustee and cannot be located by the trustee after reasonable diligence;

2. To a beneficiary who is not known to the trustee;

3. To a beneficiary who waives the requirement of the notice under this section;

4. To a beneficiary who is a descendant of a beneficiary to whom the trustee has given notice if the beneficiary and the beneficiary's ancestor have similar interests in the trust and no apparent conflict of interest exists between them; or

5. To the attorney general under subsection C of this section if the attorney general waives that requirement in writing.

F. The notice required under subsection A of this section shall:

1. Include a statement that:

a. the authorized trustee intends to exercise the power of distribution,

b. the beneficiary has the right to object to the exercise of the power, and

c. the beneficiary may petition a court to approve, modify or deny the exercise of the trustee's power to make a distribution under this act;

2. Describe the manner in which the trustee intends to exercise the power;

3. Specify the date the trustee proposes to distribute the first trust to the second trust;

4. Include the name and mailing address of the trustee;

5. Include copies of the agreements of the first trust and the proposed second trust;

6. Be given not later than the ninetieth day before the proposed date of distribution to the second trust; and

7. Be sent by registered or certified mail, return receipt requested, or delivered in person, unless the notice is waived in writing by the person to whom notice is required to be given.

Added by Laws 2021, c. 268, § 6, eff. Nov. 1, 2021.

§60-175.707. Written instrument required.

WRITTEN INSTRUMENT REQUIRED

A distribution under Section 3 or 4 of this act shall be made by a written instrument that is signed and acknowledged by the authorized trustee and filed with the records of the first trust and the second trust.

Added by Laws 2021, c. 268, § 7, eff. Nov. 1, 2021.

§60-175.708. Reference to trust terms.

#### REFERENCE TO TRUST TERMS

A reference to the governing instrument or terms of the governing instrument of a trust includes the terms of a second trust to which that trust's principal was distributed under this act. Added by Laws 2021, c. 268, § 8, eff. Nov. 1, 2021.

§60-175.709. Settlor of second trust.

#### SETTLOR OF SECOND TRUST

A. Except as provided by subsection B of this section, the settlor of a first trust is considered to be the settlor of a second trust established under this act.

B. If a settlor of a first trust is not also the settlor of a second trust into which principal of that first trust is distributed, the settlor of the first trust is considered the settlor of the portion of the second trust distributed to the second trust from that first trust under this act.

Added by Laws 2021, c. 268, § 9, eff. Nov. 1, 2021.

§60-175.710. Court-ordered distribution.

#### COURT-ORDERED DISTRIBUTION

A. An authorized trustee may petition a court to order a distribution under this act.

B. If the authorized trustee receives a written objection to a distribution under this act from a beneficiary before the proposed effective date of the distribution specified in the notice provided to the beneficiary under Section 6 of this act, the trustee or the beneficiary may petition a court to approve, modify or deny the exercise of the trustee's power to make a distribution under this act.

C. If the authorized trustee receives a written objection to the distribution from the attorney general not later than the thirtieth day after the date the notice required by Section 6 of this act was received by the attorney general, the trustee shall not make a distribution under Section 3 or 4 of this act without petitioning a court to approve or modify the exercise of the trustee's power to make a distribution under this act.

D. In a judicial proceeding under this section, the authorized trustee may present the trustee's reasons for supporting or opposing a proposed distribution, including whether the trustee believes the distribution would enable the trustee to better carry out the purposes of the trust.

E. The authorized trustee has the burden of proving that the proposed distribution furthers the purposes of the trust, is not expressly prohibited by the terms of the trust, and is in the interests generally of the beneficiaries.

F. This section does not limit a beneficiary's right to bring an action against a trustee for a breach of trust.



Added by Laws 2021, c. 268, § 10, eff. Nov. 1, 2021.

§60-175.711. Divided discretion.

DIVIDED DISCRETION

If an authorized trustee has full discretion to distribute the principal of a trust and another trustee has limited discretion to distribute principal under the trust instrument, the authorized trustee having full discretion may exercise the power to distribute the trust's principal under Section 3 of this act.

Added by Laws 2021, c. 268, § 11, eff. Nov. 1, 2021.

§60-175.712. Later discovered assets.

LATER DISCOVERED ASSETS

To the extent the authorized trustee does not provide otherwise:

1. The distribution of all of the principal of a first trust to a second trust includes subsequently discovered assets otherwise belonging to the first trust and principal paid to or acquired by the first trust after the distribution of the first trust's principal to the second trust; and

2. The distribution of part of the principal of a first trust to a second trust does not include subsequently discovered assets belonging to the first trust or principal paid to or acquired by the first trust after the distribution of principal from the first trust to the second trust, and those assets or that principal remain the assets or principal of the first trust.

Added by Laws 2021, c. 268, § 12, eff. Nov. 1, 2021.

§60-175.713. Other authority to distribute in further trust not limited.

OTHER AUTHORITY TO DISTRIBUTE IN FURTHER TRUST NOT LIMITED

This act shall not be construed to limit the power of an authorized trustee to distribute property in further trust under the terms of the governing instrument of a trust, other law, or a court order.

Added by Laws 2021, c. 268, § 13, eff. Nov. 1, 2021.

§60-175.714. Need for distribution not required.

NEED FOR DISTRIBUTION NOT REQUIRED

An authorized trustee may exercise the power to distribute principal to a second trust under Section 3 or 4 of this act regardless of whether there is a current need to distribute principal under the terms of the first trust.

Added by Laws 2021, c. 268, § 14, eff. Nov. 1, 2021.

§60-175.715. Duties not created.

DUTIES NOT CREATED

A. This act does not create or imply a duty for an authorized trustee to exercise a power to distribute principal, and impropriety shall not be inferred as a result of the trustee not exercising a power conferred by Section 3 or 4 of this act.

B. An authorized trustee does not have a duty to inform beneficiaries about the availability of the authority provided by this act or a duty to review the trust to determine whether any action should be taken under this act.

Added by Laws 2021, c. 268, § 15, eff. Nov. 1, 2021.

§60-175.716. Certain distributions prohibited.

CERTAIN DISTRIBUTIONS PROHIBITED

A. Except as provided by subsection B of this section, an authorized trustee shall not exercise a power to distribute principal of a trust otherwise provided by Section 3 or 4 of this act if the distribution is expressly prohibited by the terms of the governing instrument of the trust.

B. A general prohibition of the amendment or revocation of a trust or a provision that constitutes a spendthrift clause shall not preclude the exercise of a power to distribute principal of a trust under Section 3 or 4 of this act.

Added by Laws 2021, c. 268, § 16, eff. Nov. 1, 2021.

§60-175.717. Exceptions to power of distribution.

EXCEPTIONS TO POWER OF DISTRIBUTION

An authorized trustee shall not exercise a power to distribute principal of a trust under Section 3 or 4 of this act to:

1. Reduce, limit or modify a beneficiary's current, vested right to:
  - a. receive a mandatory distribution of income or principal,
  - b. receive a mandatory annuity or unitrust interest,
  - c. withdraw a percentage of the value of the trust, or
  - d. withdraw a specified dollar amount from the trust;
2. Materially limit a trustee's fiduciary duty:
  - a. under the terms of the trust, or
  - b. in a manner that would be prohibited by the Oklahoma Trust Act, Section 175.1 et seq. of Title 60 of the Oklahoma Statutes, the Oklahoma Prudent Investor Act, Section 175.60 et seq. of Title 60 of the Oklahoma Statutes, the Oklahoma Principal and Income Act, Section 175.101 et seq. of Title 60 of the Oklahoma Statutes or the Oklahoma Charitable Fiduciary Act, Section 301.1 et seq. of Title 60 of the Oklahoma Statutes;
3. Decrease or indemnify against a trustee's liability or exonerate a trustee from liability;

4. Add a provision exonerating a trustee for failure to exercise reasonable care, diligence and prudence;

5. Eliminate a provision granting another person the right to remove or replace the authorized trustee exercising the distribution power under Section 3 or 4 of this act; or

6. Reduce, limit or modify in the second trust a perpetuities provision included in the first trust, unless expressly permitted by the terms of the first trust.

Added by Laws 2021, c. 268, § 17, eff. Nov. 1, 2021.

§60-175.718. Tax-related limitations.

TAX-RELATED LIMITATIONS

A. The authorized trustee shall not distribute the principal of a trust under Section 3 or 4 of this act in a manner that would prevent a contribution to that trust from qualifying for or that would reduce the exclusion, deduction or other federal tax benefit that was originally claimed for that contribution, including:

1. The annual exclusion under Section 2503(b) of the Internal Revenue Code of 1986, as amended;

2. A marital deduction under Section 2056(a) or 2523(a) of the Internal Revenue Code of 1986, as amended;

3. The charitable deduction under Section 170(a), 642(c), 2055(a), or 2522(a) of the Internal Revenue Code of 1986, as amended;

4. Direct skip treatment under Section 2642(c) of the Internal Revenue Code of 1986, as amended; or

5. Any other tax benefit for income, gift, estate, or generation-skipping transfer tax purposes under the Internal Revenue Code of 1986, as amended.

B. Notwithstanding subsection A of this section, an authorized trustee may distribute the principal of a first trust to a second trust regardless of whether the settlor is treated as the owner of either or both trusts under the Internal Revenue Code, 26 U.S.C., Sections 671 through 679, as amended.

C. If S corporation stock is held in trust, an authorized trustee shall not distribute all or part of that stock under Section 3 or 4 of this act to a second trust that is not a permitted shareholder under the Internal Revenue Code, 26 U.S.C., Section 1361(c)(2), as amended.

D. If an interest in property that is subject to the minimum distribution rules of the Internal Revenue Code, 26 U.S.C., Section 401(a)(9), as amended, is held in trust, an authorized trustee shall not distribute the trust's interest in the property to a second trust under Section 3 or 4 of this act if the distribution would shorten the minimum distribution period applicable to the property.

Added by Laws 2021, c. 268, § 18, eff. Nov. 1, 2021.

§60-175.719. Compensation of trustee.

COMPENSATION OF TRUSTEE

A. Except as provided by subsection B of this section and unless a court, on application of the authorized trustee, directs otherwise, the trustee shall not exercise a power under Section 3 or 4 of this act solely to change trust provisions regarding the determination of the compensation of any trustee.

B. An authorized trustee, in connection with the exercise of a power under Section 3 or 4 of this act for another valid and reasonable purpose, may bring the trustee's compensation into conformance with reasonable limits authorized by state law.

C. The compensation payable to an authorized trustee of the first trust may continue to be paid to the trustee of the second trust during the term of the second trust and may be determined in the same manner as the compensation would have been determined in the first trust.

D. An authorized trustee shall not receive a commission or other compensation for the distribution of a particular asset from a first trust to a second trust under Section 3 or 4 of this act. Added by Laws 2021, c. 268, § 19, eff. Nov. 1, 2021.

§60-176. Trusts for benefit of state, county or municipality - Approval - Expenditures - Conveyance of title to real property used for airport - Bylaws - Amendments - Indebtedness - Bonds - Contracts - Eminent domain - Exemptions.

A. Express trusts may be created to issue obligations, enter into financing arrangements including, but not limited to, lease-leaseback, sale-leaseback, interest rate swaps and other similar transactions and to provide funds for the furtherance and accomplishment of any authorized and proper public function or purpose of the state or of any county or municipality or any and all combinations thereof, in real or personal property, or either or both, or in any estate or interest in either or both, with the state, or any county or municipality or any and all combinations thereof, as the beneficiary thereof by:

1. The express approval of the Legislature and the Governor if the State of Oklahoma is the beneficiary;

2. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a county is a beneficiary;

3. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a municipality is a beneficiary; or

4. The express approval of two-thirds (2/3) of the membership of the governing body of each beneficiary in the event a trust has more than one beneficiary; provided, that no funds of a beneficiary derived from sources other than the trust property, or the operation

thereof, shall be charged with or expended for the execution of the trust, except by express action of the legislative authority of the beneficiary prior to the charging or expending of the funds. The officers or any other governmental agencies or authorities having the custody, management or control of any property, real or personal or mixed, of the beneficiary of the trust, or of a proposed trust, which property shall be needful for the execution of the trust purposes, are authorized and empowered to lease the property for those purposes, after the acceptance of the beneficial interest therein by the beneficiary as hereinafter provided.

B. Any trust created pursuant to the provisions of this section, in whole or in part, may engage in activities outside of the geographic boundaries of its beneficiary, so long as the activity provides a benefit to a large class of the public within the beneficiary's geographic area or lessens the burdens of government of the beneficiary and which does not solely provide a benefit by generating administrative fees.

C. A municipality may convey title to real property which is used for an airport to the trustees of an industrial development authority trust whose beneficiary is the municipality. The industrial development authority trust must already have the custody, management or control of the real property. The conveyance must be approved by a majority of the governing body of the municipality. A conveyance pursuant to this section may be made only for the sole purpose of allowing the authority to sell the property for fair market value when the property is to be used for industrial development purposes. Conveyances made pursuant to this subsection shall be made subject to any existing reversionary interest or other restrictions burdening the property and subject to any reversionary interest or other restriction considered prudent by the municipality.

D. The trustees of a public trust having the State of Oklahoma as beneficiary shall make and adopt bylaws for the due and orderly administration and regulation of the affairs of the public trust. All bylaws of a public trust having the State of Oklahoma as beneficiary shall be submitted in writing to the Governor of the State of Oklahoma. The Governor must approve the proposed bylaws before they take effect.

E. No public trust in which the State of Oklahoma is the beneficiary may be amended without a two-thirds (2/3) vote of approval of the trustees of the trust; provided, that any amendment is subject to the approval of the Governor of the State of Oklahoma. Any amendments shall be sent to the Governor within fifteen (15) days of their adoption.

F. No trust in which a county or municipality is the beneficiary shall hereafter create an indebtedness or obligation until the indebtedness or obligation has been approved by a two-

thirds (2/3) vote of the governing body of the beneficiary. In the event a trust has more than one beneficiary, as authorized by this section, the trust shall not incur an indebtedness or obligation until the indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of two-thirds (2/3) of the beneficiaries of the trust. Provided, however, a municipality with a governing body consisting of fewer than seven (7) members shall be required to approve the creation of an indebtedness or obligation under this subsection by a three-fifths (3/5) vote of the governing body.

G. All bonds described in subsection F of this section, after December 1, 1976, except bonds sold to the federal government or any agency thereof or to any agency of the State of Oklahoma, shall be awarded to the lowest and best bidder based upon open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the principal office of the trust is located prior to the date on which bids are received and opened; provided, competitive bidding may be waived on bond issues with the approval of three-fourths (3/4) of the trustees, unless the trust has fewer than four trustees, in which case a two-thirds (2/3) approval shall be required, and a three-fourths (3/4) vote of the governing body of the beneficiary, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required, or three-fourths (3/4) vote of the governing bodies of each of the beneficiaries of the trust, unless one of the beneficiaries is a county in which case a two-thirds (2/3) vote of the members of the governing body of such county shall be required. No bonds shall be sold for less than par value, except upon approval of three-fourths (3/4) of the trustees, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required. In no event shall bonds be sold for less than sixty-five percent (65%) of par value; provided, however, in no event shall the original purchaser from the issuer of any bonds issued by any public trust for any purpose receive directly or indirectly any fees, compensation or other remuneration in excess of four percent (4%) of the price paid for the bonds by the purchaser of the bonds from the original purchaser; and further provided, that the average coupon rate thereon shall in no event exceed fourteen percent (14%) per annum. No public trust shall sell bonds for less than ninety-six percent (96%) of par value until the public trust has received from the underwriter or financial advisor or, in the absence of an underwriter or financial advisor, the initial purchaser of the bonds, an estimated alternative financing structure or structures showing the estimated total interest and principal cost of each alternative. At least one alternative financing structure shall include bonds sold to the public at par.

Any estimates shall be considered a public record of the public trust. Bonds, notes or other evidences of indebtedness issued by any public trust shall be eligible for purchase by any state banking association or corporation subject to such limitations as to investment quality as may be imposed by regulations, rules or rulings of the State Banking Commissioner.

H. Public trusts created pursuant to this section shall file annually, with their respective beneficiaries, copies of financial documents and reports sufficient to demonstrate the fiscal activity of such trust including, but not limited to, budgets, financial reports, bond indentures and audits. Amendments to the adopted budget shall be approved by the trustees of the public trust and recorded as such in the official minutes of such trust.

I. Public construction contracts as defined by the Public Competitive Bidding Act of 1974 shall be subject to the Public Competitive Bidding Act of 1974 and the Fair Pay for Construction Act, where applicable. The provisions of this subsection shall not apply to contracts of industrial and cultural trusts.

J. Any public trust created pursuant to the provisions of this section shall have the power to acquire lands by use of eminent domain in the same manner and according to the procedures provided for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes. Any exercise of the power of eminent domain by a public trust pursuant to the provisions of this section shall be limited to the furtherance of public purpose projects involving revenue-producing utility projects of which the public trust retains ownership; provided, for public trusts in which the State of Oklahoma is the beneficiary the exercise of the power of eminent domain may also be used for public purpose projects involving air transportation. Revenue-producing utility projects shall be limited to projects for the transportation, delivery, treatment or furnishing of water for domestic purposes or for power including, but not limited to, the construction of lakes, pipelines and water treatment plants or for projects for rail transportation. Any public trust formed pursuant to this section which has a county as its beneficiary shall have the power to acquire, by use of eminent domain, any lands located either inside the county, or contiguous to the county pursuant to the limitations imposed pursuant to this section.

K. Provisions of this section shall not apply to entities created under Sections 1324.1 through 1324.26 of Title 82 of the Oklahoma Statutes.

L. Any trust created under Section 176 et seq. of this title, in whole or in part, to operate, administer or oversee any county jail facility shall consist of not less than five members and include a county commissioner and the county sheriff, or their designee, and one member appointed by each of the county

commissioners. The appointed members shall not be elected officials.

Added by Laws 1951, p. 166, § 1. Amended by Laws 1953, p. 277, § 1, emerg. eff. May 7, 1953; Laws 1970, c. 319, § 1; Laws 1976, c. 222, § 1, eff. Dec. 1, 1976; Laws 1980, c. 12, § 1, emerg. eff. March 18, 1980; Laws 1987, c. 144, § 1, emerg. eff. June 24, 1987; Laws 1988, c. 111, § 1, emerg. eff. April 4, 1988; Laws 1988, 3rd Ex. Sess., c. 2, § 1, emerg. eff. Sept. 9, 1988; Laws 1990, c. 269, § 1, emerg. eff. May 25, 1990; Laws 1991, 1st Ex. Sess., c. 1, § 3, emerg. eff. Jan. 18, 1991; Laws 1991, c. 124, § 32, eff. July 1, 1991; Laws 1991, c. 335, § 18, emerg. eff. June 15, 1991; Laws 1992, c. 371, § 5, eff. July 1, 1992; Laws 1996, c. 148, § 1; Laws 1996, c. 288, § 4, eff. July 1, 1996; Laws 1998, c. 173, § 1, eff. Nov. 1, 1998; Laws 1999, c. 149, § 1, eff. July 1, 1999; Laws 2002, c. 39, § 1, eff. Nov. 1, 2002; Laws 2003, c. 184, § 5, eff. Nov. 1, 2003; Laws 2004, c. 5, § 48, emerg. eff. March 1, 2004; Laws 2010, c. 98, § 1, eff. Nov. 1, 2010; Laws 2016, c. 233, § 3; Laws 2017, c. 42, § 22; Laws 2019, c. 405, § 1, eff. Nov. 1, 2019; Laws 2021, c. 262, § 1, eff. Nov. 1, 2021; Laws 2022, c. 120, § 1, eff. Nov. 1, 2022.

NOTE: Laws 1991, c. 94, § 1 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1996, c. 133, § 1 repealed by Laws 1996, c. 288, § 9, eff. Nov. 1, 1996. Laws 2002, c. 33, § 1 repealed by Laws 2003, c. 3, § 55, emerg. eff. March 19, 2003. Laws 2003, c. 3, § 54 repealed by Laws 2004, c. 5, § 49, emerg. eff. March 1, 2004. Laws 2016, c. 12, § 1 repealed by Laws 2017, c. 42, § 23. Laws 2016, c. 142, § 1 repealed by Laws 2017, c. 42, § 24.

§60-176.1. Presumptions and conditions - Relationship of trust and beneficiary.

A. Except as provided in subsection F of this section and if the conditions set out in subsection B of this section are satisfied in compliance with Section 176 et seq. of this title, a public trust duly created in accordance with the provisions of Section 176 et seq. of this title shall be presumed for all purposes of Oklahoma law to:

1. Exist for the public benefit;

2. Exist as a legal entity separate and distinct from the settlor and from the governmental entity that is its beneficiary; and

3. Act on behalf and in the furtherance of a public function or functions for which it is created even though facilities financed by the public trust or in which the public trust has an ownership interest may be operated by private persons or entities pursuant to contract.

B. The conditions to be satisfied as required in subsection A of this section are as follows:



1. The trustees of the public trust are appointed by the governing body of the beneficiary or beneficiaries or as otherwise provided by law. This paragraph shall not apply to public trusts in existence as of July 1, 1992;

2. The public trust delivers to the governing body of the beneficiaries, or in the case of the state as beneficiary, to the State Auditor and Inspector, annual audits as provided in Section 180.1 of this title;

3. With respect to city or county beneficiary public trusts, the function or enterprise in which the public trust is engaged is or could be authorized by state law to be performed by the beneficiary; and

4. With respect to city or county beneficiary public trusts, all indebtedness incurred by the public trust is approved by the governing body of the beneficiary as provided in subsection E of Section 176 of this title.

C. The existence of a contract for the operation or management of the facility financed by the public trust is hereby declared to be in furtherance of the public purpose of the public trust and shall not affect the validity of such public trust.

D. Except where the provisions of the trust indenture or of Section 176 et seq. of this title, or of any other law written specifically to govern the affairs of public trusts, expressly requires otherwise, the affairs of the public trust shall be separate and independent from the affairs of the beneficiary in all matters or activities authorized by the written instrument creating such public trust including, but not limited to, the public trust's budget, expenditures, revenues and general operation and management of its facilities or functions; provided, that either the public trust or the beneficiary may make payment of money to the other unless prohibited by the written instrument creating such public trust or by existing state law.

E. For all purposes of Oklahoma law, the existence and validity of any public trust shall be determined and established solely by the provisions of the written instrument creating such public trust, and by the provisions of Section 176 et seq. of this title and of any other law written specifically to create a public trust. Actions taken or omitted by the trustees of a public trust shall not affect the existence or validity of the entity as a public trust but shall be subject to subsequent review or ratification by said trustees or to correction by the district court in a proper proceeding.

F. Nothing in this section shall affect coverage of any entity under The Governmental Tort Claims Act.

Added by Laws 1992, c. 371, § 6, eff. July 1, 1992. Amended by Laws 1998, c. 173, § 2, eff. Nov. 1, 1998; Laws 2003, c. 432, § 10, emerg. eff. June 7, 2003.

§60-177. Reformation of offending instruments.

Such trusts may be created by written instruments or by will. In the case of written instruments, the same shall be subscribed by the grantor or grantors and duly acknowledged as conveyances of real estate are acknowledged, and before the same shall become effective the beneficial interest therein shall be accepted by the Governor, if the state is the beneficiary, or by the governing body of any other beneficiary named therein, which power and authority of acceptance hereby is conferred upon the Governor and upon the governing bodies of the counties or municipalities. Provided, every trust made hereunder, if the state is the beneficiary, shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the trust is in proper form and compatible with the laws of this state. The Attorney General shall approve any trusts submitted to him which he determines to be in proper form and compatible with the laws of this state. If approved, the said instrument or will, together with the written acceptance of the beneficial interest and approval of the Attorney General endorsed thereon, shall be recorded in the office of the county clerk of each county wherein is situated any real estate, or any interest therein, belonging to said trust, as well as in the county wherein is located the trust property or wherein are conducted its principal operations. In the case of any trust of which the State of Oklahoma is the beneficiary, a certified copy of such instrument or will and the instrument of acceptance shall be filed with the Secretary of State. Upon the acceptance of the beneficial interest by the beneficiary and approval by the Attorney General as hereinabove provided, the same shall be and constitute a binding contract between the State of Oklahoma and the grantor or grantors, or the executor of the estate of the testator, for the acceptance of the beneficial interest in the trust property by the designated beneficiary and the application of the proceeds of the trust property and its operation for the purposes, and in accordance with the stipulations of the trust instrument or will. Such trusts shall have duration for the term of duration of the beneficiary, or such shorter length of time as shall be specified in the instrument or will creating said trust. Laws 1951, p. 167, § 2; Laws 1953, p. 278, § 2; Laws 1970, c. 319, § 2; Laws 1973, c. 201, § 1; Laws 1976, c. 222, § 2, eff. Dec. 1, 1976.

§60-177.1. Limitation upon engaging in activity other than expressly authorized.

That no public trust shall engage in any activity or transaction that is not expressly authorized in the instruments or articles prescribing its creation except by express consent of the

governmental agency or governmental entity that created said public trust. However, a public trust with a county as the beneficiary and created for purposes of providing affordable housing may engage in the activity related to the conveyance of real property to nonprofit organizations for the purpose of affordable housing as may be provided by law.

Laws 1970, c. 71, § 1, emerg. eff. March 17, 1970. Amended by Laws 2007, c. 343, § 2, eff. Nov. 1, 2007.

§60-177.2. Issuance of bonds or other evidence of indebtedness - Oklahoma Commission on School and County Funds Management - Powers and duties.

A. No public trust, school district or county shall issue any bonds, notes, certificates of participation, certificates of indebtedness or any other evidence of indebtedness, excluding nonpayable warrants and agreements with a depository bank to honor payment of checks when there are insufficient funds, for the purpose of short-term cash management by any school district or county unless such school district or county shall have been approved for participation by the Oklahoma Commission on School and County Funds Management.

As used in this section, "short-term cash management" means any borrowing or any method employed by a school district or county to obtain funds in advance of the receipt of tax revenue, and shall include, but not be limited to, the issuance of certificates of indebtedness, certificates of participation, tax-anticipation notes, bonds, notes, or any other evidence of indebtedness. It shall not include debt issued pursuant to a vote of the electors of the school district or county pursuant to the Constitution.

B. The Oklahoma Commission on School and County Funds Management, shall consist of the State Superintendent of Public Instruction, the Director of the Oklahoma Department of Career and Technology Education, and the State Bond Advisor. The Commission shall:

1. Receive requests of school districts and counties for authorization to participate in a short-term cash management program where the proceeds will be used to facilitate cash-flow management. The requests must be received by the Commission on or before April 1 in order for the school district or county to be considered for participation during the next fiscal year, unless such date is extended by the Commission;

2. Within five (5) business days of receiving a request, forward the request to the appropriate certifying authority. If the request and accompanying material meet the requirements of this act, the certifying authority must return the request and accompanying information to the Commission with a written review and comment within sixty (60) days of receipt of the request from the

Commission. The certifying authority for school districts shall be the State Superintendent of Public Instruction and for technology center school districts, shall be the Director of the Oklahoma Department of Career and Technology Education and for counties, shall be the State Board of Equalization;

3. Approve or reject each request for participation, and forward notice of the decision of the Commission to the requesting school district or county and to the Office of the Governor. The Commission shall approve or reject a request within thirty (30) days following the date it receives the request and accompanying information with a written review and comment from a certifying authority;

4. Certify the need for funds generated by the proposed short-term cash management based on the financial projections of the school district or county, including the projected cash-flow shortfall, estimated income, and anticipated surplus balances on June 30 of the current fiscal year in the general and building funds of the school district or county. Accumulative cash-flow shortfall projections must be determined using the method specified by Section 148 of the Internal Revenue Code;

5. Establish reasonable limits for fees, commissions and other compensation paid to any person or firm involved with the proposed short-term cash management program;

6. Establish participation limitations for a school district or a county using the method specified in Section 148 of the Internal Revenue Code. No school district or county shall participate in a short-term cash management program in an amount which exceeds the determination of need pursuant to the accumulative cash-flow projections as specified in paragraph 4 of this subsection or forty percent (40%) of the approved annual budget of the school district or county, whichever is less;

7. Establish limitations which prohibit school districts and counties which are participating in a short-term cash management program from issuing nonpayable warrants if proceeds are available from the short-term cash management program;

8. Submit an annual report, by December 15 of each year, to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Governor, the State Auditor and Inspector and the Attorney General, detailing the participation of each school district and county for the prior fiscal year in the short-term cash management programs authorized by this act; and

9. Prescribe methods and procedures by which school districts or counties may request authorization to participate in short-term cash management programs.

C. School districts and counties desiring to participate in a short-term cash management program as provided in subsection A of this section shall file a request with the Commission on such forms

as the Commission shall prescribe. Such request shall be accompanied by:

1. A resolution adopted by the board of education of the school district or by the county commissioners of a county. Such resolution shall state that the school district or county intends to and has need to participate in a short-term cash management program and that the board of education or county commission has authorized the submission of such request;

2. A letter signed by the underwriter of the short-term cash management program that specifies the name and address of all persons and firms receiving compensation, directly or indirectly, involved with the proposed short-term cash management program. All persons and firms designated shall not be paid out of school or county funds. For purposes of this paragraph, school or county funds shall not include the proceeds from certificates of indebtedness or certificates of participation generated from a short-term cash management program;

3. A verification from the Administrator of the Oklahoma Department of Securities that all persons receiving compensation, directly or indirectly, for providing advice to the school districts or counties concerning participation in the program or for endorsing participation in the program are appropriately registered with the Oklahoma Department of Securities as investment advisers or investment adviser representatives, as applicable, and that all persons receiving compensation, directly or indirectly, for the placement of the certificates of participation or like securities with investors are registered as broker-dealers or agents, as applicable;

4. The estimated income and expenditures of the school district or county for the year for which the school district or county wishes to participate in a short-term cash management program. The appropriate certifying authority shall develop and provide an income and expenditure disclosure form for use by a school district or county which desires to participate in a short-term cash management program which follows the applicable portions of the information return required by Section 148 of the Internal Revenue Code. The information supplied in the disclosure form must reflect the ability of the school district or county to pay off an amount equal to the district's or county's liability on the program from the income from the fiscal year of participation, prior to approval for participation by the Commission. If the Commission determines that a question exists concerning any information submitted pursuant to this subsection, the Commission may request any additional information from the school district or county that it deems necessary;

5. A copy of the most recent information return for a short-term cash management program filed with the Internal Revenue Service pursuant to Section 149(e) of the Internal Revenue Code;

6. An affidavit by all persons, firms, corporations or business enterprises of any kind which provide services for compensation on any financing to implement a short-term cash management program, which shall be signed under oath on a form approved by the Commission and which shall state that such persons, firms, corporations or business enterprises have not given any money or other thing of value, other than a bona fide campaign contribution, to any public official or to any public employee of a school district or county participating in such a cash management program. Any such person, firm, corporation or business enterprise shall also file a disclosure statement on a form approved by the Commission, which shall disclose all campaign contributions of any kind made to any public official of a school district or county participating in such a short-term cash management program and shall also disclose the identity of any officer, director, agent or employee of such person, firm, corporation or business enterprise who is an officer or employee of a school or county participating in a short-term cash management program, or who is related to such officers or employees within the third degree of affinity or consanguinity;

7. A notarized sworn affidavit executed by each member of a board of education of a school district, the superintendent of schools and the treasurer of the school district or by each county commissioner of a county and the county treasurer, which states that the person or any member of the immediate family of the person has no direct or indirect financial interest in the short-term cash management program being requested. The affidavit shall be on a form prescribed by the Commission;

8. A summary report detailing all expenses incurred by a school district or county in participating in a short-term cash management program. The report shall be on a form prescribed by the Commission; and

9. Any application and other materials including any other necessary financial information, as may be required by the Commission.

D. If the information required to be submitted pursuant to this section meets all requirements established by the Commission and the Commission has approved such information and participation, and the participation is otherwise in accordance with law, the Oklahoma Commission on School and County Funds Management shall authorize the participation of the school district or county in the short-term cash management program. The Commission shall notify the school district or county in writing, whether the requirements of this section have been satisfied and approved.

E. School districts and counties participating in a short-term cash management program authorized by this section shall report to the Commission the probable income and expenses of anticipated investment income. The report shall not include probable income or expenses related to participation in a short-term cash management program.

F. The ability of a school district or county to issue general obligation bonds shall not be modified by this act.

G. The Office of the Attorney General shall provide legal assistance to the Oklahoma Commission on School and County Funds Management.

Added by Laws 1985, c. 322, § 44, emerg. eff. July 30, 1985.

Amended by Laws 1986, c. 259, § 46, operative July 1, 1986; Laws 1987, c. 204, § 122, operative July 1, 1987; Laws 1987, c. 236, § 111, emerg. eff. July 20, 1987; Laws 1989, c. 374, § 1, emerg. eff. June 6, 1989; Laws 1991, c. 212, § 1, eff. Aug. 1, 1991; Laws 2000, c. 266, § 1, eff. Sept. 1, 2000; Laws 2001, c. 33, § 50, eff. July 1, 2001; Laws 2004, c. 361, § 1, eff. July 1, 2004.

§60-177.3. Authorization of participation in short-term cash management program without Commission approval - Receipt of payment or compensation for endorsement of short-term cash management program by person not properly designated or registered - Violations and penalties.

A. Any officer of a school district or county who authorizes the participation of the school district or county to participate in a short-term cash management program without the approval of the Oklahoma Commission on School and County Funds Management or who fraudulently submits any false or misleading information to the Commission pursuant to Section 177.2 of Title 60 of the Oklahoma Statutes, shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail for not to exceed one (1) year, or by both such fine and imprisonment, and shall forfeit and be removed from office pursuant to Section 1181 et seq. of Title 22 of the Oklahoma Statutes or Section 91 et seq. of Title 51 of the Oklahoma Statutes. In addition, any professional license issued to an officer by a state agency or instrumentality who has been convicted of a misdemeanor pursuant to this section shall be revoked.

B. Any person who receives any payment or compensation, indirectly or directly, for the endorsement of any short-term cash management program and who has not been properly designated or registered, if registration is required, pursuant to subsection C of Section 177.2 of Title 60 of the Oklahoma Statutes, shall be guilty of a misdemeanor and upon conviction, shall be punished according to the penalties prescribed in subsection A of this section.

Added by Laws 1991, c. 212, § 2, eff. Aug. 1, 1991.

§60-177.4. Endorsement of short-term cash management program by corporation, partnership and other entity deriving income from public funds - Revocation or forfeiture of certificate.

Corporations, partnerships and other entities which derive income from public funds shall be prohibited from endorsing any short-term cash management program, as defined by Section 177.2 of Title 60 of the Oklahoma Statutes, and receiving any compensation for the endorsement thereof. Any corporation or partnership which violates the provisions of this section may have the certificate of incorporation or certificate of partnership of the entity revoked or forfeited pursuant to law. The provisions of this section shall not prohibit a corporation, partnership or other entity which renders professional services to a school district or county pursuant to a short-term cash management program from receiving compensation for the services.

Added by Laws 1991, c. 212, § 3, eff. Aug. 1, 1991.

§60-177.5. Rebate of reserve funds resulting from any advance funding or cash management program.

All reserve funds currently or hereafter held by any public trust or entity, which funds result from any advance funding or cash management program, must be rebated, with all accrued interest thereon, on a pro rata basis of actual participation to the program participants of the advance funding or cash management program from which the reserve was created unless, within three (3) years of the date of the reserve fund's initial creation, such reserve funds are used by the public trust or entity to fund a similar advance funding or cash management program.

Added by Laws 1991, c. 341, § 1, eff. July 1, 1991.

§60-178. Trustees - Appointment of succession, powers, duties, term, removal and compensation - Applicability to public trusts created and existing prior to July 1, 1988.

A. The instrument or will creating such trust may provide for the appointment, succession, powers, duties, term, manner of removal and compensation of the trustee or trustees subject to the provisions of subsections C and E of this section, and in all such respects the terms of said instrument or will shall be controlling. Trustees, who are public officers, shall serve without compensation, but may be reimbursed for actual expenses incurred in the performance of their duties as trustees. If the said instrument or will makes no provisions in regard to any of the foregoing, then the general laws of the state shall control as to such omission or omissions. Every person hereafter becoming a trustee of a public trust first shall take the oath of office required of an elected



public officer and every officer and employee who handles funds of a public trust shall furnish a good and sufficient fidelity bond in an amount and with surety as may be specified and approved by the persons constituting a majority of each of the governing bodies of the beneficiaries of the trust, such bond to be in a surety company authorized to transact surety business in the State of Oklahoma but in no event shall any bond be required of a trustee. The cost of said bond shall be paid from funds of the trust authority. The oaths of office shall be administered by any person authorized to administer oaths in the State of Oklahoma, and shall be filed with the Secretary of State in trusts wherein the State of Oklahoma is the beneficiary; in the office of the county clerk in a trust wherein any county is beneficiary; and in the office of the clerk of the municipality in a trust wherein any municipality is the beneficiary.

B. Unless otherwise specified in another state law authorizing the creation of a state-beneficiary public trust, any public trust that hereafter names the State of Oklahoma as the beneficiary shall have five (5) trustees appointed by the Governor of the State of Oklahoma with the advice and consent of the Senate. The terms of the trustees shall be as follows: of the trustees first appointed, one member shall be appointed for a term of one (1) year; one member shall be appointed for a term of two (2) years; one member shall be appointed for a term of three (3) years; one member shall be appointed for a term of four (4) years; and one member shall be appointed for a term of five (5) years. At the expiration of the term of each member and of each succeeding member, the Governor shall appoint a successor who shall serve for a term of five (5) years. Whenever a vacancy on such trust shall occur by death, resignation or otherwise, the Governor shall fill the same by appointment and the appointee shall hold office during the unexpired term. Each member shall hold office until his successor has been appointed and qualified.

C. Any instrument or will creating a trust which is not within the scope of subsection B of this section shall provide for the appointment of a minimum of three trustees, their succession, powers, duties, term, manner of removal and compensation subject to the provisions of subsection E of this section, and in all such respects the terms of said instrument or will shall be controlling. If the instrument or will makes no provision in regard to any of the foregoing, then the general laws of the state shall control as to the omissions.

D. Meetings of trustees of all public trusts shall be open to the public to the same extent as is required by law for other public boards and commissions. Such meetings shall also be open to the press and any such equipment deemed necessary by the press to record or report the activities of the meetings. In such trusts wherein

the State of Oklahoma is the beneficiary, a written notice of trustees' meetings shall be filed with the office of the Secretary of State at least three (3) days prior to the meeting date. Records of the trust and minutes of the trust meetings of any public trust shall be written and kept in a place, the location of which shall be recorded in the office of the county clerk of each county, wherein the trust instrument shall be recorded. Such records and minutes shall be available for inspection by any person during regular business hours. Every trust created under Sections 176 et seq. of this title shall file a monthly report of all expenditures of bond proceeds with the governing body of each beneficiary and with the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate in the case of a public trust having the State of Oklahoma as beneficiary.

E. Trustees of any public trust may be removed from office for cause, including incompetency, neglect of duty, or malfeasance in office, by a district court having jurisdiction. In the case of persons appointed by the Governor, such persons shall be appointed for terms not in excess of five (5) years, and shall be subject to removal for cause. In the event of removal of a trustee under this subsection, a successor trustee shall be appointed as provided in the trust instrument. Provided, however, in the event a trustee is so removed who is also a member of the governing board of a municipal beneficiary, the successor trustee shall be appointed by the judge of the court wherein the removal occurred; said successor trustee shall serve only until the removed trustee ceases to serve as a member of the governing board of the municipal beneficiary and his successor on said board has qualified.

F. The provisions of this section shall be inapplicable to any public trust created and existing prior to July 1, 1988, if the instrument or will creating such public trust shall have been held to be a valid and binding agreement in an opinion of the Supreme Court of the State of Oklahoma; and nothing in this section shall impair or be deemed to impair the trust indenture or existing or future obligations of such public trust.

Added by Laws 1951, p. 167, § 3. Amended by Laws 1970, c. 319, § 3; Laws 1976, c. 222, § 3, eff. Dec. 1, 1976; Laws 1981, c. 272, § 12, eff. July 1, 1981; Laws 1988, c. 319, § 6, eff. Nov. 1, 1988; Laws 1998, c. 173, § 3, eff. Nov. 1, 1998; Laws 2010, c. 388, § 3, emerg. eff. June 7, 2010.

§60-178.2. Repealed by Laws 2021, c. 262, § 4, eff. Nov. 1, 2021.

§60-178.3. Validity of outstanding indebtedness.

Nothing in this act shall affect the validity of outstanding indebtedness of any public trust heretofore created nor shall the

validity of any document pertaining to such outstanding indebtedness or written instrument creating such public trust be affected. Laws 1976, c. 222, § 6, eff. Dec. 1, 1976.

§60-178.4. Trust purpose - Exceptions.

A. Trusts created under the provisions of Sections 176 through 180.55 of this title or any amendments or extensions thereof shall not include any trust purpose, function nor activity primarily used in the distribution centers for intoxicating beverages and low-point beer as defined in Title 37 of the Oklahoma Statutes; nor shall it include a residential enterprise or function except as provided in Section 178.6 of this title. For the purposes of this section, "primarily used" shall mean more than fifty percent (50%) of the warehouse.

B. Nothing in this section shall preclude the financing, construction, ownership or leasing of a warehouse as a permissible trust purpose, function or activity, so long as such warehouse is not primarily used for housing, storage or distribution of intoxicating beverages or low-point beer.

Added by Laws 1976, c. 222, § 11, eff. Dec. 1, 1976. Amended by Laws 1985, c. 10, § 1, emerg. eff. March 28, 1985; Laws 1990, c. 72, § 1, emerg. eff. April 16, 1990; Laws 1995, c. 274, § 50, eff. Nov. 1, 1995; Laws 2003, c. 386, § 4, eff. July 1, 2003; Laws 2010, c. 195, § 1, emerg. eff. May 4, 2010; Laws 2018, c. 274, § 1, eff. Nov. 1, 2018.

§60-178.5. Ad valorem taxation.

Those assets of any trust, now being used or engaged in any activity or function prohibited by Sections 9, 10 and 11 of this act, and which would be subject to ad valorem taxation if not held by public trust, shall be subject to ad valorem assessment and taxation, and no trust created hereafter shall circumvent the prohibition herein.

Laws 1976, c. 222, § 12, eff. Dec. 1, 1976.

§60-178.6. Public trusts - Exemption from provisions - Housing finance.

The provisions of Sections 652 and 653 of Title 62 of the Oklahoma Statutes and Sections 178.4 and 178.5 of this title shall not affect: public trusts operating, financing or refinancing facilities for the aged or disabled persons by nonprofit, religious or benevolent organizations; public trusts operating, financing or refinancing county, municipal or nonprofit hospitals; public trusts operating college or educational dormitories or student housing facilities; trusts formed for the purpose of constructing buildings for local units of the Department of Human Services under the provisions of Section 189a of Title 56 of the Oklahoma Statutes;

public trusts carrying out redevelopment, rehabilitation and conservation activities in accordance with an approved urban renewal plan, provided property owned by said trust shall not be exempt from ad valorem taxation for a period exceeding five (5) years; trusts created under the provisions of Sections 15-141 through 15-147 of Title 2 of the Oklahoma Statutes or other trusts created for the same purpose. Section 176 et seq. of this title shall not prevent public trusts from administering or financing a housing program pursuant to a contract with an agency of the United States Government or the State of Oklahoma, or prevent public trusts from financing or refinancing housing projects, provided said projects:

1. Involve only property that is subject to ad valorem taxation; or

2. Involve financing or refinancing the construction, acquisition and/or improvement and rehabilitation of existing housing projects not subject to ad valorem taxation immediately before any such financing or refinancing, and in either case are located within the geographic boundaries of the beneficiary or beneficiaries of the public trust.

Notwithstanding the provisions of subdivision (b) of division (2) of subparagraph a of paragraph 8 of Section 2887 of Title 68 of the Oklahoma Statutes, housing projects which were exempt from ad valorem taxation immediately before such financing or refinancing shall not become subject to ad valorem taxation because they are financed or refinanced by a public trust under this provision.

A public trust with a city or cities, a county or counties, or the state as the beneficiary or beneficiaries thereof may issue its evidences of indebtedness for the purpose of financing housing projects or housing programs within the geographic boundaries of its beneficiary or beneficiaries as same represent an authorized and proper public function for public trusts.

Added by Laws 1976, c. 222, § 13, eff. Dec. 1, 1976. Amended by Laws 1980, c. 12, § 2, emerg. eff. March 18, 1980; Laws 2000, c. 361, § 1, emerg. eff. June 6, 2000; Laws 2002, c. 33, § 2, emerg. eff. April 10, 2002; Laws 2002, c. 476, § 1, emerg. eff. June 6, 2002; Laws 2010, c. 304, § 1, eff. Nov. 1, 2010.

§60-178.7. Payments in lieu of taxes to be made by lessees of certain public trust property.

All public trusts hereafter issuing revenue bonds, notes or other evidences of indebtedness for industrial development purposes, including but not limited to rail transportation projects, shall require the lessee of each industrial project owned by the public trust, excluding nonprofit health care facilities, to pay an annual sum in lieu of ad valorem taxes for each year following the tenth anniversary date of the issuance of such revenue bonds, notes or other evidences of indebtedness. The lease or other agreement

between the public trust and the lessee shall provide that the amount of the annual in lieu of payments shall be equal to the amount which such lessee would be obligated to pay were it the title owner of such industrial project during such annual period according to the assessment and valuation methods and procedures then provided by law. Prior to the tenth anniversary date of the issuance of such revenue bonds, notes or other evidences of indebtedness, the public trust shall elect, pursuant to a written notice of election filed with the county assessor and the county treasurer of the county in which the project property is located, either (a) to cause said annual in lieu of payments to be paid directly to said county and collected and distributed by said county treasurer in the manner then provided by law for ad valorem tax payments, or (b) to cause said annual in lieu of payments to be paid to said public trust and distributed as received by it to the local units of government in the impact area of the project supplying services and facilities to the industrial project and its employees in the proportions that the public trust shall determine to be equitable under the circumstances, with total distribution to all impacted school districts of not less than the percentage that would have been received in ad valorem taxes, by the school districts in the county where the facility is located, if imposed, and with said distribution based upon enrollment figures provided annually, in writing, within thirty (30) days after enrollment, to the trust. If said enrollment figures are not submitted in writing within said time period, then said school district is permanently barred after said thirty (30) days from receiving in lieu of payments for that annual distribution period. The term "industrial project" as used in this section shall include an expansion of an existing industrial facility; provided, however, no such arrangement shall operate to remove any property from the tax rolls except unimproved land then owned by the lessee to be acquired by the trust or additional unimproved land to be acquired by the trust to provide such improvements. The term "lessee" as used in this section shall include any individual, association, partnership, corporation or other entity engaged in any trade or business for profit and not otherwise exempt from ad valorem taxation under the laws of the state and shall include any purchaser or obligor under an installment sale agreement or other underlying financing agreement. The provisions of this section shall not apply to any project financed, or formally committed to be financed, by any public trust prior to the effective date hereof. Provided, further, that nothing contained in this section shall prevent any public trust from requiring in lieu of payments to be made by a lessee to the trust for public use, prior to the tenth anniversary date of the issuance of bonds, notes or other evidences of indebtedness hereafter issued for industrial development purposes.

Added by Laws 1977, c. 235, § 1, eff. Dec. 1, 1977. Amended by Laws 1998, c. 173, § 4, eff. Nov. 1, 1998.

§60-178.8. Conflict of interest - Transactions exempt - Applicability to public trusts created and existing prior to July 1, 1988.

A. Except with regard to residents of a facility for aged persons operated by a public trust, who are trustees of the public trust operating the facility and who comprise less than a majority of the trustees, a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust, or any for-profit firm or corporation in which such trustee or any member of his or her immediate family is an officer, partner, principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with such trust. Upon a showing thereof, such trustee shall be subject to removal and such contract shall be deemed unenforceable as against such trust unless the records of such trust shall reflect that such trustee fully and publicly disclosed all such interest or interests, and unless such contractual relationship shall have been secured by competitive bidding following a public invitation to bid.

The following types of transactions are exempt from the aforementioned provisions of this section:

1. The making of any loan or advance of any funds to, or the purchase of any obligations issued by such public trust, in connection with the performance of any of its authorized purposes;
2. Any legal advertising required by law or indenture or determined necessary by the trustees of such public trust;
3. The performance by any bank, trust company or similar entity or any services as a depository; or
4. The sale of any public utility services to such public trust, in which the price of said services is regulated by law.

It shall be the duty of each public trust to compile a list of all conflicts of interest for which its trustees have made disclosure. It shall also be the duty of each trust to compile a list of all dealings between its trustees and the trust which involve the exempted transactions listed above. Such lists shall be compiled semiannually for periods ending June 30 and December 31 of each year. Such lists shall be compiled on forms prescribed by the Oklahoma Tax Commission and shall be matters of public record. Copies of such lists shall be filed with the Secretary of State by September 1 and March 1 of each year.

B. The provisions of this section shall be inapplicable to any public trust created and existing prior to July 1, 1988, if all bonds issued by such public trust are required to be issued under and pursuant to a single bond indenture by amendment or supplement thereto and if the instrument or will creating such public trust and

the bond indenture under which such trust must issue all bonds shall have been held to be valid and binding agreements in an opinion of the Supreme Court of the State of Oklahoma; and nothing in this section shall impair or be deemed to impair the trust indenture, the bond indenture, or existing or future obligations of such public trust.

Laws 1977, c. 235, § 2, eff. Dec. 1, 1977; Laws 1988, c. 319, § 7, eff. Nov. 1, 1988; Laws 1992, c. 371, § 7, eff. July 1, 1992.

§60-178.9. Real and/or personal property - Acquiring and holding in public trust - Conveyance, assignment or other transfer.

Any estate in real and/or personal property may be acquired and held in the name of a public trust. Where so acquired, any conveyance, assignment or other transfer shall be made in the name of such trust by the president or chairman of said trust, whichever the case may be, notwithstanding the number of trustees of such trust, attested by the secretary or assistant secretary of such trust, with the seal of the trust affixed thereto.

Laws 1981, c. 30, § 1.

§60-178.10. Conveyance, assignment or other transfer as evidence of trust existence.

Any conveyance, assignment or other transfer executed in the name of such trust pursuant to Section 1 of this act and bearing a signature which purports to be the signature of the president or chairman of said trust, shall be deemed prima facie evidence that such trust exists and the conveyance, assignment or other transfer is the act of the trust and the trustees thereof, that it was duly executed and signed by the president or chairman of said trust who were trustees of the trust and that such instrument conforms in all respects to the requirements of the instrument creating such trust; and such conveyance, assignment or other transfer shall be admissible in evidence without further proof of execution.

Laws 1981, c. 30, § 2.

§60-178.11. Acknowledgment of conveyance, assignment or other transfer.

Every conveyance, assignment, or other transfer of any estate in real property, executed by a trust, must be acknowledged by the president or chair of the trust subscribing the name of the trust thereto, which acknowledgment shall be in substantially a form as provided for in the Uniform Law on Notarial Acts or in substantially the following form:

State of Oklahoma, )

) ss:

\_\_\_\_\_ County )

The foregoing instrument was acknowledged before me this (Date) by (Name), President or Chair of (Name of Trust), a public trust, on behalf of the trust.

(Signature of person taking acknowledgment)

(Title or Rank)

(Serial number, if any)

Added by Laws 1981, c. 30, § 3. Amended by Laws 1999, c. 104, § 4, emerg. eff. April 19, 1999.

§60-178.13. Trusts for benefit of hospitals - Exemptions from beneficiary approval requirements.

Any indebtedness issued by a public trust having as its principal purpose, and which is primarily engaged in, the ownership and operation of a hospital or related institution, as defined in Section 1-701 of Title 63 of the Oklahoma Statutes, and the beneficiary of which is a county or municipality shall not be subject to the beneficiary approval requirements of Section 176 of Title 60 of the Oklahoma Statutes, if the indebtedness does not exceed five percent (5%) of the greater of:

1. The then existing total indebtedness of such trust; or
2. The value of all assets of such trust.

Added by Laws 1994, c. 306, § 3, eff. Sept. 1, 1994.

§60-179. Status of trustee - Liability for acts.

The trustee, or trustees, under such an instrument or will shall be an agency of the state and the regularly constituted authority of the beneficiary for the performance of the functions for which the trust shall have been created. No trustee or beneficiary shall be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in the performance of such trust or in the operation of the trust property; but any act, liability for any omission or obligation of a trustee or trustees, in the execution of such trust, or in the operation of the trust property, shall extend to the whole of the trust estate, or so much thereof as may be necessary to discharge such liability or obligation, and not otherwise.

Laws 1951, p. 167, § 4.

§60-180. Termination of trust - Contracts not impaired.

A. Any such trust may be terminated by agreement of the trustee, or, if there be more than one, then all of the trustees and the approval of a majority of the governing body of the beneficiary, and for trusts whose beneficiary is the State of Oklahoma, with the approval of the Governor of the State of Oklahoma; provided, that such trust shall not be terminated while there exists outstanding any contractual obligations chargeable against the trust property,



which, by reason of such termination, might become an obligation of the beneficiary of such trust.

B. Nothing in this act shall operate to impair existing obligations of contracts or existing trust indentures of any trust created prior to July 15, 1970; but to the extent that such existing obligations of contracts are not impaired by the provisions hereof, all of the provisions shall be applicable; provided further, that nothing in this act shall operate to impair or alter the trust indenture of the Oklahoma Ordinance Works Authority or contracts executed prior to July 15, 1970.

Added by Laws 1951, p. 167, § 5. Amended by Laws 1970, c. 319, § 4; Laws 2021, c. 262, § 2, eff. Nov. 1, 2021.

§60-180.1. Annual audits.

A. The trustees of every trust created for the benefit and furtherance of any public function with the State of Oklahoma or any county or municipality as the beneficiary or beneficiaries thereof, with assets or revenues in excess of Fifty Thousand Dollars (\$50,000.00) or with outstanding debt obligations, must cause an audit to be made of the financial statements of the trust, such audit to be ordered within thirty (30) days of the close of each fiscal year of the trust. The audit shall be filed in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

B. The trustees of a trust which has more than Fifty Thousand Dollars (\$50,000.00) in revenues or assets, and for whom an annual financial statement audit is not required by another law, regulation or contract, shall cause to be conducted, by an independent licensed public accountant or a certified public accountant, an annual audit of the trust's financial statements in accordance with auditing standards generally accepted in the United States and Government Auditing Standards as issued by the Comptroller General of the United States or an agreed-upon-procedures engagement over certain financial information and compliance requirements to be performed in accordance with the applicable attestation standards of The American Institute of Certified Public Accountants. The specific procedures to be performed are:

1. Prepare a schedule of revenues, expenditures/expenses and changes in fund balances/net assets for each fund and determine compliance with any applicable trust or other prohibitions for creating fund balance deficits;

2. Agree material bank account balances to bank statements, and trace significant reconciling items to subsequent clearance;

3. Compare uninsured deposits to fair value of pledged collateral;

4. Compare use of material-restricted revenues and resources to their restrictions;

5. Determine compliance with requirements for separate funds; and

6. Determine compliance with reserve account and debt service coverage requirements of bond indentures.

Such engagement shall be ordered within thirty (30) days of the close of each fiscal year of the trust. Copies of the annual audit or agreed-upon-procedures report shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year and with the trustees and governing body of the beneficiaries.

C. Public trusts which have less than Fifty Thousand Dollars (\$50,000.00) in revenue and less than Fifty Thousand Dollars (\$50,000.00) in assets, and for whom an annual financial statement audit is not required by another law, regulation or contract and any public trust which did not have financial activity exceeding Fifty Thousand Dollars (\$50,000.00) since its last audit shall be exempt from the requirements of subsections A and B of this section unless the public trust has outstanding debt obligations.

D. A public trust with a municipal government or governments as the beneficiary that meet the same financial requirements established in subsection B of Section 17-105 of Title 11 of the Oklahoma Statutes may, as an alternative to obtaining an audit as required in this section, follow the biennial agreed-upon-procedures engagement outlined in subsection D of Section 17-105 of Title 11 of the Oklahoma Statutes.

Added by Laws 1963, c. 76, § 1, emerg. eff. May 21, 1963. Amended by Laws 1976, c. 222, § 7, eff. Dec. 1, 1976; Laws 1996, c. 290, § 5, eff. July 1, 1996; Laws 2005, c. 459, § 6, eff. July 1, 2005; Laws 2006, c. 325, § 2, eff. Nov. 1, 2006; Laws 2007, c. 1, § 45, emerg. eff. Feb. 22, 2007; Laws 2017, c. 83, § 1; Laws 2021, c. 262, § 3, eff. Nov. 1, 2021; Laws 2024, c. 287, § 2, eff. Nov. 1, 2024. NOTE: Laws 2006, c. 314, § 6 repealed by Laws 2007, c. 1, § 46, emerg. eff. Feb. 22, 2007.

§60-180.2. Filing of copies of audit or agreed-upon-procedures report - Failure to file - Filing of copy of instrument or will creating public trust.

(a) The audits herein required shall include the opinion of a certified public accountant or a licensed public accountant notwithstanding any lesser requirement by any instrument under which the trust may have covenanted for an audit to be made or furnished. One copy of the annual audit or agreed-upon-procedures report shall be filed with the State Auditor and Inspector, and, in the case of a trust wherein the state is the beneficiary, one copy with the Governor of the State of Oklahoma and one copy with each beneficiary of the trust, not later than six (6) months following the close of each fiscal year of the trust.

(b) Within thirty (30) days after the effective date hereof, each trust mentioned in Section 180.1 of this title shall certify to the State Auditor and Inspector the date of the close of its fiscal year.

(c) In the event that copy of such audit or agreed-upon-procedures report as herein required shall not be filed with the State Auditor and Inspector within the time herein provided, the State Auditor and Inspector hereby is authorized to employ, at the cost and expense of the trust, a certified public accountant or licensed public accountant to make the audit or perform the agreed-upon-procedures report herein required.

(d) Prior to the delivery of and payment for any bonds, notes or other evidences of indebtedness by a public trust, there shall be filed with the Secretary of State an executed original or certified copy of the written instrument or will creating such public trust and a notice of said filing with the Secretary of State shall be delivered to the State Auditor and Inspector and, in the case of a trust wherein the state is the beneficiary, to the Attorney General. Added by Laws 1963, c. 76, § 2, emerg. eff. May 21, 1963. Amended by Laws 1970, c. 240, § 1, emerg. eff. April 22, 1970; Laws 1976, c. 222, § 8, eff. Dec. 1, 1976; Laws 1979, c. 30, § 94, emerg. eff. April 6, 1979; Laws 1987, c. 110, § 2, eff. Nov. 1, 1987; Laws 2005, c. 459, § 7, eff. July 1, 2005.

§60-180.3. Expense of audits and agreed-upon-procedures engagements.

The necessary expense of the audits and agreed-upon-procedures engagements, including the cost of typing, printing, and binding, shall be paid from funds of the trust.

Added by Laws 1963, c. 76, § 3, emerg. eff. May 21, 1963. Amended by Laws 2005, c. 459, § 8, eff. July 1, 2005.

§60-180.4. Regulation of certain public trusts operating a water supply system.

A. The Corporation Commission shall have general supervision over trusts created for the benefit and furtherance of a public function pursuant to Title 60 of the Oklahoma Statutes, Sections 176 et seq., where:

1. The trust has multiple beneficiaries; and
2. A water supply system is operated by the trust or a person or entity to which such function has been delegated; and
3. The water supply system is operated in a county having a population in excess of five hundred thousand (500,000) persons according to the most recent Federal Decennial Census; and
4. The beneficiaries do not regulate the rates, charges and practices of the water supply system.

B. The Corporation Commission shall also have general supervision over any person or entity to whom the function of operating a water supply system has been delegated by such a trust.

C. The Corporation Commission shall have the power to fix and establish rates and to prescribe rules, requirements and regulations affecting their services, operation, and the management and conduct of the business of persons and entities subject to this section and shall inquire into the management of the business thereof, and the method in which same is conducted. It shall have full visitorial and inquisitorial power to examine such operations, and keep informed as to their general conditions, their capitalization, rates, plants, equipment, apparatus, and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the Constitution and laws of this state, and with the orders of the Commission.

Laws 1972, c. 63, § 1, emerg. eff. March 27, 1972.

§60-180.51. Repealed by Laws 2013, c. 227, § 13, eff. Nov. 1, 2013.

§60-180.52. Repealed by Laws 2013, c. 227, § 13, eff. Nov. 1, 2013.

§60-180.53. Repealed by Laws 2013, c. 227, § 13, eff. Nov. 1, 2013.

§60-180.54. Repealed by Laws 2013, c. 227, § 13, eff. Nov. 1, 2013.

§60-180.55. Repealed by Laws 2013, c. 227, § 13, eff. Nov. 1, 2013.

§60-180.56. Pari-mutuel horse racing facility - terms and condition for participation by public trust.

A. No public trust as authorized by Section 176 of Title 60 of the Oklahoma Statutes shall be a party to any agreement for land, financing or operation of a pari-mutuel horse racing facility in the State of Oklahoma unless such agreement includes the following terms and conditions:

1. Said agreement shall indemnify and hold harmless the public trust from any financial obligation related to land, financing or operation by organizational license;

2. Said agreement shall include provisions for the payment of ad valorem property taxes on any improvements and structures on trust land which would otherwise be subject to ad valorem property taxation if constructed on privately owned land;

3. Such agreement shall prohibit the use of public trust financing for construction of any facilities on all land in the agreement; and

4. Said agreement shall require that title to any improvements must revert to said public trust at the termination of such lease or agreement.

B. Nothing in this section shall prohibit horse racing at county fairs as provided by law.

Added by Laws 1985, c. 196, § 12, operative July 1, 1985.

§60-181. Unlimited marital deduction - Construction of trust.

Any trust of a trustor dying after December 31, 1981, which contains a marital deduction formula expressly providing that the spouse of the trustor is to receive the maximum amount of property qualifying for the marital deduction allowable by federal law shall be construed as referring to the unlimited marital deduction provided by the Economic Recovery Tax Act of 1981, Public Law 97-34. This provision shall apply retrospectively to trusts of trustors dying after December 31, 1981.

Added by Laws 1982, c. 368, § 2, emerg. eff. July 14, 1982. Amended by Laws 1983, c. 123, § 1, emerg. eff. May 17, 1983.

§60-199. Validity of a trust for the care of domestic or pet animals.

A. A trust for the care of designated domestic or pet animals is valid. Unless the trust instrument provides for an earlier termination, the trust terminates when no living animal is covered by the trust.

B. The instrument creating the trust shall be liberally construed to bring the transfer within the scope of trusts governed by this section, to presume against the mere precatory or honorary nature of the disposition, and to carry out the general intent of the transferor. Extrinsic evidence is admissible in determining the intent of the transferor.

C. If a trustee is not designated or no designated or successor trustee is willing or able to serve, a court shall name a trustee. Unless otherwise permitted by the trust, the trustee and the enforcer as provided in subsection D of this section shall not be the same person. The trustee shall be entitled to reasonable trustee fees and expenses for the administration, unless otherwise provided in the trust instrument. The trustee of a trust created in accordance with this section shall ensure that care is provided for the benefit of the animal in accordance with the terms of the trust or, in absence of any terms, shall ensure that care is provided that is reasonable under the circumstances. The trustee may employ agents or contractors to provide any care and pay for the care from the assets of the trust. The trustee shall also ensure that the property of a trust authorized by this section is applied only to its intended use.

D. A trust authorized by this section may be enforced by a person appointed in the trust instrument, the caretaker of the designated animal or animals, and the remainder beneficiary, or, if none, by an individual appointed by a court upon application to it by an individual.

E. Accountings otherwise required by law shall be provided to those persons qualified as an enforcer as provided for in subsection D of this section. However, if the value of the assets in the trust does not exceed Twenty Thousand Dollars (\$20,000.00), no filing, report, registration, periodic accounting, separate maintenance of funds, appointment, or fee shall be required by reason of the existence of the fiduciary relationship of the trustee, unless ordered by the court or required by the trust instrument.

F. Each trust created pursuant to this section shall identify a remainder beneficiary. If none is named, the trustee shall transfer any unexpended trust property upon termination of the trust to the transferor, if then living, or if not living, to the transferor's successors in interest.

G. For purposes of Section 175.47 of Title 60 of the Oklahoma Statutes, the beneficiary or beneficiaries in being at the creation of the trust shall include the caretaker of the designated animal or animals and the remainder beneficiaries.  
Added by Laws 2010, c. 224, § 1.

#### §60-299.1. Common law.

The common law of powers is hereby declared to be the law in this state, except as modified by statute.  
Laws 1977, c. 210, § 1.

#### §60-299.2. Creation.

A donor may create a power of appointment only by an instrument executed with the same formalities as one which would pass title to the property covered by the power.  
Laws 1977, c. 210, § 2.

#### §60-299.3. Donees - Exercising power of appointment.

A donee may exercise a power of appointment only by an instrument executed with sufficient formalities to pass title to the property covered by the power. When a power of appointment is exercisable only by will, a donee may not exercise it by deed. When a power of appointment is exercisable by deed, a donee may exercise it by will.  
Laws 1977, c. 210, § 3.

#### §60-299.4. Insufficient instruments - Additional formalities.

A power of appointment authorized to be exercised by an instrument which would not be sufficient to transfer title to the

property covered by the power shall not be void, but its execution shall conform to the provisions of this act. When the power of appointment directs that formalities in addition to those prescribed in this act be observed in the execution of the power, the direction may be disregarded.

Laws 1977, c. 210, § 4.

§60-299.5. Persons who may exercise.

Any donee, except a minor, who would be capable of conveying the property covered by the power may exercise a power of appointment.

Laws 1977, c. 210, § 5.

§60-299.6. Two or more persons vested with a power of appointment.

When a power of appointment is vested in two or more persons, all such persons shall unite in its exercise. However, if one or more of such persons die, become legally incapable of exercising the power or renounce such power, the power may be exercised by the others.

Laws 1977, c. 210, § 6.

§60-299.7. Consent of donor - Writing - Recording.

When the consent of the donor, or of any other person, is required by the donor for the exercise of a power of appointment, this consent shall be in writing. To entitle the instrument exercising the power to be recorded, the signature of any person consenting shall be acknowledged. If the consent is given in a separate instrument, that instrument shall be attached to the instrument exercising the power. If any person whose consent is required dies or becomes legally incapable of consenting, the donee may exercise the power with the consent of the other person whose consent is required. If there is no such person, the donee may exercise the power in the manner provided by Section 3 of this act, unless the donor has manifested a contrary intent in the instrument creating the power.

Laws 1977, c. 210, § 7.

§60-299.8. Appointment of all the property to one or more of the objects to the exclusion of the others.

Unless a contrary intent is manifested in the instrument creating the power, the donee may appoint all of the property to one or more of the objects to the exclusion of the others. A direction to appoint "to", "among" or "between" two or more objects shall not be a sufficient manifestation of a contrary intent. However, when the donee is prevented from excluding any object by the instrument creating the power, each object shall receive an equal share, unless the instrument creating the power manifests an intent that some other division may be made.

Laws 1977, c. 210, § 8.

§60-299.9. Donee authorized to appoint himself - Creditors - Claims - Fraudulent conveyances.

When a donee is authorized to appoint to himself all or part of the property covered by any power of appointment, a creditor of the donee may subject to his claim all property which the donee could then appoint to himself only to the extent that other property available for the payment of his claim is insufficient for such payment. When a donee has exercised such a general power by deed, the law relating to fraudulent conveyances shall apply as if the property transferred to the appointee had been owned by the donee. When a donee has exercised such a power by will in favor of either a taker without value or a creditor, a creditor of the donee or of his estate may subject such property to the payment of his claim only to the extent that other property available for the payment of the claim is insufficient for such payment.

Laws 1977, c. 210, § 9.

§60-299.10. Transfer by deed or will - Property conveyed.

When the donee of a power of appointment makes a deed or a will purporting to transfer all of his property, the property covered by the power shall be included in such transfer unless it is shown that the donee did not so intend.

Laws 1977, c. 210, § 10.

§60-299.11. Conveyances and devises.

A deed either creating or exercising a power of appointment over real property is a conveyance. A will appointing real property is a devise.

Laws 1977, c. 210, § 11.

§60-299.12. Suspension of right of alienation - Computation of time.

The period during which the absolute right of alienation may be suspended by any instrument in execution of a power shall be computed from the time of the creation of the power and not from the date of the instrument. However, in the case of a general power presently exercisable, the period shall be computed from the date of the instrument.

Laws 1977, c. 210, § 12.

§60-299.13. Advancements to descendants.

Every estate or interest given to a descendent of the donee by the exercise of a power is an advancement to such descendent to the same extent that a gift of property owned by the donee would be an advancement.



Laws 1977, c. 210, § 13.

§60-299.14. Assignment for the benefit of creditors.

Under a general assignment for the benefit of creditors, a power of appointment in the assignor by which he is authorized to appoint the property to himself passes to the assignee.

Laws 1977, c. 210, § 14.

§60-299.15. Power of revocation - Reservation - Effect.

When the grantor in a conveyance reserves to himself, for his own benefit, an absolute power of revocation, the grantor shall still be the absolute owner of the estate conveyed, so far as the rights of creditors and purchasers are concerned.

Laws 1977, c. 210, § 15.

§60-299.16. Absolute power of disposition in grantee or beneficiary.

When an absolute power of disposition is given to a grantee or a beneficiary under a will of real or personal property and no reversion, remainder or gift in default of the property undisposed of by the grantee or a beneficiary under a will is expressed in the instrument creating the power, the grantee or a beneficiary under a will shall be the absolute owner of the property.

Laws 1977, c. 210, § 16.

§60-300.1. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.2. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.3. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.4. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.5. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.6. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.7. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.8. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.9. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.10. Repealed by Laws 2007, c. 91, § 14, eff. Nov. 1, 2007.

§60-300.11. Short title.

SHORT TITLE. Sections 1 through 10 of this act shall be known and may be cited as the "Uniform Prudent Management of Institutional Funds Act."

Added by Laws 2007, c. 91, § 1, eff. Nov. 1, 2007.

§60-300.12. Definitions.

DEFINITIONS. In the Uniform Prudent Management of Institutional Funds Act:

(1) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.

(2) "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. The term does not include assets that an institution designates as an endowment fund for its own use.

(3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(4) "Institution" means:

- (A) a person, other than an individual, organized and operated exclusively for charitable purposes;
- (B) a government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; or
- (C) a trust that has both charitable and noncharitable interests, after all noncharitable interests have terminated.

(5) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include:

- (A) program-related assets;
- (B) a fund held for an institution by a trustee that is not an institution; or
- (C) a fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Added by Laws 2007, c. 91, § 2, eff. Nov. 1, 2007.

§60-300.13. Standard of conduct in managing and investing institutional fund.

STANDARD OF CONDUCT IN MANAGING AND INVESTING INSTITUTIONAL FUND.

(a) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(b) In addition to complying with the duty of loyalty imposed by law other than the Uniform Prudent Management of Institutional Funds Act, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(c) In managing and investing an institutional fund, an institution:

(1) may incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and

(2) shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(d) An institution may pool two or more institutional funds for purposes of management and investment.

(e) Except as otherwise provided by a gift instrument, the following rules apply:

(1) In managing and investing an institutional fund, the following factors, if relevant, must be considered:

- (A) general economic conditions;
- (B) the possible effect of inflation or deflation;
- (C) the expected tax consequences, if any, of investment decisions or strategies;
- (D) the role that each investment or course of action plays within the overall investment portfolio of the fund;
- (E) the expected total return from income and the appreciation of investments;
- (F) other resources of the institution;
- (G) the needs of the institution and the fund to make distributions and to preserve capital; and
- (H) an asset's special relationship or special value, if any, to the charitable purposes of the institution.

(2) Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

(3) Except as otherwise provided by law other than the Uniform Prudent Management of Institutional Funds Act, an institution may invest in any kind of property or type of investment consistent with this section.

(4) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

(5) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of the Uniform Prudent Management of Institutional Funds Act.

(6) A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

Added by Laws 2007, c. 91, § 3, eff. Nov. 1, 2007.

§60-300.14. Appropriation for expenditure or accumulation of endowment fund - Rules of construction.

APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND;  
RULES OF CONSTRUCTION.

(a) Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

- (1) the duration and preservation of the endowment fund;
- (2) the purposes of the institution and the endowment fund;
- (3) general economic conditions;

- (4) the possible effect of inflation or deflation;
- (5) the expected total return from income and the appreciation of investments;
- (6) other resources of the institution; and
- (7) the investment policy of the institution.

(b) To limit the authority to appropriate for expenditure or accumulate under subsection (a), a gift instrument must specifically state the limitation.

(c) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income", "interest", "dividends", or "rents, issues, or profits", or "to preserve the principal intact", or words of similar import:

(1) create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(2) do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection (a) of this section.  
Added by Laws 2007, c. 91, § 4, eff. Nov. 1, 2007.

#### §60-300.15. Delegation of management and investment functions.

##### DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS.

(a) Subject to any specific limitation set forth in a gift instrument or in law other than the Uniform Prudent Management of Institutional Funds Act, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

(1) Selecting an agent;

(2) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and

(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(c) An institution that complies with subsection (a) of this section is not liable for the decisions or actions of an agent to which the function was delegated.

(d) By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this

state in all proceedings arising from or related to the delegation or the performance of the delegated function.

(e) An institution may delegate management and investment functions to its committees, officers, or employees as authorized by law of this state other than the Uniform Prudent Management of Institutional Funds Act.

Added by Laws 2007, c. 91, § 5, eff. Nov. 1, 2007.

§60-300.16. Release or modification of restrictions on management, investment, or purpose.

RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT, OR PURPOSE.

(a) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(b) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the Attorney General of the application, and the Attorney General must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(c) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the Attorney General of the application, and the Attorney General must be given an opportunity to be heard.

(d) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, sixty (60) days after notification to the Attorney General, may release or modify the restriction, in whole or part, if:

(1) The institutional fund subject to the restriction has a total value of less than Twenty-five Thousand Dollars (\$25,000.00);

(2) More than twenty (20) years have elapsed since the fund was established; and

(3) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.  
Added by Laws 2007, c. 91, § 6, eff. Nov. 1, 2007.

§60-300.17. Reviewing compliance.

REVIEWING COMPLIANCE. Compliance with the Uniform Prudent Management of Institutional Funds Act is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.  
Added by Laws 2007, c. 91, § 7, eff. Nov. 1, 2007.

§60-300.18. Application to existing institutional funds.

APPLICATION TO EXISTING INSTITUTIONAL FUNDS. The Uniform Prudent Management of Institutional Funds Act applies to institutional funds existing on or established after November 1, 2007. As applied to institutional funds existing on November 1, 2007, the Uniform Prudent Management of Institutional Funds Act governs only decisions made or actions taken on or after that date.  
Added by Laws 2007, c. 91, § 8, eff. Nov. 1, 2007.

§60-300.19. Relation to Electronic Signatures in Global and National Commerce Act.

RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. The Uniform Prudent Management of Institutional Funds Act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101 of that act, 15 U.S.C. Section 7001(a), or authorize electronic delivery of any of the notices described in Section 103 of that act, 15 U.S.C. Section 7003(b).  
Added by Laws 2007, c. 91, § 9, eff. Nov. 1, 2007.

§60-300.20. Uniformity of application and construction.

UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing the Uniform Prudent Management of Institutional Funds Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.  
Added by Laws 2007, c. 91, § 10, eff. Nov. 1, 2007.

§60-301.1. Short title.

This act shall be known and may be cited as the "Oklahoma Charitable Fiduciary Act".  
Added by Laws 1997, c. 99, § 2, emerg. eff. April 15, 1997.

§60-301.2. Legislative findings and purpose.

A. The Legislature finds that:

1. Charitable, religious, and educational and eleemosynary organizations perform essential and needed services in the state;

2. Clarification is needed regarding the capability of charitable, religious, educational, and eleemosynary organizations to act as a fiduciary in obtaining and administering present and future gifts benefitting the charitable, religious, educational, and eleemosynary purposes of such organizations and their affiliates; and

3. Clarification is needed regarding the fiduciary powers of charitable, religious, educational, and eleemosynary organizations in the administration of trusts which provide for present or future gifts benefitting the charitable, religious, educational, and eleemosynary purposes of such organizations.

B. The purpose of this act is to authorize charitable, religious, educational, and eleemosynary organizations to act as a fiduciary and to clarify the powers of such organizations when acting in a permitted fiduciary capacity.

Added by Laws 1997, c. 99, § 3, emerg. eff. April 15, 1997.

§60-301.3. Definitions.

As used in the Oklahoma Charitable Fiduciary Act:

1. "Charitable organization" means an incorporated or unincorporated organization:

- a. domiciled in the State of Oklahoma,
- b. recognized under Section 501(c)(3) of the Internal Revenue Code as being organized and operated exclusively for charitable, religious, educational, or other eleemosynary purposes,
- c. which has been in existence for at least five (5) years if the organization administers charitable trusts which benefit private individuals,
- d. having a governing board of which a majority of its members are persons who are qualified by education or experience to provide direction of the charitable organization in the administration of its charitable trusts,
- e. having a governing board of which at least forty percent (40%) of its members are residents of the State of Oklahoma, provided that upon proper application the Attorney General may waive this requirement, and
- f. which has filed the comprehensive annual audit required by Section 301.9 of this title;

2. "Charitable trust" means:



- a. a trust which qualifies as a charitable remainder unitrust under the Internal Revenue Code,
- b. a trust which qualifies as a charitable remainder annuity trust under the Internal Revenue Code,
- c. a trust which is described as a charitable lead trust in the Internal Revenue Code,
- d. a fund which qualifies as a pooled income fund under the Internal Revenue Code,
- e. an endowment fund as that term is defined in the Uniform Prudent Management of Institutional Funds Act,
- f. a trust providing for the welfare, maintenance, support, and education of minor issue of a decedent who has made a gift in the document creating the trust for the benefit of the minor issue to the charitable organization administering the trust or one or more of its affiliated charitable organizations at the decedent's death and the total of all gifts made to the charitable organization administering the trust or one or more of its affiliated charitable organizations at the decedent's death is as large as the largest distribution made to another person who is not a charitable organization, but in no event shall the total of all gifts made to the charitable organization administering the trust or one or more of its affiliated charitable organizations be less than twenty-five percent (25%) of the property which is available for distribution, or
- g. any other irrevocable or revocable trust in which:
  - (1) one or more gifts of either trust income or principal, whether outright or in trust, are irrevocably made to or for the benefit of a charitable organization,
  - (2) if the irrevocable gift is of income or principal which is distributed before the termination of the trust, the total of all such irrevocable gifts of income or principal made to the charitable organization administering the trust or one or more of its affiliated charitable organizations is as large as the largest distribution to another beneficiary entitled to receive distributions of income or principal from the trust before the termination of the trust who is not the charitable organization administering the trust or an affiliated charitable organization, but in no event shall the total of all such irrevocable gifts of income or principal made to the charitable organization administering

- the trust or one or more of its affiliated charitable organizations before the termination of the trust be less than twenty-five percent (25%) of the income or principal available for distribution from the trust,
- (3) if the irrevocable gift is of the remainder of the trust which is distributed upon the termination of the trust, the total of all irrevocable gifts of the remainder of the trust made to the charitable organization administering the trust or one or more of its affiliated charitable organizations is as large as the largest distribution made to another remainderman who is not the charitable organization administering the trust or an affiliated charitable organization, but in no event shall the total of all irrevocable gifts of the remainder of the trust made to the charitable organization administering the trust or one or more of its affiliated charitable organizations be less than twenty-five percent (25%) of the remainder of the trust which is available for distribution at the termination of the trust, and
- (4) if distributions of income from the trust are made to beneficiaries who are not charitable organizations, such distributions are in an amount specified by the donor in the governing instrument, or, if not in an amount specified by the donor in the governing instrument, are in an amount not less than five percent (5%) of the value of the principal of the trust determined annually, reduced by distributions of current income from the trust to charitable organizations, if any; and

3. "Affiliated charitable organization" means another charitable organization which directly or indirectly controls or is under direct or indirect common control with the charitable organization acting in a fiduciary capacity.

Added by Laws 1997, c. 99, § 4, emerg. eff. April 15, 1997. Amended by Laws 2007, c. 91, § 11, eff. Nov 1, 2007.

#### §60-301.4. Fiduciary capacities.

Charitable organizations shall be permitted to act in the following fiduciary capacities within this state:

1. To act as trustee under charitable trusts created by will, inter vivos declaration of trust or trust agreement, corporate

resolution, or order, judgment or decree of any of the courts of record of this state or of any state or of the United States;

2. To accept and execute all charitable trusts and perform such duties of every description as may be committed to them under such trust by any person or persons, any corporation, or any order, judgment or decree of any of the courts of record of this state or of any state or of the United States provided that such duties are not inconsistent with the charitable, religious, educational, or other eleemosynary purposes of the charitable organization;

3. To take, accept and hold by gift, grant, assignment, transfer, devise or bequest of any person or persons, any corporation, or any order, judgment or decree of any of the courts of record of this state or of any state or of the United States any real or personal property as a charitable trust;

4. To execute and perform any and all charitable trusts upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the person or persons, corporation, or order, judgment, decree, gift, grant, assignment, transfer, devise or bequest establishing such trust;

5. To act as attorney-in-fact for any person establishing a charitable trust; and

6. To act as personal representative in the probate of the will of any decedent, whether such decedent was a resident of this state or not, and whether the probate of the will of such decedent is by original or ancillary proceeding, where the will makes a present or future gift to or confers a present or future benefit on the charitable organization serving as personal representative or one or more of its affiliated charitable organizations and the total of all gifts made to the charitable organization serving as personal representative or one or more of its affiliated charitable organizations in the will is as large as the largest distribution made to another person who is not a charitable organization, but in no event shall the total of all gifts made to the charitable organization serving as personal representative or one or more of its affiliated charitable organizations in the will be less than twenty-five percent (25%) of the estate which is available for distribution.

Added by Laws 1997, c. 99, § 5, emerg. eff. April 15, 1997.

§60-301.5. Charitable organizations authorized to exercise certain powers as trustees.

In addition to the powers conferred on fiduciaries by the Oklahoma Trust Act, the Uniform Prudent Management of Institutional Funds Act, and the Oklahoma Uniform Prudent Investor Act, all charitable organizations acting as trustees of charitable trusts shall expressly be permitted to exercise the following powers:

1. To limit the investment of property received in trust to investments in real or personal property; securities including bonds, stocks, all kinds of negotiable and nonnegotiable paper; and other investment instruments, which are consistent with the charitable, religious, educational, or other eleemosynary purposes of the charitable organization;

2. To make distributions from an institutional endowment fund as that term is defined in the Uniform Prudent Management of Institutional Funds Act in a manner that will provide a consistent source of funds to charitable organizations benefited by such charitable trusts;

3. For assets held in an institutional endowment fund as that term is defined in the Uniform Prudent Management of Institutional Funds Act, to invest in loans of money upon adequate collateral security to affiliated charitable organizations provided that the charitable organization serving in a fiduciary capacity conforms to the standard for care set forth in the document creating the trust or, in the absence of a standard of care in the document creating the trust, to the standard of care for fiduciaries as set forth in the Oklahoma Trust Code, the Uniform Prudent Management of Institutional Funds Act, and the Oklahoma Uniform Prudent Investor Act, and provided further that the loan furthers the charitable, religious, educational and other eleemosynary purposes of the affiliated charitable organization;

4. To recover costs and expenses to include a reasonable charge for administrative overhead incurred in administering charitable trusts to include costs incurred for investment counselors, advisors and agents; and

5. To delegate the investment of assets of charitable trusts and the administration of charitable trusts to state banks in Oklahoma having trust powers, national banking associations having trust powers, and trust companies having trust powers.

Added by Laws 1997, c. 99, § 6, emerg. eff. April 15, 1997. Amended by Laws 2007, c. 91, § 12, eff. Nov. 1, 2007.

#### §60-301.6. Fidelity bonds.

A. Governing board must require fidelity bonds. The governing board of a charitable organization serving as trustee of a charitable trust shall require good and sufficient fidelity bonds on all officers and employees who are involved in the funding and administration of a charitable trust, whether or not they are paid a salary or other compensation. The fidelity bonds shall indemnify the charitable trusts administered by a charitable organization for loss sustained to a charitable trust as the result of dishonest, fraudulent, or criminal conduct by the officers and employees of the charitable organization, whether acting independently or in collusion with any person or persons.

B. Form and premiums of fidelity bonds. The governing board of a charitable organization serving as trustee of a charitable trust shall determine the amount and form of its fidelity bonds. The premiums for its fidelity bonds shall be paid by the charitable organization and the cost of premiums may be included in the administrative overhead of the charitable organization.

C. Annual review of fidelity bonds. At least once each calendar year the governing board of a charitable organization serving as trustee of a charitable trust shall evaluate all known elements and factors constituting its risk of loss due to dishonest, fraudulent, or criminal conduct by its officers and employees and determine if the amount and form of its fidelity bonds are sufficient. The governing board shall then require fidelity bonds in such amounts and form as are sufficient to protect its charitable trusts from such risk or hazard. The action of the governing board in determining the amount and form of its fidelity bonds shall be recorded in the minutes of the governing board.

Added by Laws 1997, c. 99, § 7, emerg. eff. April 15, 1997.

§60-301.7. Powers of charitable organizations acting as trustees of charitable trusts - Common charitable trust funds investments - Reporting - Recovery of costs - Accounting to court.

A. Definitions. For purposes of this section:

1. "Common charitable trust fund" means a fund composed of assets from two or more charitable trusts and other charitable assets which are pooled for investment;

2. "Other charitable assets" means assets owned by an affiliated charitable organization or assets contributed to the charitable organization administering the common charitable trust fund in exchange for the issuance of charitable gift annuity contracts; and

3. "Affiliated charitable organization" means another charitable organization which directly or indirectly controls or is under direct or indirect common control with the charitable organization administering a common charitable trust fund.

B. Powers. Any charitable organization acting as a trustee of charitable trusts in this state may:

1. Establish one or more common charitable trust funds for the exclusive purpose of furnishing investments to itself as fiduciary, to itself and others as cofiduciaries, or to affiliated charitable organizations;

2. Invest funds which it holds for investment in such common charitable trust funds, unless:

a. the investment is prohibited by the instrument, judgment, decree, or order creating the fiduciary relationship,

- b. consent to investment in the common charitable trust fund is intentionally withheld in writing by a cofiduciary, or
- c. a cofiduciary that is not a charitable organization has the right to direct the management of the common charitable trust fund; and

3. Employ and delegate to investment advisors, investment counselors, state banks in Oklahoma having trust powers, national banking associations having trust powers, and trust companies having trust powers the discretion to make specific investment decisions provided that the charitable organization shall at all times maintain ultimate control of the management of the common charitable trust fund.

C. Common charitable trust fund investments.

1. A charitable organization administering a common charitable trust fund shall not commingle its administrative and operating funds with its common charitable trust funds but may place its endowment and funds its governing board has designated as endowment in its common charitable trust funds.

2. Each charitable trust and each other charitable asset shall be deemed to own a proportionate share of each asset of the common charitable trust fund.

3. In determining whether the investment in the common charitable trust fund by the charitable trust is a proper investment for assets held by a fiduciary, the charitable organization acting as fiduciary may consider the common charitable trust fund as a whole and shall not be prohibited from making the investment if any one or more of the assets of the common charitable trust fund are nonincome producing or might not otherwise be considered proper investments for a fiduciary account.

4. The charitable organization administering a common charitable trust fund may limit investments in its common charitable trust funds to investments which are compatible with or further the charitable, religious, educational, or other eleemosynary purposes of the charitable organization administering the common charitable trust fund.

5. The charitable organization administering a common charitable trust fund consisting solely of assets held in an endowment fund, as that term is defined in the Uniform Prudent Management of Institutional Funds Act, may invest such assets in loans upon adequate collateral security to an affiliated charitable organization provided that the charitable organization administering the common charitable trust fund conforms to the standard for care set forth in the documents creating the trusts or, in the absence of a standard of care in the documents creating the trusts, to the standard of care for fiduciaries as set forth in the Oklahoma Trust Code, the Uniform Prudent Management of Institutional Funds Act, and

the Oklahoma Uniform Prudent Investor Act, and provided further that the loan furthers the charitable, religious, educational and other eleemosynary purposes of the affiliated charitable organization.

6. In selecting investments and when making investment decisions pursuant to this subsection, the charitable organization shall be bound by the provisions of the Oklahoma Charitable Fiduciary Act, the Oklahoma Trust Act, the Uniform Prudent Management of Institutional Funds Act, and the Oklahoma Uniform Prudent Investor Act, unless otherwise provided by law.

7. Nothing in this subsection shall diminish the standard of care of a fiduciary of charitable trust funds or institutional endowment funds.

D. Reporting.

1. The charitable organization administering a common charitable trust fund shall keep records which shall at all times show all necessary and proper matters related to the administration of the common charitable trust fund to include the proportionate interest in the common charitable trust fund of each trust or investment account of an affiliated charitable organization.

2. Within one hundred twenty (120) days following the end of the common charitable trust fund's fiscal year, the charitable organization administering a common charitable trust fund shall make a report of the condition of the common charitable trust fund. This report shall include, as of the date of the report, a list of the investments comprising the common charitable trust fund and the value placed on each investment on such list by the charitable organization. The report shall also include a statement of income and disbursements since the last report and appropriate comments as to any investment in default as to payment of principal or interest. The reasonable expenses of preparing the report may be charged to the common charitable trust fund.

3. The charitable organization shall send a copy of the latest report required by this subsection annually to each person to whom a regular periodic accounting of the trusts or other charitable assets participating in the common charitable trust fund ordinarily would be rendered, or shall advise each such person annually that the report is available and that a copy will be furnished without charge upon request.

E. Recovery of costs. The charitable organization administering a common charitable trust fund may recover its costs of administration of the common charitable trust fund to include a reasonable charge for administrative overhead and the fees and costs of investment advisors, counselors and agents.

F. Accounting to court. Unless ordered by a court of competent jurisdiction, the charitable organization administering common charitable trust funds is not required to render an accounting to the court with regard to such funds. The charitable organization

administering a common charitable trust fund may, by application to the district court, secure approval of such an accounting after such notice, and on such conditions as the court may establish. Added by Laws 1997, c. 99, § 8, emerg. eff. April 15, 1997. Amended by Laws 2007, c. 91, § 13, eff. Nov. 1, 2007.

§60-301.8. Private inurement prohibited.

No private inurement.

1. Employees, officers, and members of the governing board of the charitable organization administering a charitable trust or the common charitable trust fund shall not receive commissions, bonuses, or other remuneration based on the solicitation of charitable trusts or investment of assets in the common charitable trust fund.

2. Employees, officers, and members of the governing board of the charitable organization administering a charitable trust or the common charitable trust fund shall not receive loans, gifts, or other pecuniary benefits from a charitable trust or the common charitable trust fund except that employees and officers of the charitable organization may receive reasonable compensation for their employment as a part of the administrative overhead of the charitable organization administering a charitable trust or the common charitable trust fund.

Added by Laws 1997, c. 99, § 9, emerg. eff. April 15, 1997.

§60-301.9. Annual audit.

Each year a charitable organization administering charitable trusts shall have prepared a comprehensive annual audit conforming to generally accepted accounting principles which is certified by an independent certified public accounting firm. A copy of this annual audit shall be delivered to the Oklahoma Banking Department within ninety (90) days of receipt of the final audit report by the charitable organization. The Oklahoma Banking Department shall serve only as a depository of the annual audits received by it but the audit reports shall be made available for inspection by the public. Nothing in this provision shall be construed either to authorize the Oklahoma Banking Department to exercise regulatory authority over charitable organizations exercising the powers and rights granted by this act or to create any duty on the Oklahoma Banking Department to enforce any provision of this act, including the obligation of a charitable organization to submit an annual audit.

Added by Laws 1997, c. 99, § 10, emerg. eff. April 15, 1997.

§60-301.10. Inapplicability of Oklahoma Open Records Act and Oklahoma Open Meeting Act.

Nothing herein shall be construed to subject a charitable organization to the Oklahoma Open Records Act or the Oklahoma Open



Meeting Act, provided however that the annual audit reports which are in the possession of the Oklahoma Banking Department because of having been delivered by charitable organizations pursuant to Section 10 of this act shall be deemed a "record" as defined in the Oklahoma Open Records Act.

Added by Laws 1997, c. 99, § 11, emerg. eff. April 15, 1997.

§60-301.11. Applicability of act.

Subject to Section 14 of this act, the provisions of this act shall apply to charitable trusts and fiduciary relationships of charitable organizations in existence at the time this act takes effect or thereafter established and to resolve the uncertainties surrounding the administration of charitable trusts by charitable organizations and the exercise of the fiduciary powers set forth in this act. Nothing in this act shall govern, control, or restrict the activities of a charitable organization when acting in a nonfiduciary capacity on behalf of any third party.

Added by Laws 1997, c. 99, § 12, emerg. eff. April 15, 1997.

§60-301.12. Applicability of other laws.

The provisions of Section 161 of Title 60 of the Oklahoma Statutes and of the Oklahoma Trust Act, Sections 175.1 to 175.56, inclusive, of Title 60 of the Oklahoma Statutes which are in conflict with this act are not applicable to charitable trusts. Provided however, with the exception of such provisions that are in conflict, charitable organizations shall be subject to all other provisions of law, now existing and hereafter adopted or adjudicated, which affect fiduciary responsibilities.

Added by Laws 1997, c. 99, § 13, emerg. eff. April 15, 1997.

§60-301.13. Charitable organizations administering trusts that are not charitable trusts.

Charitable organizations administering trusts that are not charitable trusts as defined in this act as of ninety (90) days after the effective date of this act or September 1, 1997, whichever date is the first to occur, shall be permitted to continue administering those trusts until these trusts terminate.

Added by Laws 1997, c. 99, § 14, emerg. eff. April 15, 1997.

§60-311. Law governing personalty.

If there is no law to the contrary in the place where personal property is situated, it is deemed to follow the person of its owner, and is governed by the law of his domicile.

R.L.1910, § 6738.

§60-312. Thing in action.

A thing in action is a right to recover money or other personal property, by judicial proceedings.  
R.L.1910, § 6739.

§60-313. Thing in action may be transferred.

A thing in action, arising out of the violation of a right of property, or out of an obligation, may be transferred by the owner. Upon the death of the owner, it passes to his personal representatives, except where, in the case provided by law, it passes to his devisees or successors in office.  
R.L.1910, § 6740.

§60-314. Trademarks.

One who produces or deals in a particular thing or conducts a particular business, may appropriate to his exclusive use, as a trademark, any form, symbol or name which has not been so appropriated by another, to designate the origin or ownership thereof; but he cannot exclusively appropriate any designation, or part of a designation, which relates only to the name, quality, or the description of the thing or business, or the place where the thing is produced, or the business is carried on.  
R.L.1910, § 6741.

§60-315. Goodwill.

The goodwill of a business is the expectation of continued public patronage, but it does not include a right to use the name of any person from whom it was acquired.  
R.L.1910, § 6742.

§60-316. Good-will as property.

The good-will of a business is property, transferable like any other.  
R.L.1910, § 6743.

§60-317. Title deeds.

Instruments essential to the title of real property, and which are not kept in a public office as a record pursuant to law, belong to the person in whom, for the time being, such title may be vested, and pass with the title.  
R.L.1910, § 6744.

§60-319. Oil and gas well equipment - Lease, loan or option to purchase - Filing instrument in county clerk's office.

Any instrument in writing leasing or lending or giving option to purchase any personal property, used in the digging, drilling, completing or equipping of an oil and gas well shall be void as against innocent purchasers or creditors of the lessee or bailee,

unless the original instrument, or a true copy thereof, shall have been filed prior to the time the rights of any innocent purchaser or the creditors of the lessee or bailee accrue or come into being, in the office of the county clerk of the county in which the lessee or bailee keeps or uses such personal property.

Laws 1941, p. 265, § 1.

§60-320. Filing and indexing.

The said instrument shall be filed and indexed by the county clerk in the same manner in which chattel mortgages are now filed and indexed.

Laws 1941 P. 266, Sec. 2.

§60-321. Verbal lease or loan void as against innocent purchasers or creditors.

Any verbal leasing or lending of personal property used in the digging, drilling, completing or equipping an oil and gas well shall be void as against innocent purchasers or creditors of the lessee or bailee.

Laws 1941, p. 266, § 3.

§60-326. Perpetuities and restraints on alienation.

No retirement, pension or profit sharing plan, qualified for tax exemption purposes under present or future Acts of Congress, or any trusts, insurance and annuity contracts constituting a part thereof, shall be construed as violating the rule or law against perpetuities, or any rule or law against restraints on alienation; provided the power of alienation or the vesting of the interest of any person in such plan, trust or contract shall not be suspended for a longer period than the duration of the lives of the designated beneficiaries of such particular interest, in being at the time of designation, plus twenty-one (21) years.

Laws 1953, p. 344, § 1.

§60-327. Provisions against alienation or encumbrance.

Any such plan, trust or contract may provide against the alienation or encumbrance of the interest of any person therein and further provide that no interest therein shall be subject to garnishment, attachment, execution or the claims of creditors of the persons having an interest therein.

Added by Laws 1953, p. 344, § 2, emerg. eff. June 6, 1953.

§60-328. Power to alienate or encumber - Exemption from process and claims.

Any person having an interest in any such plan, trust or contract, or in any property or any right subject to any such plan, trust or contract, containing the provisions set forth in the next

preceding section of this act, or provisions of substantially the same force and effect, shall have no right to alienate or encumber such right or interest in any manner contrary thereto, and the interest of any such person in any such plan, trust or contract, or in any property or any right subject to any such plan, trust or contract, shall be exempt from garnishment, attachment, execution or the claims of creditors.

Laws 1953 P. 344, Sec. 3.

§60-331. Property acquired, how.

Property is acquired by:

1. Occupancy.
2. Accession.
3. Transfer.
4. Will; or,
5. Succession.

R.L.1910, § 6746.

§60-332. Title by occupancy.

Occupancy for any period confers a title sufficient against all except the state, and those who have title by prescription, accession, transfer, will or succession.

R.L.1910, § 6747.

§60-333. Prescription, title by.

Occupancy for the period prescribed by civil procedure, or any law of this state as sufficient to bar an action for the recovery of the property, confers a title thereto, denominated a title by prescription, which is sufficient against all.

R.L.1910, § 6748.

§60-334. Fixture may not be moved - Exceptions.

When a person affixes his property to the land of another without an agreement permitting him to remove it, the thing affixed belongs to the owner of the land, unless he chooses to require or permit the former to remove it: Provided, that a tenant may remove from the demised premises at any time during the continuance of his term any thing affixed thereto for purpose of trade, manufacture, ornament or domestic use, if the removal can be effected without injury to the premises, unless the thing has, by the manner in which it is affixed, become an integral part of the premises.

R.L.1910, § 6749.

§60-335. Riparian accretions.

Where from natural causes land forms by imperceptible degrees upon the bank of a river or stream, navigable or not navigable, either by accumulation of material or by the recession of the

stream, such land belongs to the owner of the bank, subject to any existing right of way over the bank.

R.L.1910, § 6750.

§60-336. Removals in mass may be reclaimed.

If a river or stream carries away, by sudden violence, a considerable and distinguishable part of a bank, and bears it to the opposite bank, or to another part of the same bank, the owner of the part carried away may reclaim it within a year after the owner of the land to which it has been united takes possession thereof.

R.L.1910, § 6751.

§60-337. Islands in navigable streams.

Islands and accumulations of land formed in the beds of streams which are navigable, belong to the State, if there is no title or prescription to the contrary.

R.L.1910, § 6752.

§60-338. Islands in other streams.

An island or accumulation of land, formed in a stream which is not navigable, belongs to the owner of the shore on that side where the island or accumulation is formed, or if not formed on one side only, to the owners of the shore on the two sides, divided by an imaginary line drawn through the middle of the river. R.L. 1910 Sec. 6753.

R.L.1910, § 6753.

§60-339. Island formed by a new channel.

If a stream, in forming itself a new arm, divides itself and surrounds land belonging to the owner of the shore, and thereby forms an island, the island belongs to such owner.

R.L.1910, § 6754.

§60-340. Ownership of ancient bed.

If a stream forms a new course, abandoning its ancient bed, the owners of the land newly occupied take, by way of indemnity, the ancient bed abandoned, each in proportion to the land of which he has been deprived.

R.L.1910, § 6755.

§60-341. Things inseparably united.

When things belonging to different owners have been united so as to form a single thing, and cannot be separated without injury, the whole belongs to the owner of the thing which forms the principal part, who must, however, reimburse the value of the residue to the other owner, or surrender the whole to him.

R.L.1910, § 6756.

§60-342. Principal part defined.

That part is to be deemed the principal to which the other has been united only for the use, ornament or completion of the former, unless the latter is the more valuable and has been united without the knowledge of its owner, who may in the latter case require it to be separated and returned to him, although some injury should result to the thing to which it has been united.

R.L.1910, § 6757.

§60-343. Principal part, how determined.

If neither part can be considered the principal, within the rules prescribed by the last section, the more valuable, or if the values are nearly equal, the more considerable in bulk, is to be deemed the principal part.

R.L.1910, § 6758.

§60-344. Work and material combined.

If one makes a thing from materials belonging to another, the latter may claim the thing on reimbursing the value of the workmanship, unless the value of the workmanship exceeds the value of the materials, in which case the thing belongs to the maker, on reimbursing the value of the materials.

R.L.1910, § 6759.

§60-345. Blended materials.

Where one has made use of materials which in part belong to him and in part to another, in order to form a thing of a new description, without having destroyed any of the materials, but in such a way that they cannot be separated without inconvenience, the thing formed is common to both proprietors in proportion, as respects the one, of the materials belonging to him, and as respects the other, of the materials belonging to him and the price of his workmanship.

R.L.1910, § 6760.

§60-346. Admixtures of materials of different owners.

When a thing has been formed by the admixture of several materials of different owners, and neither can be considered the principal substance, an owner, without whose consent the admixture was made, may require a separation, if the materials can be separated without inconvenience. If they cannot be thus separated, the owners acquire the thing in common, in proportion to the quantity, quality and value of their materials; but if the materials of one were far superior to those of the others, both in quantity and value, he may claim the thing on reimbursing to the others the value of their materials.

R.L.1910, § 6761.

§60-347. Use without owner's consent.

The foregoing sections of this article are not applicable to cases in which one willfully uses the materials of another without his consent; but, in such cases, the product belongs to the owner of the material, if its identity can be traced.

R.L.1910, § 6762.

§60-348. Right of owner.

In all cases where one, whose material has been used without his knowledge, in order to form a product of a different description, can claim an interest in such product, he has an option to demand either restitution of his material in kind, in the same quantity, weight, measure and quality or the value thereof; or where he is entitled to the product, the value thereof in place of the product.

R.L.1910, § 6763.

§60-349. Damages.

One who wrongfully employs materials belonging to another is liable to him in damages, as well as under the foregoing provisions of this article.

R.L.1910, § 6764.

§60-350. Definitions - Legislative findings - Recorded transfer fees.

A. As used in this section:

1. "Association" means a nonprofit mandatory membership organization comprised of owners of homes, condominiums, cooperatives, manufactured homes, or any interest in real property, created pursuant to a declaration, covenant, or other applicable law;

2. "Transfer" means the sale, gift, grant, conveyance, assignment, inheritance, or other transfer of an interest in real property located in this state;

3. "Transfer fee" means a fee or charge imposed by a transfer fee covenant, but shall not include any tax, assessment, fee or charge imposed by a governmental authority pursuant to applicable laws, ordinances, or regulations; and

4. "Transfer fee covenant" means a provision in a document, whether recorded or not and however denominated, which purports to run with the land or bind current owners, purchasers or successors in title to specified real property located in this state, and which obligates a transferee or transferor of all or part of the property or any interest thereon to pay a fee or charge to a third person or entity upon transfer of an interest in all or part of the property,

or in consideration for permitting any such transfer. The term "transfer fee covenant" shall not include:

- a. any provision of a purchase contract, option, mortgage, security agreement, real property listing agreement, or other agreement that obligates one party to the agreement to pay the other party as full or partial consideration for the agreement or for a waiver of rights under the agreement if the amount to be paid is:
  - (1) a loan assumption fee or similar fee charged by a lender that holds a mortgage on the property, and
  - (2) a fee or commission paid to a licensed real estate broker for brokerage services rendered in connection with the transfer of the property for which the fee or commission is paid,
- b. any provision in a deed, memorandum or other document recorded for the purpose of providing record notice of an agreement prescribed in subparagraph a of paragraph 4 of subsection A of this section,
- c. any rent, reimbursement, charge, fee or other amount payable by a lessee to a lessor under a lease, including any fee payable to the lessor for consenting to an assignment, sublease, encumbrance or transfer of the lease,
- d. any consideration payable to the holder of an option to purchase an interest in the real property or to the holder of a right of first refusal or first offer to purchase an interest in real property and paid for waiving, releasing or not exercising the option or right on transfer of the property to another person, provided that the payment is on a one-time basis upon the next transfer, and once paid shall not bind successors in title to the property,
- e. any fee, charge, assessment, dues, contribution or other amount relating to the purchase or transfer of a club membership related to the real property owner by the transferor,
- f. any provision of a document requiring payment of a fee or charge to an association comprised of owners of properties described therein to be used exclusively for purposes authorized in the document, as long as no portion of the fee is required to be passed through to a third party or entity designated or identifiable by description in the document or another document referenced therein, and
- g. any fee that is charged as a typical real estate closing cost, including but not limited to escrow



fees, settlement fees, abstracting fees, legal fees or title insurance premiums.

B. The Legislature makes the following findings:

1. The public policy of this state favors the transferability of interest in real property free from unreasonable restraints on alienation and covenants or servitudes that do not touch and concern the property; and

2. A transfer fee covenant violates this public policy by impairing the marketability of title to the affected real property and constitutes an unreasonable restraint on alienation, regardless of the duration of the covenant or the amount of the transfer fee set forth in the covenant.

C. A transfer fee recorded, filed or entered into in this state on or after the effective date of this section does not run with the title to real property and is not binding on or enforceable at law or in equity against any owner, subsequent owner, purchaser or mortgagee of any interest in real property as an equitable servitude, personal obligation or otherwise. Any private transfer fee obligation that is recorded, filed or entered into in this state on or after the effective date of this section is void and unenforceable.

D. Nothing in this section shall imply that a transfer fee covenant recorded prior to the effective date of this section is valid or enforceable.

Added by Laws 2011, c. 282, § 1.

§60-361. Absentees, who are - Authority to appoint conservator - Notice of hearing - Production of official statement.

A person hereinafter referred to as an "absentee" is one missing from his usual place of residence and his address is unknown by his family or those who, in the ordinary course of events, would be expected to know his whereabouts and has been continuously absent and unheard of for a period of six (6) months or longer, and is presumed missing and incapable or unable to manage his affairs or property or by permission, assignment or direction of any department or official of the United States in connection with any activity pertaining to or connected with the prosecution of any war in which the United States is then engaged, who has been reported or listed for a period not less than three (3) months by the Department of Defense or other department of the United States as missing, or missing in action, or interned in a neutral country, or beleaguered, besieged, or captured by an enemy. The judge of the district court of the county of such absentee's last-known legal domicile upon petition alleging the foregoing facts and showing the necessity for providing care of the property of such absentee made, verified and filed by any person who would be entitled to administer upon the absentee's estate if he were dead, after causing notice to be given

as hereinafter provided, may, upon good cause being shown, after finding the facts to be as aforesaid, appoint a conservator to take charge of the absentee's estate under the supervision and subject to the further orders of the court, provided, however, that before any such conservator may be appointed notice of the hearing upon the petition shall be given as is provided by law for hearings upon petition for appointment of administrators, and in addition thereto, notice thereof shall be given to said absentee by publication for two (2) consecutive weeks in a legal newspaper in the county where said proceedings are pending, the last publication of said notice to be at least fifteen (15) days before the hearing on said petition. Provided, further, when the status of absentee is given by the Department of Defense or other department of the United States a conservator may be appointed only if there is produced at the hearing an official statement signed by a proper official of the United States Government that there has been no change in the status of the absentee from the date of the first report, which statement shall be dated not more than fifteen (15) days before said hearing or any date to which the same may be continued by order of the court.

Laws 1945, p. 189, § 1; Laws 1945, p. 214, § 1; Laws 1971, c. 233, § 1, eff. Oct. 1, 1971.

§60-362. Discretion of court - Bond of appointee.

The court shall have full discretionary authority to appoint any suitable person as such conservator and may require such conservator to execute a surety bond to the State of Oklahoma, to be approved by the judge of said court, and in such sum as he shall order, conditioned that the conservator will faithfully execute the duties of his trust according to law.

Laws 1945, p. 189, § 2.

§60-363. Powers and authority of conservator.

The conservator shall have the same powers and authority as the guardian of the property of an infant or incompetent person as now provided by the laws of this state, except that said conservator shall have no power to sell or petition to sell any portion of the absentee's real property until after the lapse of six (6) months from the time of the original appointment of a conservator for such estate, but nothing herein contained shall prevent the conservator from letting or leasing the absentee's real estate in the same manner that a guardian could lease land of his ward.

Laws 1945, p. 189, § 3; Laws 1945, p. 214, § 2.

§60-364. Oath of office.

Before entering upon the duties of his office the conservator shall take and subscribe an oath, before some officer authorized to

administer oaths, that he will perform, according to law, the duties of conservator which oath shall be attached to and filed with the order appointing him.

Laws 1945, p. 189, § 4.

§60-365. Reports and accounts - Fees for services.

The conservator shall make and file reports and accounts as often as may be required by the judge of said court and said court may allow fees for services rendered by such conservator in the manner and on the basis as provided by the laws of this state for the allowance of fees to guardians of minors and incompetents.

Laws 1945, p. 190, § 5.

§60-366. Removal of conservator.

When a conservator appointed by the court becomes insane or otherwise incapable of discharging his trust, or unsuitable therefor, or has wasted or mismanaged the estate, or failed for thirty (30) days to render an account or report, the court may upon such notice to the conservator as the court may require, remove him and compel him to surrender the estate to the person found to be lawfully entitled thereto.

Laws 1945, p. 190, § 6.

§60-367. Termination of conservatorship.

At any time upon petition signed by the absentee, or on petition of an attorney-in-fact acting under an adequate power of attorney granted by the absentee, the court shall direct the termination of the conservatorship and the transfer of all property held thereunder to the absentee or to the designated attorney-in-fact. Likewise, if at any time subsequent to the appointment of a conservator it shall appear that the absentee has died and an executor or administrator has been appointed for his estate, the court shall direct the termination of the conservatorship and the transfer of all property of the deceased absentee held thereunder to such executor or administrator.

Laws 1945, p. 190, § 7.

§60-381. Capacity to take property by gift.

The legal capacity of the State of Oklahoma, and of each county, city, town and school district in the state, to take title or any interest therein including, but not limited to, right-of-way or right-of-way easements in the case of a county, legal, equitable, or both, to any property, real, personal or mixed, by gift, testamentary or otherwise, as well as by purchase, is hereby specifically approved and affirmed.

Added by Laws 1953, p. 288, § 1, emerg. eff. March 30, 1953.

Amended by Laws 2001, c. 231, § 4, eff. Nov. 1, 2001.

§60-382. Tax exemption.

No gift, testamentary or otherwise, of any property, real or personal or both, or any interest therein including, but not limited to, right-of-way or right-of-way easements in the case of a county, to the State of Oklahoma, or to any county, city, town, or school district in the state, or to any combination thereof, if accepted upon behalf of the state, county, city, town, or school district, by the officer, proper governing board or commission thereof, nor the transfer of title thereto in accordance with such gift, or the will or other instrument by which such gift is made, nor the privilege of making or receiving such a gift, nor any income or profits derived by such state, county, city, town or school district from any such property or its use or disposition thereof, shall be subject to any form of tax.

Added by Laws 1953, p. 289, § 2, emerg. eff. March 30, 1953.

Amended by Laws 2001, c. 231, § 5, eff. Nov. 1, 2001.

§60-383. Authority to accept gift to state - Delivery of property and muniments of title.

A. Except to the extent that such authority is otherwise specifically vested in some other state officer, board, commission, or agency and except as provided in subsections B and C of this section, the Governor of the State of Oklahoma is hereby authorized to accept, upon behalf of this state, any gift, testamentary or otherwise, of any property presented to this state or to any state institution, department, or agency.

B. The President Pro Tempore of the Senate and the Speaker of the House of Representatives are hereby authorized to accept, upon behalf of this state, any gift, testamentary or otherwise, of any property presented to the Legislature or either house thereof.

C. The Chief Justice of the Supreme Court is hereby authorized to accept, upon behalf of this state, any gift, testamentary or otherwise, of any property presented to the judiciary of this state.

D. Except as otherwise provided in Sections 391 through 396 of this title, and except for gifts of cash or the equivalent of cash, delivery of such property, possession thereof, and any muniments of title thereto shall be made to and receipted for by the Director of the Office of Management and Enterprise Services. Gifts of cash or the equivalent of cash shall be made to and receipted for by the Director of the Office of Management and Enterprise Services.

Added by Laws 1953, p. 289, § 3, emerg. eff. March 30, 1953.

Amended by Laws 1983, c. 304, § 35, eff. July 1, 1983; Laws 1984, c. 166, § 1, operative July 1, 1984; Laws 2012, c. 304, § 296; Laws 2013, c. 307, § 1, eff. Nov. 1, 2013.

§60-384. Allotment of property to state institution, department or agency.

Any property involved in a gift, testamentary or otherwise, given to the State of Oklahoma or some state officer, board, commission, or agency for the use or benefit of a specified state institution, department, or agency, whether one or more, when accepted by the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives or Chief Justice of the Supreme Court, and delivered to the Office of Management and Enterprise Services as provided for in Section 383 of this title, shall be allotted by the Office of Management and Enterprise Services to such state institution, department, or agency, in accordance, as nearly as possible, with the terms of the gift. Added by Laws 1953, p. 289, § 4, emerg. eff. March 30, 1953. Amended by Laws 1983, c. 304, § 36, eff. July 1, 1983; Laws 1984, c. 166, § 2, operative July 1, 1984; Laws 2012, c. 304, § 297; Laws 2013, c. 307, § 2, eff. Nov. 1, 2013.

§60-385. Allotment of property - Gift for particular purpose.

Any property involved in any gift, testamentary or otherwise, given to the State of Oklahoma for a particular purpose or purposes, as distinguished from public purposes generally, when accepted by the Governor and delivered to the Office of Management and Enterprise Services, as provided for in Section 383 of this title, shall be allotted by said Office of Management and Enterprise Services to the state institution, department, or agency, or the state institutions, departments, or agencies, if any, which, under the applicable statutes, are charged with the performance of the specific purpose or purposes to which such gift is limited or dedicated.

Added by Laws 1953, p. 289, § 5, emerg. eff. March 30, 1953. Amended by Laws 1983, c. 304, § 37, eff. July 1, 1983; Laws 2012, c. 304, § 298.

§60-386. Allotment of property given without designation of particular purpose - New allotment.

Except as may be otherwise provided in Sections 391 through 396 of this title, any real property involved in any gift, testamentary or otherwise, given to this state for public purposes generally or without designation of any particular purpose to which the same is to be devoted, when accepted by the Governor and delivered to the Office of Management and Enterprise Services, as provided for in Section 383 of this title, and which may be occupied and used advantageously, as determined by the Office of Management and Enterprise Services, by a particular state institution, department, or agency in performing its assigned duties or functions, and any tangible personal property involved in any gift, testamentary or

otherwise, given to this state for public purposes generally or without designation of any particular purpose to which the same is to be devoted, when accepted by the Governor and delivered to the Office of Management and Enterprise Services, as provided for in Section 383 of this title, which is determined to be, by the Office of Management and Enterprise Services, especially suited to the special needs of a particular state institution, department, or agency, or may be used advantageously by a particular state institution, department, or agency in performing its assigned duties or functions, shall be allotted by the Office of Management and Enterprise Services to such state institution, department, or agency. Any such real property which is not occupied and used, or the occupancy and use of which is terminated by the state institution, department, or agency to which it has been so allotted and which may be occupied and used advantageously, as determined by the Office of Management and Enterprise Services, by some other particular state institution, department, or agency in performing its assigned duties or functions, and any such tangible personal property which is not used, or the use of which is terminated, by the state institution, department, or agency to which it has been so allotted and which is determined to be, by the Office of Management and Enterprise Services, especially suited to the special needs of a particular state institution, department, or agency, or may be used advantageously by some other particular state institution, department, or agency in performing its assigned duties or functions, shall be allotted by the Office of Management and Enterprise Services to such other state institution, department, or agency.

Added by Laws 1953, p. 289, § 6, emerg. eff. March 30, 1963.

Amended by Laws 1983, c. 304, § 38, eff. July 1, 1983; Laws 2012, c. 304, § 299.

§60-387. Sale of real property not suitable for particular institutions - Personal property - Lease until sale.

Except as may be otherwise provided in Sections 391 through 396 of this title, any real property involved in any gift, testamentary or otherwise, given to this state for public purposes generally or without designation of any particular purpose to which the same shall be devoted, when accepted by the Governor and delivered to the Office of Management and Enterprise Services, as provided for in Section 383 of this title, which may not be occupied and used advantageously, as determined by the Office of Management and Enterprise Services, by any particular state institution, department, or agency as contemplated by Section 386 of this title, and any tangible personal property involved in any gift, testamentary or otherwise, given to this state for public purposes generally or without designation of any particular purpose to which

the same shall be devoted, when accepted by the Governor and delivered to the Office of Management and Enterprise Services, as provided for in Section 383 of this title, which is determined to be, by the Office of Management and Enterprise Services, not especially suited to the special needs of any particular state institution, department, or agency, or may not be used advantageously by any particular state institution, department, or agency in performing its assigned duties or functions, as contemplated by Section 386 of this title, shall be sold by the Office of Management and Enterprise Services as required by law. If, in the judgment of the Office of Management and Enterprise Services, any such real property which is or becomes subject to sale may not be sold immediately to advantage, it may be leased or otherwise rented, until such time as, in the opinion of said Office, it may be sold to advantage.

Added by Laws 1953, p. 290, § 7, emerg. eff. March 30, 1953.

Amended by Laws 1983, c. 304, § 39, eff. July 1, 1983; Laws 1997, c. 292, § 4, eff. July 1, 1997; Laws 2012, c. 304, § 300.

§60-388. Sale of stocks, bonds, choses in action and intangible personal property.

Except as may be otherwise provided in Sections 391 through 396 of this title, any stocks, bonds, choses in action, or other intangible personal property, except cash or the equivalent thereof, involved in a gift, testamentary or otherwise, given to this state for public purposes generally and without designation of any particular purpose to which the same shall be devoted, when accepted by the Governor and delivered to the Office of Public Affairs, as provided for in Section 383 of this title, shall be converted, by the Office of Public Affairs, into cash as soon as may be practicable.

Amended by Laws 1983, c. 304, § 40, eff. July 1, 1983.

§60-389. Money included in gift - Income and proceeds of sales - Deposit to credit of General Revenue Fund.

Except as may be otherwise provided in Sections 391 through 396 of this title, any cash or the equivalent thereof involved in any gift, testamentary or otherwise, given to this state for public purposes generally or without designation to any particular purpose to which the same shall be devoted, when accepted by the Governor and delivered to the Office of Management and Enterprise Services, as provided for in Section 383 of this title, together with all income, interest, rentals, or otherwise, from any property delivered to the Office of Management and Enterprise Services pursuant to the provisions of Section 383 and Sections 386 through 388 of this title, and all cash derived from sales, or other conversions into cash, of such other property as provided for in Sections 386 through

388 of this title, shall be deposited in the State Treasury to the credit of the General Revenue Fund for the fiscal year in which it is received.

Added by Laws 1953, p. 290, § 9, emerg. eff. March 30, 1953.

Amended by Laws 1983, c. 304, § 41, eff. July 1, 1983; Laws 1984, c. 166, § 3, operative July 1, 1984; Laws 2012, c. 304, § 301.

§60-390. Acceptance by counties, cities, towns and school districts - Delivery - Receipts.

The board of county commissioners of each county of the state, as to such county, and the governing board of each city, town and school district of the state, as to each such governmental subdivision, is hereby authorized in its discretion to accept, upon behalf of such county, city, town or school district, any gift, testamentary or otherwise, whether unconditional or conditional, of any property, whether real or personal or both, to such county, city, town, or school district, or any institution, department or agency thereof; and, in such instances, the property, or, in the case of real property or intangible personal property, the muniments of title thereto, shall be delivered to, and any necessary receipts therefor shall be executed by, such board.

Laws 1953, p. 291, § 10.

§60-391. Gift to state, county and city or town - Tenancy in common.

Any gift, testamentary or otherwise, of any property whatsoever to the State of Oklahoma and a county within such state and a city or town within such county (all of which, including the state, are hereinafter referred to as "governmental units"), shall be construed as a gift of such property to the named governmental units as tenants in common; and, unless other proportions are distinctly specified in the instrument by which such gift is made, shall be construed as conveying an undivided one-third (1/3) interest to each of such governmental units.

Laws 1953, p. 291, § 11.

§60-392. Gift to state, county and city or town deemed to be intended for public improvements.

Any unconditional gift, testamentary or otherwise, of any property whatsoever to the State of Oklahoma and a county therein and a city or town within such county, without designation of any particular purpose or purposes to which such property is to be devoted, shall be construed as being intended for public improvements within such town or city and county, including but not limited to the construction of public improvements, the purchase of lands upon which to construct public improvements (or, in the case of public highways, the purchase of necessary rights-of-way



therefor), and repairs and additions to existing public improvements, within such town or city and county. The use of such property for such public improvement purposes, as hereinafter provided for, is hereby declared to be a coordinate and joint public purpose of such governmental units.

Laws 1953, p. 291, § 12.

§60-393. Delivery directly to trustees.

Any property involved in any unconditional gift, testamentary or otherwise, to the State of Oklahoma and a county therein and a city or town within such county, without designation of any particular purpose or purposes to which such property is to be devoted, when accepted upon behalf of the State of Oklahoma by the Governor, as provided for in Section 3 hereof, and, upon behalf of the county by the board of county commissioners of such county, as provided for in Section 10 hereof, and, upon behalf of such city or town by the governing board thereof, as provided for in Section 10 hereof; or, in the case of real property or intangible personal property, the muniments of title thereto, shall be delivered directly to the trustees hereinafter provided for.

Laws 1953, p. 291, § 13.

§60-394. Trustees, who are - Bond - Designation of trust estate - Trust fund - Approval of sales - Reports.

When any unconditional gift, testamentary or otherwise, of any property to the State of Oklahoma and a county therein and a city or town within such county shall have been accepted, upon behalf of all such governmental units, as provided for in Sections 3, 10 and 13 hereof, the Attorney General of the State of Oklahoma, and the county treasurer of such county, and the presiding officer of the governing board of such city or town, at the time of the first distribution under such gift, if testamentary, or at the time of such acceptance of such gift, if other than a testamentary gift, shall be cotrustees and the official representatives and agents of their respective governmental units for all property or monies involved in, and derived from, such gift, for the use and benefit of such governmental units, for the purposes specified in Section 12 hereof; and as such, shall be authorized to execute and deliver any receipts required in connection therewith.

They shall continue as such trustees until the trust estate, resulting hereunder, shall have been fully administered, irrespective of their continuance in such public offices; provided, that in event of the death, resignation, disqualification or incapacity of any trustee before such trust estate shall have been fully administered, the person then holding the public office corresponding to that held by such deceased or resigned trustee at the time he became trustee hereunder, or, in event such death,

disqualification, resignation or incapacity occurs while such trustee still holds such public office, the person elected or appointed to fill the vacancy in such public office, or the temporary or other successor thereto shall become and be his successor as such trustee.

Each such trustee shall furnish a bond in a sum equal to the value of such trust estate at the time he becomes such trustee, but not to exceed Fifty Thousand Dollars (\$50,000.00), with some surety company authorized to do business within the State of Oklahoma, as surety thereon, conditioned upon the faithful performance of his duties as such trustee and truly accounting for all monies and property coming into the custody and control of such cotrustees. Such bond shall run in the name of the State of Oklahoma and such county and city or town, and shall be filed in the office of the Secretary of State of the State of Oklahoma, and the premiums thereon shall be payable from such trust estate. The trust estate shall be designated as "The (name of donor here) Public Improvements Trust Estate".

All cash, or the equivalent thereof, belonging to such trust estate and received by the trustees shall, upon receipt, be deposited in a special depository account in the State Treasury to be designated as "The (name of donor here) Public Improvements Trust Fund", and shall be subject to withdrawal or disbursement therefrom upon, but only upon, check or voucher signed by all three of the cotrustees, for the purposes provided for herein, and each such check or voucher shall state thereon the specific purpose for which the withdrawal or disbursement is made.

Before selling, exchanging, or making any other disposition of any tangible property or intangible property (other than cash or the equivalent thereof) belonging to such a trust estate, and before investing any cash or the equivalent thereof belonging to such a trust estate in securities or other property (as distinguished from expending the same for public improvement purposes as authorized herein), the cotrustees shall, by written application, obtain the written approval of the district judge of the county involved as one of the donees of the gift in question. Such cotrustees shall also file with the district judge of such county verified annual reports, containing a detailed statement of all assets and liabilities of the trust estate, and a report of the acts and doings of the trustees during the period covered by such reports. No notice shall be required in connection with any such application or report, and no fees shall be charged for the filing of any such application, report, or order of approval, or in connection with the entry, recording, or certification of any such order of approval.

Laws 1953, p. 291, § 14.

§60-395. Powers of cotrustees.

The cotrustees of a trust estate resulting hereunder are hereby authorized and empowered to manage such trust estate and all money and property belonging thereto; to rent or to lease any of the real property for the purpose of exploring for and extracting any minerals, including oil and gas, as well as for other purposes; and to sell or otherwise convert any of the property into cash; in such manner, for such price, and upon such terms and conditions as they deem to be for the best interest of the trust estate; and, for such purposes, to execute and deliver such written instruments as may be required.

Such cotrustees are also authorized and empowered to use any money and property of the trust estate for the construction of public improvements in the town or city, or in the county, designated in such gift, for the purpose of sites and rights-of-way for public improvements in such town or city, or in such county, and for repairs and additions to existing public improvements within such city or town, or within such county; and, where necessary to the use of funds from other sources for the construction of public improvements upon any real property in such county belonging to such trust estate, may, in their discretion, convey the title to such real property to any one of the governmental units having a beneficial interest in such trust estate, for such public improvement purposes, without further consideration.

Such cotrustees shall be the exclusive judges of the public improvements to be made or aided from such trust estate. They are also authorized to enter into any contracts, including construction contracts, which they deem to be proper in the performance of their duties hereunder, and to employ and fix the compensation for such help and assistance, professional or otherwise, as they deem necessary to carry out the policies determined by them hereunder, and to pay the same from the trust fund account provided for herein. Such cotrustees may be sued, and, in their discretion, may sue, in any matters relating to such trust estate or growing out of the administration thereof, and may employ attorneys in connection with any such matters, but shall not personally be civilly liable for damages or attorneys' fees except upon criminal or culpable misconduct. Any official act or action by such cotrustees shall require the joinder of all three trustees.  
Laws 1953, p. 292, § 15.

§60-396. Duties additional to other duties - Compensation.

The duties hereby imposed upon any such trustees shall be in addition to the duties otherwise imposed by law upon each of them as a public officer, and, in all instances where the value of the property involved in such a gift shall equal or exceed Five Hundred Thousand Dollars (\$500,000.00), each of such trustees shall be entitled to receive from such trust estate the sum of Two Hundred

Dollars (\$200.00) per month while acting as such trustee, including the time he remains as such public official.

Laws 1953, p. 293, § 16.

§60-501. Citation.

This act shall be known as the "Unit Ownership Estate Act."

Laws 1963, c. 288, § 1.

§60-502. Creation of unit ownership estate - Recording.

A unit ownership estate may be created by an owner or the co-owners of a building by an express declaration of their intention to submit such property to the provisions of the act, which declaration shall be recorded in the office of the county clerk of the county in which the property is situated.

Added by Laws 1963, c. 288, § 2. Amended by Laws 1973, c. 8, § 1, emerg. eff. March 12, 1973.

§60-503. Definitions.

Unless it is plainly evident from the context that a different meaning is intended, as used herein:

(a) "Declaration" means the instrument, duly recorded, by which the property is submitted to the provisions of this act, as hereinafter provided, and such declaration as may be amended from time to time;

(b) "Unit" means an enclosed space consisting of one or more rooms occupying all or part of a floor or floors in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare; if so provided in the declaration, a unit may include some portion of the land constituting a part of the condominium property and improvements thereon not a part of the common elements. A unit may include a series of buildings, not connected or part of same structure if such is the intent of the owners of the unit estate. This act, and any deed, declaration or plan for a condominium project shall be liberally construed to facilitate the establishment and operation of the project and provisions of any of the same shall be presumed to be independent and severable;

(c) "Unit designation" means the number, letter or combination thereof designating the unit in the declaration;

(d) "Building" means one or more buildings or structures comprising a part of the property;

(e) "Unit owner" means a person owning a unit within the building;

(f) "Person" means an individual, corporation, partnership, association, trust or other legal entity, or any combination thereof;

(g) "Unit ownership estate" means the ownership of single units in a multi-unit building together with an undivided interest in the common elements;

(h) "Common elements" means and includes the general common elements and limited common elements. The term common elements does not include unconstructed units unless otherwise specified in the declaration or by the consent of the owners pursuant to the Unit Ownership Estate Act;

(i) Unless otherwise provided in the declaration or by consent of all the unit owners, "general common elements" means and includes:

(1) The land, whether leased or in fee simple, on which the building stands and such other land and improvements thereon as may be specifically included in the declaration, except any portion thereof included in a unit;

(2) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building;

(3) The basements, yards, gardens, parking areas and storage spaces;

(4) The premises for the lodging of janitors or persons in charge of the property as hereinafter defined;

(5) Installations of central services such as power, light, gas, hot and cold water, heating refrigeration, air conditioning and incinerating;

(6) The elevators, tanks, pumps, motors, fans, compressors, ducts and in general, all apparatus and installations existing for common use;

(7) Such community and commercial facilities as may be provided for in the declaration; and

(8) All other elements of the property necessary or convenient to its existence, maintenance and safety, or normally in common use;

(j) "Limited common elements" means and includes those common elements which are agreed upon by all the unit owners to be reserved for the use of a certain number of units to the exclusion of the other units, such as special corridors, stairways and elevators, sanitary services common to the units of a particular floor, and the like;

(k) "Common expenses" means and includes:

(1) Expenses of administration, maintenance, repair or replacement of the common elements;

(2) Expenses agreed upon as common by all the unit owners;

(3) Expenses declared common by provisions of the act, or by the declaration or the bylaws;

(4) Expenses incident to limited common elements which shall be borne as provided by the declaration or the bylaws;

(l) "Common profits" means the balance of all income, rents, profits and revenues from the common elements and facilities remaining after the deduction of the common expenses;

(m) "Council of unit owners" means all the unit owners;

(n) "Majority of unit owners," means the owners of more than fifty percent (50%) of the aggregate interest in the general common elements as established by the declaration. Any specified percentage of unit owners means such percentage in the aggregate of such undivided ownership;

(o) "Recordation" means to file of record in the office of the county clerk in the county where the land is situated, in the manner provided by law for recordation of instruments affecting real estate;

(p) "Property" means and includes the land, whether leasehold or in fee simple, the building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto;

(q) "Declarant" means the owner or co-owners referred to in Section 502 of this title who originally submitted the property to the provisions of the Unit Ownership Estate Act by the filing of a declaration as provided in Section 502 of this title, and their successors who have been granted and have assumed the duties, obligations and privileges and rights reserved to the original declarant under the terms of the declaration;

(r) "Unconstructed unit" or "unconstructed building" means a unit or building as the case may be, which is owned by the declarant and shown on the plan attached to the declaration pursuant to Section 516 of this title, the construction of which has not been completed by the declarant at the time of recordation of the declaration. For purposes of this chapter a building is completed upon the completion of any unit in the building and a unit is completed when its construction is finished to the point that it is ready for occupancy.

Amended by Laws 1985, c. 137, § 1, eff. Nov. 1, 1985.

§60-504. Status and title created.

A unit ownership estate as created and defined in this act shall vest in the holder, exclusive ownership and possession; shall constitute an estate in real property which may be conveyed, encumbered, inherited, devised, or otherwise dealt with consistent with the laws of this state; and shall, for all purposes, be deemed in law to be an estate entirely independent of the other unit ownership estates in the building of which it forms a part. The individual title and interest of such estate shall be recorded in the manner provided by law for recording instruments affecting title

to real property. Such estate may be held and owned by more than one person, as defined herein, in any manner recognized under the laws of this state.

Laws 1963, c. 288, § 4.

§60-505. Undivided interest in common elements - Ratio.

A. Each unit owner shall be entitled to an undivided interest in the common elements in the ratio expressed in the declaration. Such ratio shall be in the approximate relation that the estimated fair value upon completion of the unit determined at the date of the declaration bears to the aggregate estimated fair value upon completion of all the units having an interest in such common elements.

B. The ratio of the undivided interest of each unit owner in the common elements as expressed in the declaration shall have a permanent character and shall not be altered except as specifically provided in the declaration pursuant to paragraph (i) of Section 514 of this title, or with the unanimous consent of all unit owners having an interest, expressed in an amended declaration duly recorded.

C. The undivided interest in the common elements and limited common elements set aside to the unit, shall not be separated from the unit to which same appertains and shall be deemed conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. The common elements and limited common elements shall not be conveyed separately from the unit.

Amended by Laws 1985, c. 137, § 2, eff. Nov. 1, 1985; Laws 1989, c. 273, § 2, eff. Nov. 1, 1989.

§60-506. Common elements to remain undivided - Partition actions prohibited.

The common elements, both general and limited, shall remain undivided and no unit owner shall bring any action for partition or division of any part thereof, except as specifically permitted in this Act. Any covenant to the contrary shall be null and void.

Laws 1963, c. 288, § 6.

§60-507. Use of common elements.

Each unit owner may use the common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other unit owners.

Laws 1963, c. 288, § 7.

§60-508. Strict compliance with rules and bylaws by unit owners.

Each unit owner shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto,

as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the declaration or in the deed to his unit. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, maintainable by the manager or board of managers on behalf of the council of unit owners or, in a proper case, by an aggrieved unit owner.  
Laws 1963, c. 288, § 8.

§60-509. Maintenance and repair of common elements - Additions or improvements.

The necessary work of maintenance and repair of the common elements and the making of any additions or improvements thereto, shall be carried out only as provided in the bylaws.  
Laws 1963, c. 288, § 9.

§60-510. Work jeopardizing soundness or safety of property prohibited without unanimous consent.

No unit owner shall do any work which would jeopardize the soundness or safety of the property or impair any easement or hereditament without in every such case the unanimous consent of all the other unit owners affected being first obtained.  
Laws 1963, c. 288, § 10.

§60-511. Liens against unit estates - Discharge.

(a) While the property remains subject to this act, no lien shall arise or be effective against the property as a whole, but only against each unit ownership estate and such lien shall attach in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership; provided, however, that no labor performed or materials furnished with the consent or at the request of a unit owner or his agent, his contractor, or subcontractor, shall constitute the basis for a mechanic's or materialmen's lien against the unit ownership estate or any other property of any other unit owner who has not expressly consented to or requested the same, except that for the purposes of this act such express consent shall be presumed to have been given by the unit owner in case of emergency repairs thereto. Labor performed or materials furnished for the common elements, if duly authorized by the council of unit owners or its duly authorized agent in accordance with this act, the declaration or bylaws shall be deemed to be performed or furnished with the express consent of each unit owner and shall constitute the basis for a mechanic's or materialmen's lien as now provided by law against each of the unit ownership estates in the property but shall be subject to the provisions of subparagraph (b) hereunder.



(b) When a lien against two or more unit owners is asserted, each unit owner may discharge his unit ownership estate from such lien by payment to the lienor of the fractional or proportional amount which is attributable to his unit ownership estate. Such individual obligation shall be computed by reference to the percentage of interest set forth in the declaration. Upon such payment or satisfaction of the lien claim, the unit ownership estate shall be free and clear of the lien claim but such release of the unit owner shall not prevent the lienor from proceeding to establish and enforce his rights against any other unit owner who has not so discharged his obligation to the lienor.  
Laws 1963, c. 288, § 11.

§60-512. Expense of administration and repair of common elements - Pro rata share - Exemptions.

(a) Except as provided in subsection (b) of this section the unit owners are bound to contribute pro rata, in the percentages computed according to Section 505 of this title, toward the expenses of administration and of maintenance and repair of the general common elements and, in proper cases, of the limited common elements, of the building and toward any other expense lawfully agreed upon.

(b) A declarant, by specific reservation, in the declaration as permitted by paragraph (j) of Section 514 of this title may:

1. Exempt unconstructed units within unconstructed buildings owned by declarant from payment of its pro rata share of the expenses described in subsection (a) of this section; and

2. Reserve the right to contribute less than its pro rata share of such expenses for unconstructed units within a completed building. Such expenses shall not be less than twenty percent (20%) of such pro rata share. The cost of administration and of maintenance, repair and insurance of any such unconstructed building and any such unconstructed unit shall be borne solely by the declarant until such time as such unconstructed unit and/or building has been completed. Upon such completion of a unit or building, the declarant's obligation for payment of the expenses described in this section shall be governed by subsection (a) of this section.

(c) Except as provided in subsection (b) of this section, no unit owner may exempt himself from contributing toward such expense by waiver of the use or enjoyment of the common elements or by abandonment of the unit belonging to him.

Amended by Laws 1985, c. 137, § 3, eff. Nov. 1, 1985.

§60-513. Common profits - Distribution.

The common profits of the property shall be distributed among the unit owners in the percentages computed according to Section 5 of this Act.

Laws 1963, c. 288, § 13.

§60-514. Declaration creating estate - Contents.

The declaration creating and establishing unit ownership estates as provided in Section 502 of this act title, shall be recorded and shall contain the following particulars:

(a) Description of the land,

(b) Description of the building, stating the number of stories and basements, the number of units, and the principal materials of which it is constructed,

(c) The unit designation of each unit, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification,

(d) Description of the general common elements and the proportionate interest of each unit owner therein,

(e) Description of the limited common elements, if any, stating which units shall share the same and in what proportion,

(f) The name of a person to receive service of process in the cases hereinafter provided together with the residence or place of business of such person which shall be within the county in which the property is located,

(g) The method which the declaration may be amended, consistent with the provisions of this act,

(h) Any other details or restrictions in connection with the property which the person executing the declaration may deem desirable to set forth;-. ,

(i) The declarant by a specific provision in the declaration may reserve the right to annex additional property to the property which was submitted to the Unit Ownership Estate Act under the original declaration. If such right is reserved, the declaration shall also include:

(1) The legal description of the property capable of being annexed, and the total number of units that may be added by one or more such annexations;

(2) The time limit within which the annexation shall take place from the recordation date of the original declaration;

(3) A requirement that all improvements intended for the property of each annexation shall be substantially complete prior to each such annexation;

(4) The formula for determining the undivided interest of each unit owner in the total common elements after each such annexation, which formula may not be changed without the unanimous consent of all the unit owners, and which formula shall be reasonably expected to result in a ratio of the approximate relation of the value of each unit after each annexation as it bears to the aggregate fair value of all units after each such annexation;

(5) A description of the annexation document to be executed and recorded by the declarant which shall not require the consent of the unit owners. The annexation document shall state the undivided interest of each unit owner in the common elements for each unit which is a part of the total property after such annexation. However, such undivided interest may be later changed in accordance with the act by a later annexation;

(6) A requirement that the improvements on the property to be annexed will be consistent with the improvements of the property originally submitted to the declaration in terms of quality and construction; and (j) The specific formula for determining the amount of contribution to be made by the declarant for unconstructed units and/or unconstructed buildings if such contribution is less than the pro rata contribution of the expenses described in subsection (a) of Section 512 of this title.

Amended by Laws 1985, c. 137, § 4, eff. Nov. 1, 1985.

#### §60-515. Deeds conveying estates - Recording - Contents.

A. Deeds conveying unit ownership estates shall be recorded and shall contain the following particulars:

1. The unit designation, whether contained in the original declaration, or in an amended, restated or supplementary declaration, which shall be identified by date, book and page of recording; and

2. Any further details which grantor and grantee may deem desirable.

B. Deeds executed in compliance with this section shall be sufficient to identify the interest conveyed or encumbered and shall be entitled to be recorded in the office of the county clerk, in the same manner as other documents relating to real property are recorded.

Laws 1963, c. 288, § 15.

#### §60-515.1. Instruments and liens - Effectiveness.

Any deed, mortgage or other instrument purporting to convey, mortgage or encumber a unit ownership estate, or an interest in a unit ownership estate, is effective only as to any unit in the unit ownership estate in which the maker of such instrument owns an interest of record at the time such conveyance or encumbrance is received for filing by the county clerk, provided, a purchase money mortgage shall be deemed to create a valid lien upon such of the units described in the mortgage as are also described in the concurrent conveyances to the mortgagor. Such instrument shall not impair or otherwise encumber title to any interest in the unit ownership estate not owned of record by the maker thereof at the time of such conveyance or encumbrance.

Added by Laws 1989, c. 273, § 4, eff. Nov. 1, 1989.

§60-516. Plans attached to declarations.

There shall be attached to the declaration, at the time it is filed for record, a full and exact copy of the plans of the building, which copy of plans shall be entered of record along with the declaration. Said plans shall show graphically all particulars of the building, including but not limited to, the dimensions, area and location of each unit therein and the dimensions, area and location of common elements affording access to each unit. Other common elements, both limited and general, shall be shown graphically insofar as possible and shall be described in detail in words and figures. Said plans shall be certified to by an engineer or architect, whichever is appropriate to the project, who is authorized and licensed to practice his profession in this State. Laws 1963, c. 288, § 16.

§60-517. Removal of property from provisions of act.

The unit owners, by unanimous action, may remove a property from the provisions of this act by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to an undivided interest in the property.

Upon removal of the property from the provisions of this act, the property shall be deemed to be owned in common by the unit owners. The undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common elements and facilities.

Laws 1963, c. 288, § 17.

§60-518. Resubmission of property to provisions of act.

The removal provided for in the preceding section shall in no way bar the subsequent resubmission of the property to the provisions of this act.

Laws 1963, c. 288, § 18.

§60-519. Administration of property to be governed by bylaws.

A. The administration of every property shall be governed by bylaws, a true copy of which shall be annexed to the declaration and to the first deed of each unit. The bylaws may be detached from the deed prior to recording if the bylaws are filed of record and described on said deed by reference to book and page, or if the grantee shall certify on the first deed that the bylaws were so annexed and detached prior to recording.

B. Any first deed to a unit prior to the effective date of this act without a copy of the bylaws attached, shall be deemed to have complied with the provisions of this section.  
Laws 1963, c. 288, § 19.

§60-520. Necessary contents of bylaws.

The bylaws must necessarily provide for at least the following: (a) Form of manner of removal and, where proper, the compensation therefor.

(b) Method calling or summoning the unit owners to assemble; that a majority of unit owners, as defined in Section 3(n) of this act, is required to adopt decisions; who is to preside over the meeting and who will keep the minute book wherein the resolutions shall be recorded,

(c) Care, upkeep and surveillance of the building and its general or limited common elements and services.

(d) Manner of collecting from the unit owners for the payment of the common expenses,

(e) Designation and dismissal of the personnel necessary for the maintenance, upkeep and repair of the common elements,

(f) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common elements, not set forth in or appended to the declaration, as are designed to prevent unreasonable interference with the use of their respective units and of the common elements by the several unit owners,

(g) That seventy-five percent (75%) of the unit owners, computed on the basis set forth in Section 3(n) of this act, may at any time modify or amend the bylaws, but each one of the particulars set forth in this Section shall always be embodied in the bylaws. Such modification or amendment shall not become operative unless set forth in an amended declaration and duly recorded.

Laws 1963, c. 288, § 20.

§60-521. Maintenance and examination of books and receipts of expenditures.

The administrator, or the board of administration, or other form of administration specified in the bylaws, shall keep a book with a detailed account, in chronological order, of the receipts and expenditures affecting the common elements specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. Both said book and the vouchers accrediting the entries made thereupon shall be available for examination by all the unit owners at convenient hours on working days that shall be set and announced for general knowledge.

Laws 1963, c. 288, § 21.

§60-522. Homestead exemptions applicable.

The laws relating to homestead exemption from taxes by a political subdivision of this state and the laws relative to homestead exemption from attachment, execution, or other forced sale shall be applicable to a unit ownership estate with the same force and effect as they are now or shall hereafter be applicable to other estate in real property; and the benefit of homestead exemption shall extend to the holder of a unit ownership estate in all those cases where the owner of a single family dwelling would qualify therefor. The title holder in a unit ownership estate shall be entitled, if otherwise qualified, to a homestead exemption from ad valorem tax, if the land upon which the building is located is held in fee simple.

Laws 1963, c. 288, § 22.

§60-523. Assessment of taxes, special assessments and other charges - Liability.

Each unit, together with its proportionate interest in the common elements, shall constitute a separate and distinct unit for the purpose of assessment of taxes, special assessments, and other charges which may be lawfully assessed against owners of real property, and each holder of a unit ownership estate shall be liable solely for the amount of taxes against his individual estate and shall not be affected by the consequences resulting from the tax delinquency of other unit holders.

Laws 1963, c. 288, § 23.

§60-524. Liens for unpaid share of common expenses - Priorities - Enforcement.

(a) All sums assessed by the council of unit owners for the share of the common expenses chargeable to any unit which sums remain unpaid shall constitute a lien on such unit prior to all other liens except the following:

1. Assessments, liens, and charges for taxes past due and unpaid on the unit,
2. Judgments entered in a court of record prior to the date of common expense assessment,
3. Mortgage instruments of encumbrance duly recorded prior to the date of such assessment,
4. Mechanic's and materialmen's liens arising from labor performed or materials furnished upon a unit prior to the date of such assessment, and
5. Mechanic's and materialmen's liens for labor performed or material furnished upon the common elements to the extent (sic) of the proportionate part chargeable to the unit owners which constitute a part of an assessable charge for common expenses satisfaction of which shall discharge the assessment to the extent of the payment made.

(b) The assessment lien may be foreclosed by suit instituted by the council of unit owners or a duly authorized agent thereof in like manner as an action for foreclosure of a mortgage upon real property. In any such foreclosure proceedings, the unit owner shall be required to pay a reasonable rental for the use of his unit, if so provided in the bylaws and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The council of unit owners, or their authorized agent, shall have power, unless prohibited by the declaration, to bid in at the foreclosure sale and to acquire and hold, lease, mortgage and convey the unit ownership estate acquired at the foreclosure sale. Suit to recover money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

(c) Upon sale or conveyance of a unit encumbered by an assessment lien, such lien shall be paid first, out of the sale proceeds or by the grantee, subject only as aforesaid.

(d) Where the holder of a first mortgage of record or other purchaser obtains title to the unit ownership estate as a result of foreclosure of the first mortgage, such acquirer of title shall not be liable for the share of the common expenses or assessments by the council of unit owners chargeable to such unit which became due prior to acquisition of title to such unit by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all the unit owners, including such acquirer.

Laws 1963, c. 288, § 24.

§60-525. Joint and several liability of grantor and grantee for unpaid common expenses.

The grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor therefor. However, any such grantee shall be entitled to a statement from the manager or Board of managers, as the case may be, setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for any unpaid assessments in excess of the amount therein set forth.

Laws 1963, c. 288, § 25.

§60-526. Insurance.

The unit owners may, upon resolution of a majority, insure the property against risks, without prejudice to the right of each unit owner to insure his unit on his own account and for his own benefit. The premiums for such insurance on the property shall be deemed

common expenses except with respect to the units exempted by the declarant pursuant to subsection (b) of Section 512 of this title in which event the insurance premiums on such units shall be paid by the declarant as provided in subsection (b) of Section 512 of this title. The declarant and the council of unit owners may agree by separate contract to insure the unconstructed buildings and/or units under the same master policy of insurance as the council of unit owners may have obtained for the property, as their respective interests may appear, in which event the portion of the premiums charged for insuring said unconstructed buildings and/or unconstructed units shall be borne by the declarant. Amended by Laws 1985, c. 137, § 5, eff. Nov. 1, 1985.

§60-527. Damage or destruction of building - Repair or restoration- Deficiency assessments - Distribution of funds.

Except as hereinafter provided, damage to or destruction of the building shall be promptly repaired and restored by the manager or board of managers, using the proceeds of insurance, if any, on the building for that purpose, and the unit owners shall be liable for assessment for any deficiency except in the case of an unconstructed building which may be insured under a master policy of insurance as described in Section 526 of this title, in which event the declarant shall be liable for any deficiency relating to such unconstructed building. If there is substantially total destruction of the property, or if seventy-five percent (75%) of the unit owners computed on the basis set forth in Section 503 of this title duly resolve not to proceed with repair or restoration, then and in that event the property or so much thereof as shall remain, shall be subject to partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of insurance policies, if any, shall be considered as one fund except for the declarant in respect to uncompleted units on which declarant is not making the pro rata contribution described in subsection (a) of Section 512 of this title, said fund shall be divided among all the unit owners in proportion to their respective undivided ownership of the common elements, after first paying off, out of the respective shares of unit owners, to the extent sufficient for that purpose, all liens on the unit of each unit owner. With respect to uncompleted units or uncompleted buildings for which the declarant is not making pro rata contributions pursuant to subsection (b) of Section 512 of this title, the declarant shall not receive its portion of said fund according to its respective undivided ownership in the common elements but shall receive net proceeds of sale according to the formula described in paragraph (j) of Section 514 of this title and such proceeds of insurance, if any, attributable to said uncompleted buildings and/or uncompleted units under a master policy of insurance as permitted in Section 526 of this



title. The manager, or board of managers, as the case may be, and their agents and employees shall have an easement to enter units to make repairs to common elements or when the repairs reasonably appear to be necessary for public safety or to prevent damage to property other than the unit.

Amended by Laws 1985, c. 137, § 6, eff. Nov. 1, 1985.

§60-528. Obsolete property.

Ninety percent (90%) of the unit owners computed on the basis set forth in Section 503 of this title may agree that the property is obsolete in whole or in part and whether or not the same shall be renewed and restored or the property sold and the proceeds of sale distributed. If such percent of the unit owners agree to renew and restore the property, then the expense thereof shall be payable by all the unit owners as common expenses. If, however, such percent of the unit owners agree that the property be sold, then the property shall be subject to partition at the suit of any unit owner, in which event the net proceeds of sale shall be divided among all the unit owners in proportion to their respective undivided ownership of the common elements, after first paying off out of the respective shares of the unit owners, all liens on the unit of each unit owner except a declarant not making pro rata contributions pursuant to subsection (b) of Section 512 of this title shall receive a reduced share of the proceeds in accordance with the same formula described in paragraph (j) of Section 514 of this title.

Amended by Laws 1985, c. 137, § 7, eff. Nov. 1, 1985.

§60-529. Actions relating to common elements.

Actions may be brought on behalf of two or more of the unit owners, as their respective interests may appear, by the manager or board of managers, with respect to any cause of action relating to the common elements or more than one unit. Service of process on two or more unit owners in any action relating to the common elements or more than one unit may be made on the person designated in the declaration to receive service of process.

Laws 1963, c. 288, § 29.

§60-530. Persons subject to act.

(a) All unit owners, tenants of such owners, employees of owners and tenants, or any other persons that may in any manner use property or any part thereof submitted to the provisions of this act, shall be subject to this act and to the declaration and bylaws of the council of unit owners adopted pursuant to the provisions of this act.

Laws 1963, c. 288, § 30.

§60-601. "Charity" defined.

As used in this act, the term "charity" means any gift, to be applied consistently with law, for the benefit of an indefinite number of persons, through the provision of facilities or aid in any way to education or educational activities or the advancement and diffusion of science and learning, to religion or religious activities, to the relief or comfort of the poor, the sick, or the afflicted, to the public welfare in any form, to the support or aid of the government or of any program or activity of the government, state, local, or national, or to any other form of activity directed toward the improvement and happiness of man or society.

Added by Laws 1965, c. 87, § 1, emerg. eff. May 5, 1965.

§60-602. Cy pres doctrine.

If a trust for charity is or becomes illegal or impossible or impracticable of fulfillment, or if a devise or bequest for charity, at the time it was intended to become effective, is illegal or impossible or impracticable of fulfillment and if the settlor or the testator manifested a general intention to devote the property to charity, any court of this state possessing general equitable jurisdiction, on the application of any trustee or of any interested party or of the Attorney General, may order an administration of the trust, devise, or bequest as nearly as possible to fulfill the general charitable intention of the settlor or testator.

Laws 1965, c. 87, § 2, emerg. eff. May 5, 1965.

§60-651. Definitions.

As used in the Uniform Unclaimed Property Act, unless the context otherwise requires:

1. "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder;

2. "Attorney General" means the chief legal officer of this state;

3. "Banking organization" means any bank, trust company, savings bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization;

4. "Business association" means a non-public corporation, joint-stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals whether or not for profit, including a banking organization, financial organization, insurance company, or utility;

5. "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person;

6. "Financial organization" means a savings and loan association, building and loan association, or credit union;

7. "Holder" means a person, wherever organized or domiciled, who is:

- a. in possession of property belonging to another,
- b. a trustee, or
- c. indebted to another on an obligation;

8. "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accidental, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance;

9. "Intangible property" includes:

- a. money, checks, drafts, deposits, interest, dividends, and income,
- b. credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances,
- c. stocks and other intangible ownership interests in business associations,
- d. monies deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions,
- e. amounts due and payable under the terms of insurance policies, and
- f. amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, education or similar benefits;

10. "Last-known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail;

11. "Memorandum" shall include a mark, symbol or statement indicating knowledge of or interest in funds on deposit;

12. "Mineral proceeds" includes:

- a. all obligations to pay mineral proceeds resulting from the production and sale of minerals, including net revenue interest, royalties, overriding royalties, production payments, and payments under joint operating agreements, and
- b. all obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties;

13. "Museum" means an institution which is located in this state and operated by a nonprofit corporation or a public agency primarily for educational, scientific, historic preservation or

aesthetic purposes, and which owns, borrows, cares for, exhibits, studies archives or catalogues property. "Museum" includes, but is not limited to, historical societies, historical sites or landmarks, parks, monuments and libraries;

14. "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to the Uniform Unclaimed Property Act or the person's legal representative. Where more than one person is an owner, the property shall not be presumed abandoned unless it has remained unclaimed by all of its owners for the periods hereinafter prescribed;

15. "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity;

16. "State" means any state, district, commonwealth, territory, insular possession, or other area subject to the legislative authority of the United States;

17. "State Treasurer" or "Treasurer" means the duly elected and acting State Treasurer of Oklahoma;

18. "Tax Commission" or "Commission" means the Oklahoma Tax Commission; and

19. "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

Added by Laws 1967, c. 107, § 1, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 1, eff. Sept. 1, 1991; Laws 1992, c. 404, § 1, emerg. eff. June 11, 1992; Laws 1999, c. 10, § 2, eff. July 1, 1999; Laws 2012, c. 131, § 1, eff. Nov. 1, 2012.

§60-651.1. Sum payable on traveler's check, money order or other similar written instrument - Presumption of abandonment.

(a) Subject to subsection (d) of this section and except as hereinafter provided, any sum payable on a travelers check that has been outstanding for more than fifteen (15) years after its issuance is presumed abandoned unless the owner, within fifteen (15) years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer. No travelers check shall be presumed to be abandoned if the holder has sent a statement or other business communication concerning the travelers check to the owner by first-class mail and the statement

or other business communication has not been returned for inability to make delivery to the addressee. The fifteen-year abandonment period shall begin to run when any statement or other business communication to the owner has been returned as undeliverable, or on the last date that the owner has communicated with the holder in any of the ways specified in this subsection, whichever is later. For purposes of this section, the issuer shall be the entity responsible for the payment of the travelers check.

(b) Subject to subsection (d) of this section, any sum payable on a money order or similar written instrument, other than a third-party bank check, that has been outstanding for more than seven (7) years after its issuance is presumed abandoned unless the owner, within seven (7) years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(c) A holder may not deduct from the amount of a travelers check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them.

(d) No sum payable on a travelers check, money order, or similar written instrument, other than a third-party check, described in subsections (a) and (b) of this section may be subjected to the custody of this state as unclaimed property unless:

- (1) the records of the issuer show that the travelers check, money order, or similar written instrument was purchased in this state;
- (2) the issuer has its principal place of business in this state and the records of the issuer do not show the state in which the travelers check, money order, or similar written instrument was purchased; or
- (3) the issuer has its principal place of business in this state, the records of the issuer show the state in which the travelers check, money order, or similar written instrument was purchased and the laws of the state of purchase either do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

(e) Notwithstanding any other provisions of this act, subsection (d) of this section applies to sums payable on travelers checks, money orders, and similar written instruments presumed abandoned on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

Added by Laws 1991, c. 331, § 2, eff. Sept. 1, 1991.

§60-651.2. Sum payable on check, certified check, cashier's check, draft, or similar instrument - Presumption of abandonment - Burden of proof - Affirmative defenses.

A. Any sum payable on a check, certified check, cashier's check, draft, or similar instrument, except those subject to Section 651.1 of this title, on which a banking or financial organization is directly liable, which has been outstanding for more than five (5) years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within five (5) years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record, on file, prepared by an employee thereof.

B. A record of the issuance of a check, draft, or similar instrument shall be prima facie evidence of an obligation.

C. The burden of proof upon the State Treasurer in claiming property from a holder, who is also the issuer, shall be satisfied by demonstrating the issuance of the instrument and the passage of the requisite period of abandonment as provided in subsection A of this section.

D. The holder may assert affirmative defenses of:

1. Payment;
2. Satisfaction;
3. Discharge; and
4. Want of consideration.

Added by Laws 1991, c. 331, § 3, eff. Sept. 1, 1991. Amended by Laws 2010, c. 241, § 1, emerg. eff. May 10, 2010.

§60-652. Property held by banking or financial organizations.

A. Any demand, savings, or matured time deposit with a banking or financial organization, and any funds paid toward the purchase of a share, funds paid toward a mutual investment certificate, or funds paid toward any other interest in a banking or financial organization is presumed abandoned, unless the owner, within five (5) years has:

1. In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;
2. Communicated in writing with the banking or financial organization concerning the property;
3. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;
4. Owned other property to which the provisions of paragraph 1, 2 or 3 of this subsection apply and if the banking or financial

organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property are regularly sent; or

5. Had another relationship with the banking or financial organization concerning which the owner has:

- a. communicated in writing with the banking or financial organization, or
- b. otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

If a banking or financial organization has sent a statement or other business communication concerning such property to the owner by first-class mail and the statement or other business communication has not been returned for inability to make delivery to the addressee, the property shall not be presumed to be abandoned. The five-year abandonment period shall begin to run when any statement or other business communication to the owner has been returned as undeliverable, or on the last date that the owner has communicated with the banking or financial organization in any of the ways specified in paragraphs 1 through 5 of this subsection, whichever is the later.

B. For purposes of subsection A of this section, "property" includes interest and dividends.

C. A holder may not impose with respect to property described in subsection A of this section any charge due to dormancy or inactivity or cease payment of interest unless:

1. Reasonable notice that the holder may impose the charge or cease payment of interest is given to the owner of the property, either:

- a. at the time the account is opened,
- b. through a schedule of charges sent to the owner of the property, or
- c. through a statement in the rules, regulations, or bylaws of the holder that the holder may impose the charge or cease payment of interest; and

2. The holder regularly imposes such charges or ceases payment of interest. If the holder regularly reverses or otherwise cancels such charges or retroactively credits interest for a reason other than an error or omission by the holder, then in proportion to the extent that it does so with respect to other deposits, the holder shall likewise reverse or otherwise cancel charges or retroactively

credit interest with respect to property that is reported to the State Treasurer as unclaimed under the Uniform Unclaimed Property Act.

D. Automatically renewable time deposits shall be subject to this section, except that automatically renewable time deposits shall be presumed abandoned fifteen (15) years following the expiration of the initial time period of the time deposit unless, during that period the owner has:

1. Increased or decreased the amount of the deposit;
2. Communicated in writing with the banking or financial organization concerning the property;
3. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization; or
4. Had another relationship with the banking or financial organization concerning which the owner has:
  - a. communicated in writing with the banking or financial organization, or
  - b. otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this section at the address to which communications regarding the other relationship are regularly sent.

Upon presumed abandonment of the automatically renewable time deposit, the holder shall report the presumed abandonment to the State Treasurer and may, at the holder's option, either retain the property or pay or deliver it to the State Treasurer.

Added by Laws 1967, c. 107, § 2, emerg. eff. April 24, 1967.

Amended by Laws 1980, c. 304, § 1, eff. Oct. 1, 1980; Laws 1982, c. 278, § 1, eff. Jan. 1, 1983; Laws 1991, c. 331, § 4, eff. Sept. 1, 1991; Laws 1999, c. 10, § 3, eff. July 1, 1999; Laws 2008, c. 108, § 1, emerg. eff. May 2, 2008.

§60-653. Funds held or owing under life or endowment insurance policy or annuity contract.

(a) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than five (5) years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in paragraph (2) of subsection (c) of this section is presumed abandoned if unclaimed for more than two (2) years.

(b) If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the



company or it is not definite and certain from the records who is entitled to the funds, it is presumed that the last-known address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company.

(c) For purposes of this act, a life or endowment insurance policy or annuity contract not matured by actual proof of death of the insured according to the records of the company is matured and the proceeds due and payable if:

- (1) the company knows that the insured or annuitant has died; or
- (2) (A) the insured has attained, or would have attained if he were living, the limiting age under the mortality table on which the reserve is based;  
(B) the policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph (A) of this paragraph; and  
(C) neither the insured nor any person appearing to have an interest in the policy within the preceding two (2) years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to loan, or corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

(d) For purposes of this act, the application of an automatic premium loan provision or other nonforfeiture provisions contained in an insurance policy does not prevent a policy from being matured or terminated under subsection (a) of this section if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.

(e) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or the owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last-known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(f) Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four (4) months after

the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(g) Every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of the state shall include, but not be limited to:

- (1) the name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;
- (2) the address of each beneficiary;
- (3) the relationship of each beneficiary to the insured;

(h) With respect to any funds held or owing under any life or endowment insurance policy or annuity contract presumed abandoned pursuant to this section or property distributable in the course of a demutualization or reorganization of an insurance company pursuant to Section 653.1 of this title, the insurance company holding or owing such funds shall provide any information reasonably requested by the State Treasurer, if such information is reasonably available, to assist the State Treasurer in its consideration of a claim pursuant to Section 675 of this title.

Added by Laws 1967, c. 107, § 3. Amended by Laws 1982, c. 278, § 2, eff. Jan. 1, 1983; Laws 1991, c. 331, § 5, eff. Sept. 1, 1991; Laws 2006, c. 233, § 1, eff. Nov. 1, 2006.

§60-653.1. Abandoned property - Demutualization or related reorganization of insurance company.

Property distributable in the course of a demutualization or related reorganization of an insurance company shall be deemed abandoned as follows:

1. Any funds, two (2) years after the date of the demutualization or reorganization, if there is no memorandum or other record on file with the holder or its agent evidencing the owner's communication with the holder or its agent within two (2) years following the date of the demutualization or reorganization, and:
  - a. a check is mailed to the last-known address of the owner by the holder or its agent and the funds remain unclaimed by the owner,
  - b. a check is mailed to the last-known address of the owner by the holder or its agent and returned by the post office as undeliverable, or
  - c. a check is not mailed to the owner because the last-known address on the books and records of the holder is known to be invalid;
2. Any stock or equity interest, two (2) years after the date of the demutualization or reorganization, if there is no memorandum or other record on file with the holder or its agent evidencing the

owner's communication with the holder or its agent within two (2) years following the date of the demutualization or reorganization, and instruments or statements reflecting the distribution are:

- a. mailed to the last-known address of the owner by the holder or its agent and returned by the post office as undeliverable, or
- b. not mailed to the owner because the last-known address on the books and records of the holder is known to be invalid;

3. Property distributable in the course of demutualization or related reorganization not subject to paragraphs 1 or 2 of this section within two (2) years of the distribution shall remain reportable under other sections of this chapter;

4. A report of property presumed abandoned pursuant to this section must be filed in accordance with Section 661 of Title 60 of the Oklahoma Statutes. The initial report for property distributable in the course of demutualization, rehabilitation, or related reorganization of an insurance company shall be filed on or before November 1, 2004, with respect to conditions in effect on December 31, 2003, and all property shall be determined to be reportable under this section as if this section were in effect on the date of the demutualization, rehabilitation, or related reorganization of an insurance company.

Added by Laws 2004, c. 318, § 1, eff. July 1, 2004.

§60-654. Deposit held by utility.

A deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one (1) year after termination of the services for which the deposit or advance payment was made is presumed abandoned.

Added by Laws 1967, c. 107, § 4. Amended by Laws 1982, c. 278, § 3, eff. Jan. 1, 1983; Laws 1991, c. 331, § 6, eff. Sept. 1, 1991.

§60-654.1. Sum business association ordered to refund by court or administrative agency.

Except to the extent otherwise ordered by the court or administrative agency, any sum that a business association has been ordered to refund by a court or administrative agency which has remained unclaimed by the owner for more than one (1) year after it became payable in accordance with the final determination or order providing for the refund, whether or not the final determination or order requires any person entitled to a refund to make a claim for it, is presumed abandoned.

Added by Laws 1991, c. 331, § 7, eff. Sept. 1, 1991.

§60-655. Stock or other equity interest in business association - Unmatured or matured debt.

A. 1. Stock or other equity interest in a business association is presumed unclaimed three (3) years after the earliest of:

- a. The date of the most recent dividend, stock split, or other distribution unclaimed by the apparent owner, or
- b. The date a statement of account or other notification or communication was returned as undeliverable.

This subsection applies to both the underlying stock, share, or other intangible ownership interest of an owner, and to the stock, share, or other intangible ownership interest in dividend and nondividend paying business associations whether or not the interest is represented by a certificate.

2. Except as otherwise provided in Section 657 of this title, unmatured or unredeemed debt, other than a bearer bond or an original issue discount bond, is presumed unclaimed three (3) years after the date of the most recent interest payment unclaimed by the owner.

3. Except as otherwise provided in Section 657 of this title, matured or redeemed debt is presumed unclaimed three (3) years after the date of maturity or redemption.

4. At the time property is presumed unclaimed under paragraph 1 or 2 of this subsection, any other property right accrued or accruing to the owner as a result of the property interest and not previously presumed unclaimed is also presumed unclaimed.

5. A stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest shall not be presumed to be abandoned if the holder has sent a statement or other business communication concerning such property to the owner by first-class mail and the statement or other business communication has not been returned for inability to make delivery to the addressee.

B. 1. The running of any three-year period pursuant to subsection A of this section ceases if the person:

- a. communicates in writing with the association or its agent regarding the interest or a dividend, distribution, or other sum payable as a result of the interest,
- b. otherwise communicates with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association or its agent, or
- c. presents an instrument issued to pay interest or a dividend or other cash distribution. If any future dividend, distribution, or other sum payable to the

owner as a result of the interest is subsequently not claimed by the owner, a new period in which the property is presumed unclaimed commences and relates back only to the time a subsequent dividend, distribution, or other sum became due and payable.

C. Any dividend, profit, distribution, interest, redemption, payment on principal, or other sum held or owing by a business association for or to its shareholder, certificate holder, member, bondholder, or other security holder, who has not claimed it, or corresponded in writing with the business association concerning it, within three (3) years after the date prescribed for payment or delivery, is presumed unclaimed.

D. The Uniform Unclaimed Property Act shall not apply to patronage dividends, capital credits, customer deposits or non-negotiated payment checks held or owing by cooperative electric power or telephone associations organized under the Rural Electric Cooperative Act and the Telephone Cooperative Corporations Act, rural water, sewer, gas and solid waste management districts organized under the Rural Water, Sewer, Gas and Solid Waste Management Districts Act, or agricultural cooperative marketing or supply associations organized under the Cooperative Marketing Association Act; when such associations are domiciled in Oklahoma. Added by Laws 1967, c. 107, § 5, emerg. eff. April 24, 1967. Amended by Laws 1982, c. 278, § 4, eff. Jan. 1, 1983; Laws 1985, c. 146, § 1, emerg. eff. June 10, 1985; Laws 1990, c. 102, § 3, operative July 1, 1990; Laws 1991, c. 331, § 8, eff. Sept. 1, 1991; Laws 1999, c. 10, § 4, eff. July 1, 1999; Laws 2005, c. 124, § 1, eff. Nov. 1, 2005.

§60-655.1. Intangible property distributable in course of dissolution of business corporation.

Intangible property distributable in the course of a dissolution of a business association which remains unclaimed by the owner for more than one (1) year after the date specified for final distribution is presumed abandoned.

Added by Laws 1991, c. 331, § 9, eff. Sept. 1, 1991.

§60-656. Property or funds held by fiduciary.

A. Intangible property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within seven (7) years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary.

B. Holders of presumed abandoned intangible property shall annually report and remit all proceeds accrued to date, including

the current balance held by the holder. When and if any part of the proceeds has been held for the statutory abandonment period or longer, the holder must report and remit all interest, additions, and increments accrued to the account of the owner. Any additional amounts accruing to an owner of the same intangible property presumed abandoned previously reported will be reported and remitted on an annual basis, including the additional amounts from the "as of date" of the previous report year through the "as of date" of the current report year.

In no event shall mineral interest proceeds be required to be reported or remitted sooner than six (6) months after the date of first sale from the applicable well.

C. Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established under the Internal Revenue laws of the United States are not payable or distributable within the meaning of subsection A of this section unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

D. For the purpose of this section, a person who holds property as an agent for a business association is deemed to hold the property in a fiduciary capacity for that business association alone, unless the agreement between the person and the business association provides otherwise.

E. For the purposes of this act, a person who is deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

Added by Laws 1967, c. 107, § 6, emerg. eff. April 24, 1967.

Amended by Laws 1982, c. 278, § 5, eff. Jan. 1, 1983; Laws 1991, c. 331, § 10, eff. Sept. 1, 1991; Laws 2003, c. 224, § 4, eff. July 1, 2003; Laws 2004, c. 318, § 2, eff. July 1, 2004.

§60-657. Property held by courts, public officers and agencies.

Intangible property held for the owner by a court, state or other government, governmental subdivision or agency, public corporation, or public authority which remains unclaimed by the owner for more than one (1) year after becoming payable or distributable is presumed abandoned.

Laws 1967, c. 107, § 7, emerg. eff. April 24, 1967; Laws 1991, c. 331, § 11, eff. Sept. 1, 1991.

§60-657.1. Credit memo issued in ordinary course of business.

(a) A credit memo issued in the ordinary course of an issuer's business which has a value of more than Fifty Dollars (\$50.00) and

remains unclaimed by the owner for more than five (5) years after becoming payable or distributable is presumed abandoned.

(b) With regard to a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo. In applying the Fifty Dollar (\$50.00) limitation, individual credit memos to the same owner shall not be aggregated.

Added by Laws 1991, c. 331, § 12, eff. Sept. 1, 1991.

§60-657.2. Unpaid wages owing in ordinary course of business.

Unpaid wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business which remain unclaimed by the owner for more than one (1) year after becoming payable are presumed abandoned.

Added by Laws 1991, c. 331, § 13, eff. Sept. 1, 1991.

§60-657.3. Personal property held in safe deposit box or other safekeeping repository.

All tangible and intangible personal property held in a safe deposit box or other safekeeping repository in this state in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remain unclaimed by the owner for more than five (5) years after the lease or rental period on the box or other repository has expired, are presumed abandoned.

Added by Laws 1991, c. 331, § 14, eff. Sept. 1, 1991.

§60-657.4. Intangible property - Presumption of abandonment.

A. All intangible property, including but not limited to securities, principal, interest, dividends or other earnings thereon, less any lawful charges, held by a business association, federal, state or local government or governmental subdivision, agency or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed such property or corresponded in writing with the holder concerning the property within three (3) years after the date prescribed for payment or delivery by the issuer, unless the holder is a state that has taken custody pursuant to its own unclaimed property laws, in which case no additional period of holding beyond that of such state is necessary hereunder, is presumed abandoned and subject to the custody of this state as unclaimed property if:

1. The last-known address of the owner is unknown; and
2. The person or entity originating or issuing the intangible property is in this state or any political subdivision of this state, or is incorporated, organized, created or otherwise located in this state.

B. The provisions of subsection A of this section shall not apply to property which is or may be presumed abandoned and subject

to the custody of this state pursuant to any other provision of law containing a dormancy period different than that prescribed in subsection A of this section.

C. The provisions of subsection A of this section shall apply to all property held at the time of the effective date of this act, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.

Added by Laws 1992, c. 295, § 27, eff. July 1, 1992. Amended by Laws 2000, c. 136, § 4, eff. July 1, 2000.

§60-658. Miscellaneous personal property held for another.

A. Except as otherwise provided in the Uniform Unclaimed Property Act, all intangible personal property, including income or increment derived from the property, less any lawful charges, that is held, issued, or owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than five (5) years after becoming payable or distributable is presumed abandoned.

B. Holders of presumed abandoned intangible property shall report annually and remit all proceeds accrued to date, including the current balance held by the holder. When and if any part of the proceeds has been held for the statutory abandonment period or longer, the holder must report and remit all interest, additions, and increments accrued to the account of the owner. Any additional amounts accruing to an owner of the same intangible property presumed abandoned previously reported will be reported and remitted on an annual basis, including additional amounts from the "as of date" of the previous report year through the "as of date" of the current report year.

C. In no event shall mineral interest proceeds be required to be reported or remitted sooner than six (6) months after the date of first sale from the applicable well.

D. Property is payable or distributable for the purposes of this act notwithstanding the owner's failure to demand the property or to present an instrument or document required to receive payment of the property.

Added by Laws 1967, c. 107, § 8, emerg. eff. April 24, 1967.

Amended by Laws 1982, c. 278, § 6, eff. Jan. 1, 1983; Laws 1991, c. 331, § 15, eff. Sept. 1, 1991; Laws 2003, c. 224, § 5, eff. July 1, 2003; Laws 2004, c. 318, § 3, eff. July 1, 2004.

§60-658.1. Mineral interests in land.

Any mineral interest in land in Oklahoma shall be subject to sale under the provisions of Sections 271.1 through 277 of Title 84 of the Oklahoma Statutes if it generates an intangible property interest which is presumed abandoned for a period of fifteen (15)



years under the Uniform Unclaimed Property Act or under similar laws of another state.

All holders of intangible property interests generated by a mineral interest in land in Oklahoma shall report to the State Treasurer, in addition to the reporting otherwise required by law, the names and the last-known addresses of owners of record of the unclaimed mineral interest, the legal description of the land affected, and the extent of the property rights in the mineral interest. Only one report with respect to each owner and mineral interest is necessary; subsequent reports must include complete information with respect to all new owners and new unclaimed mineral interests.

The State Treasurer shall send a copy of the report required by this section to the Attorney General and the district attorney of the county in which the land is located. Except to a claimant of the unclaimed mineral interest, or as necessary to effectuate a judicial sale as set forth in Section 271.1 of Title 84 of the Oklahoma Statutes, the legal description of the mineral interest and the extent of the property rights in the mineral interest shall be deemed confidential and not released to the general public by the State Treasurer, Attorney General or district attorney. The State Treasurer shall send a report reflecting only the names and last-known addresses of owners of record of the unclaimed mineral interest to the county clerk of the county in which the land is located, and the clerk shall maintain the list for public viewing. The clerk shall also report to the board of county commissioners that the report has been received, and note the receipt in the minutes of the meeting, so the public can be informed.

The State Treasurer is authorized to develop procedures for the implementation of the Uniform Unclaimed Property Act. Added by Laws 1978, c. 229, § 1, eff. Jan. 1, 1979. Amended by Laws 1988, c. 146, § 2, operative July 1, 1988; Laws 1991, c. 331, § 16, eff. Sept. 1, 1991; Laws 1999, c. 10, § 5, eff. July 1, 1999; Laws 2005, c. 421, § 1, emerg. eff. June 6, 2005.

§60-658.1A. Mineral interests generating intangible personal property.

Mineral interests which have generated intangible personal property may be presumed by the district court to be abandoned and subject to the provisions that apply to mineral interests covered by Section 658.1 of this title and Sections 271 through 277 of Title 84 of the Oklahoma Statutes if the court determines that the mineral interests should have been reported to the State Treasurer but were not so reported as required by the Uniform Unclaimed Property Act. Added by Laws 1985, c. 85, § 1, eff. Nov. 1, 1985. Amended by Laws 1991, c. 331, § 17, eff. Sept. 1, 1991; Laws 1999, c. 10, § 6, eff. July 1, 1999.

§60-658.2. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-658.3. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-658.4. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-658.5. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-658.6. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-658.7. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-658.8. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-659. Additional conditions leading to presumption of abandonment.

Unless otherwise provided in the Uniform Unclaimed Property Act or by other statute of this state, intangible personal property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under Sections 651.1 and 651.2 through 658.1A of this title are satisfied, and:

1. The last-known address, as shown on the records of the holder, of the apparent owner is in this state;

2. The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last-known address of the person entitled to the property is in this state;

3. The records of the holder do not reflect the last-known address of the apparent owner, and it is established that:

a. the last-known address of the person entitled to the property is in this state, or

b. the holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of the last-known address of the apparent owner or other person entitled to the property;

4. The last-known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property, and the holder is a domiciliary, government, or governmental subdivision or agency, including a municipality, of this state;

5. The last-known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state; or

6. The transaction out of which the property arose occurred in this state, and

- a. (1) the last-known address of the apparent owner or other person entitled to the property is unknown, or
- (2) the last-known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property, and
- b. the holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

Added by Laws 1967, c. 107, § 9, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 18, eff. Sept. 1, 1991; Laws 2000, c. 136, § 5, eff. July 1, 2000.

§60-659.1. Repealed by Laws 2001, c. 133, § 13, emerg. eff. April 24, 2001.

§60-660. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-661. Report of abandoned property.

A. A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under the Uniform Unclaimed Property Act shall report to the State Treasurer concerning the property as provided in this section.

B. The report shall be verified and shall include:

1. The name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of Fifty Dollars (\$50.00) or more presumed abandoned under the Uniform Unclaimed Property Act and items of value under Fifty Dollars (\$50.00), reported in the aggregate, except property which is one of a recurring number of continuous payments including but not limited to royalties, annuities, dividends, distributions, and other sums presumed abandoned pursuant to subsection C of Section 655 of this title, which shall be reported in the same manner as property with a value of Fifty Dollars (\$50.00) or more;

2. In the case of unclaimed funds of Fifty Dollars (\$50.00) or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last-known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

3. In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible personal property, a description of the property and the place where it is held, which may be inspected by the State Treasurer, and any amounts, including offsets for drilling costs and rent, owing to the holder;

4. The description of the property, including type and identifying number if any, and the amount appearing from the records to be due;

5. The date when the property became payable, demandable or returnable, and the date of the last transaction with the owner with respect to the property;

6. In the case of a cashier's check, if known, the names and last-known addresses of all payees, all payors and all purchasers; and

7. Any other information reasonably required by the State Treasurer.

C. If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or if the name of the holder has changed while holding the property, the holder shall file with the report all known names and addresses of each previous holder of the property.

D. The report shall be filed before November 1 of each year for property reportable as of the preceding July 1, but the report of any life insurance company shall be filed before May 1 of each year for property reportable as of the preceding March 1. The State Treasurer may postpone the reporting date upon written request by any person required to file a report.

E. Not more than one hundred twenty (120) days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under the Uniform Unclaimed Property Act shall send written notice to the apparent owner at the owner's last-known address informing the owner that the holder is in possession of property subject to the Uniform Unclaimed Property Act if:

1. The holder has in the records of the holder an address for the apparent owner which the holder's records do not disclose to be inaccurate;

2. The claim of the apparent owner is not barred by the statute of limitations; and

3. The property has a value of Fifty Dollars (\$50.00) or more, or the property has a value of less than Fifty Dollars (\$50.00) and is one of a recurring number of continuous payments including but not limited to royalties, annuities, dividends, distributions and other recurring sums presumed abandoned pursuant to subsection C of Section 655 of this title. Notice shall include written notice and, if consented to by the apparent owner, electronic mail and other

forms of electronic correspondence. The mailing of notice by first-class mail to the last-known address of the owner by the holder shall constitute compliance with this subsection and, if done, no further act on the part of the holder shall be necessary.

F. Reports filed by a holder shall remain confidential except for information required to be subject to public inspection pursuant to the Uniform Unclaimed Property Act.

G. The State Treasurer may require a holder reporting fifteen or more items of property pursuant to this section to file the report online. The State Treasurer shall promulgate rules necessary to carry out provisions for online filing.

Added by Laws 1967, c. 107, § 11, emerg. eff. April 24, 1967.

Amended by Laws 1982, c. 278, § 7, eff. Jan. 1, 1983; Laws 1988, c. 281, § 9, operative July 1, 1988; Laws 1991, c. 331, § 20, eff.

Sept. 1, 1991; Laws 1999, c. 10, § 7, eff. July 1, 1999; Laws 2001,

c. 133, § 7, emerg. eff. April 24, 2001; Laws 2003, c. 224, § 6,

eff. July 1, 2003; Laws 2006, c. 233, § 2, eff. Nov. 1, 2006; Laws

2008, c. 108, § 2, emerg. eff. May 2, 2008; Laws 2009, c. 433, § 1,

eff. Nov. 1, 2009; Laws 2010, c. 241, § 2, emerg. eff. May 10, 2010;

Laws 2013, c. 307, § 4, eff. Nov. 1, 2013; Laws 2024, c. 446, § 1,

eff. Nov. 1, 2024.

§60-662. Notice and publication of lists of abandoned property.

A. The State Treasurer shall cause at least two notices to be published during the year following the report required by Section 661 of this title in a legal newspaper of general circulation in the county in this state in which is located the last-known address of any person to be named in the notice. Different legal newspapers of general circulation may be used for each notice. If no address is listed or if the address is outside this state, the notice shall be published in the county within this state which is the principal place of business of the holder of the abandoned property, or in a newspaper in this state which the State Treasurer believes most likely to be seen by the owner of the property or by heirs of the owner.

B. The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property", and contain:

1. The names in alphabetical order and last-known address, if any, of persons listed in the report and entitled to notice within the county as specified in subsection A of this section;

2. A statement that information concerning the property and the name and last-known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the State Treasurer; and

3. A statement that the property is in the custody of the State Treasurer and all claims must be directed to the State Treasurer.

C. The State Treasurer is not required to publish in the notice any items of less than Two Hundred Fifty Dollars (\$250.00) as of the date the notice is prepared unless the State Treasurer considers their publication to be in the public interest.

D. The State Treasurer shall provide electronic access to the new names and last-known addresses of all persons reported to the State Treasurer as owners of unclaimed property on an Internet website. The State Treasurer shall take reasonable steps to publicize the existence of this website and shall publish an advertisement no less than once each calendar quarter in a legal newspaper of general circulation in each county of this state. Added by Laws 1967, c. 107, § 12, emerg. eff. April 24, 1967. Amended by Laws 1982, c. 278, § 8, eff. Jan. 1, 1983; Laws 1991, c. 331, § 21, eff. Sept. 1, 1991; Laws 1999, c. 10, § 8, eff. July 1, 1999; Laws 2003, c. 224, § 7, eff. July 1, 2003; Laws 2005, c. 124, § 2, eff. Nov. 1, 2005; Laws 2008, c. 108, § 3, emerg. eff. May 2, 2008; Laws 2009, c. 433, § 2, eff. Nov. 1, 2009; Laws 2024, c. 446, § 2, eff. Nov. 1, 2024.

§60-663. Payment or delivery of abandoned property.

A. A person who is required to file a report under Section 661 of this title shall at the same time pay or deliver to the State Treasurer all abandoned property required to be reported after first deducting therefrom expenses incurred in the mailing of notices required by subsection E of Section 661 of this title and any offsets as provided by law. Any funds or property subject to aggregate reporting shall be delivered at the same time as the report.

B. A holder may file a written explanation of an error in the presumption of abandonment of any previously reported and paid or delivered property. If the property has not been claimed by the owner and the State Treasurer is satisfied an error has been made, a refund of the payment or delivery of the property shall be made to the holder.

C. The holder of an ownership interest under Section 655 of this title shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the State Treasurer. Upon delivery of a duplicate certificate to the State Treasurer, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of liability as provided in Section 664 of this title to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the State Treasurer, for losses or damages resulting to any person by the issuance and delivery to the State Treasurer of the duplicate certificate.

D. Property removed from a safe deposit box or other safekeeping depository is received by the State Treasurer subject to the right of the holder to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The State Treasurer shall reimburse the holder out of the proceeds remaining after deducting the expenses incurred by the State Treasurer in selling the property. The liability of the State Treasurer for this reimbursement to the holder shall be limited to the proceeds of the sale remaining after deducting the expenses incurred by the State Treasurer.

Added by Laws 1967, c. 107, § 13, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 22, eff. Sept. 1, 1991; Laws 1999, c. 10, § 9, eff. July 1, 1999; Laws 2003, c. 224, § 8, eff. July 1, 2003; Laws 2004, c. 318, § 4, eff. July 1, 2004; Laws 2005, c. 124, § 3, eff. Nov. 1, 2005; Laws 2008, c. 108, § 4, emerg. eff. May 2, 2008.

§60-664. Relief from liability by payment or delivery.

A. Upon the payment or delivery of abandoned property to the State Treasurer, the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the State Treasurer in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

B. A holder who has paid money to the State Treasurer pursuant to the Uniform Unclaimed Property Act may make payment to any person appearing to the holder to be entitled to payment; and upon filing proof of such payment and proof that the payee was entitled thereto, the State Treasurer shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a travelers check or money order, the holder shall be reimbursed under this subsection upon filing proof that the instrument was presented and that payment was made to a person who appeared to the holder to be entitled to payment. The holder shall be reimbursed for payment made under this subsection even if the holder paid a person whose claim was barred under subsection A of Section 666 of this title.

C. A holder who has delivered property, including, but not limited to, a certificate of an ownership interest in a business association, other than money to the State Treasurer pursuant to the Uniform Unclaimed Property Act may reclaim the property if still in the possession of the Treasurer, without paying any fee or other charge, upon filing proof that the owner has claimed the property from the holder.

D. The State Treasurer may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

E. If the holder pays or delivers property to the State Treasurer in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the State Treasurer, upon written notice of the claim, shall defend the holder against the claim and, to the extent of the property's value, shall indemnify the holder against liability on the claim. Neither the holder nor the State Treasurer shall be liable for more than the value of the property, determined as of the time of its payment or delivery to the State Treasurer, if the holder paid or delivered the property to the State Treasurer in good faith.

F. For the purposes of this section, "good faith" means that:

1. Payment or delivery was made in a reasonable attempt to comply with the Uniform Unclaimed Property Act;

2. The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was abandoned for the purposes of the Uniform Unclaimed Property Act;

3. There is no showing that the records under which the delivery was made did not meet reasonable commercial standards of practice in the industry; and

4. The reporting and delivery of property was made in compliance with Sections 661 and 663 of this title and any applicable administrative rules.

Added by Laws 1967, c. 107, § 14, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 23, eff. Sept. 1, 1991; Laws 1999, c. 10, § 10, eff. July 1, 1999; Laws 2010, c. 241, § 3, emerg. eff. May 10, 2010.

§60-665. Dividends, interest, or other increments realized or accruing after payment or delivery.

Whenever property other than money is paid or delivered to the State Treasurer under the Uniform Unclaimed Property Act, the owner is entitled to receive from the State Treasurer dividends, interest, or other increments realized or accruing on the property at or before liquidation or conversion thereof into money.

Added by Laws 1967, c. 107, § 15, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 24, eff. Sept. 1, 1991; Laws 1999, c. 10, § 11, eff. July 1, 1999.

§60-666. Periods of limitation - Effect - Application.



A. The expiration after September 1, 1991, of any period of time specified by contract, statute, or court order, during which a claim for money or property can be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property, does not prevent the money or property from being presumed abandoned property or affect any duty to file a report or to pay or deliver abandoned property to the State Treasurer as required by the Uniform Unclaimed Property Act.

B. No action or proceeding may be commenced by the State Treasurer with respect to any duty of a holder under the Uniform Unclaimed Property Act more than four (4) years after the holder files the report pursuant to Section 661 of this title or ten (10) years after the duty arose, whichever is earlier.

C. Notwithstanding the provisions of subsection B of this section or any other provision of law, the expiration of any period of time specified by law during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property shall not serve as a defense in any action or proceeding brought by or on behalf of the State Treasurer against any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof, for the payment or delivery of any abandoned property to the State Treasurer pursuant to the Uniform Unclaimed Property Act or to enforce or collect any penalty provided by the Uniform Unclaimed Property Act.

D. The provisions of subsection C of this section shall apply to all abandoned property held by any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof, at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.

Added by Laws 1967, c. 107, § 16, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 25, eff. Sept. 1, 1991; Laws 1999, c. 10, § 12, eff. July 1, 1999.

§60-667. Sale of abandoned property from safe deposit boxes - Securities.

A. Except as provided in subsections B and C of this section, when the State Treasurer determines it to be economically feasible, the Treasurer shall sell abandoned property from safe deposit boxes to the highest bidder at public sale in whatever city in the state affords in the judgment of the State Treasurer the most favorable market for the property involved. The State Treasurer may decline the highest bid and reoffer the property for sale if in the judgment of the State Treasurer the bid is insufficient. If in the judgment of the State Treasurer the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section must be preceded by a single publication of

notice, at least three (3) weeks in advance of sale in a legal newspaper of general circulation in the county where the property is to be sold, the county of residence of the holder and the county of the last-known address of the owner. If no address is listed or if the address is outside this state, the notice shall be published in an Oklahoma newspaper which the State Treasurer believes is most likely to be seen by the owner of the property or by heirs of the owner.

B. Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by another method the State Treasurer considers advisable. The liquidation of securities shall be exempt from the procedures set forth in subsection A of this section.

C. Unless the State Treasurer considers it to be in the best interest of the state to do otherwise, all securities, other than those presumed abandoned under Section 655 of this title, delivered to the State Treasurer must be held for at least one (1) year before the State Treasurer may sell them.

D. The purchaser at any sale conducted by the State Treasurer pursuant to the Uniform Unclaimed Property Act takes the property, free of all claims of the owner or prior holder thereof and of all persons claiming through or under them. The State Treasurer shall execute all documents necessary to complete the transfer of ownership.

Added by Laws 1967, c. 107, § 17, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 26, eff. Sept. 1, 1991; Laws 1998, c. 385, § 13, eff. July 1, 1998; Laws 1999, c. 10, § 13, eff. July 1, 1999; Laws 2003, c. 224, § 9, eff. July 1, 2003; Laws 2004, c. 318, § 5, eff. July 1, 2004; Laws 2005, c. 124, § 4, eff. Nov. 1, 2005; Laws 2011, c. 261, § 5, eff. Nov. 1, 2011; Laws 2019, c. 150, § 1, eff. July 1, 2019.

#### §60-668. Unclaimed Property Fund - Deposits - Deductions.

A. There is hereby created in the State Treasury the "Unclaimed Property Fund", the principal of which shall constitute a trust fund for persons claiming any interest in any property delivered to the state under the Uniform Unclaimed Property Act and may be invested as provided in the Uniform Unclaimed Property Act and shall not be expended except as provided in the Uniform Unclaimed Property Act. All funds received under the Uniform Unclaimed Property Act, including the proceeds from the sale of abandoned property under Section 667 of this title, shall forthwith be deposited by the State Treasurer in the Unclaimed Property Fund, except that the State Treasurer may before making any deposit to the fund deduct:

1. All costs in connection with the sale of abandoned property;

2. All costs of mailing and publication in connection with any abandoned property including the cost of custody services for unclaimed securities;

3. Reasonable service charges not to exceed four percent (4%) of the monies accruing to the state under the Uniform Unclaimed Property Act, which may be used to defray the administrative costs, including costs necessary to retain legal counsel to ensure compliance with the Uniform Unclaimed Property Act, or to acquire computer hardware and software to be used exclusively to help administer the unclaimed property program;

4. An amount equal to fifteen percent (15%) of the funds accruing to the state pursuant to a contract with the State Treasurer providing information leading to the delivery of unclaimed property held by a holder to the State Treasurer to be deposited in the Unclaimed Property Clearinghouse Fund; and

5. An amount not to exceed twenty-five percent (25%) of the value of the funds in an action to enforce the Uniform Unclaimed Property Act, which is to be used solely to pay attorney fees to any person who was authorized by the State Treasurer to bring the action.

B. Before making a deposit to the Unclaimed Property Fund, the State Treasurer shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. After a period of twelve (12) months has elapsed, the record shall be available for public inspection during normal business hours. Added by Laws 1967, c. 107, § 18, emerg. eff. April 24, 1967. Amended by Laws 1990, c. 102, § 1, operative July 1, 1990; Laws 1999, c. 10, § 14, eff. July 1, 1999; Laws 1999, c. 292, § 1, eff. July 1, 1999; Laws 2002, c. 95, § 1, eff. July 1, 2002; Laws 2003, c. 224, § 10, eff. July 1, 2003; Laws 2004, c. 318, § 6, eff. July 1, 2004; Laws 2009, c. 433, § 3, eff. Nov. 1, 2009; Laws 2019, c. 150, § 2, eff. July 1, 2019; Laws 2024, c. 446, § 3, eff. Nov. 1, 2024.

#### §60-668.1. Unclaimed Property Clearinghouse Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Treasurer to be designated the "Unclaimed Property Clearinghouse Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies deposited to the fund pursuant to Section 668 of this title. All monies accruing to the credit of the fund are appropriated to the State Treasurer. The State Treasurer may budget and expend monies from the fund for the purpose of making payment for the mailing,

publication and sale costs associated with abandoned property, and to persons, firms, or corporations who are regularly engaged in the business of notifying states about property which may be subject to the provisions of unclaimed property statutes of those states. The State Treasurer may enter into contracts with these persons, firms or corporations performing these services, which services may include the examination of any party subject to examination under the Uniform Unclaimed Property Act. The State Treasurer may delegate all necessary authority to act in the State Treasurer's behalf to such persons, firms or corporations to enforce the provisions of the Uniform Unclaimed Property Act.

B. The State Treasurer shall be authorized to expend monies from the Unclaimed Property Clearinghouse Fund in payment of a reasonable fee not to exceed fifteen percent (15%) of the delivered funds to a person, firm, or corporation contracting with the State Treasurer providing information leading to the delivery of unclaimed property held by a holder to the State Treasurer. Such payment shall not be made until the funds have been deposited with the State Treasurer.

C. The State Treasurer is authorized to purchase services, including legal services, in order to locate and effect the delivery of property and related owner information to assist the State Treasurer in the Treasurer's duties related to the administration of the Uniform Unclaimed Property Act. The purchase of such services, other than legal services, shall be chosen by a solicitation of proposals on a competitive basis, but shall be exempt from the provisions of The Oklahoma Central Purchasing Act.

Added by Laws 1990, c. 102, § 2, operative July 1, 1990. Amended by Laws 1999, c. 10, § 15, eff. July 1, 1999; Laws 2001, c. 133, § 8, emerg. eff. April 24, 2001; Laws 2004, c. 318, § 7, eff. July 1, 2004; Laws 2009, c. 433, § 4, eff. Nov. 1, 2009; Laws 2019, c. 150, § 3, eff. July 1, 2019.

§60-668.2. Petty cash fund for administration of unclaimed property program.

There is hereby created a petty cash fund for the State Treasurer to be used exclusively for administrative costs of the unclaimed property program. The amount of the petty cash fund shall not exceed Five Hundred Dollars (\$500.00). The Office of Management and Enterprise Services shall prescribe all forms, systems and procedures for administering the petty cash fund.

Added by Laws 2019, c. 150, § 4, eff. July 1, 2019.

§60-669. Control and management of monies in Unclaimed Property Fund.

The State Treasurer is hereby vested with authority and the responsibility for the control and management of all monies in the

Unclaimed Property Fund as provided for in the Uniform Unclaimed Property Act. It shall be the duty of the State Treasurer to take such steps as may be necessary to preserve the principal of monies accruing to the Unclaimed Property Fund as a trust for persons claiming any interest in any property delivered to the state pursuant to the provisions of the Uniform Unclaimed Property Act. Added by Laws 1967, c. 107, § 19, emerg. eff. April 24, 1967. Amended by Laws 1984, c. 107, § 1, emerg. eff. April 9, 1984; Laws 1991, c. 331, § 27, eff. Sept. 1, 1991; Laws 1999, c. 10, § 16, eff. July 1, 1999.

§60-670. Determination of amount of reserve - Payment of excesses.

The State Treasurer shall determine, from time to time, what amount of unclaimed property in custody should be retained as a reserve in order to ensure that all claims presented by persons legally establishing a right to any unclaimed property shall be paid promptly. In making such determination, the State Treasurer shall take into account the following:

1. The actual experience of other states having unclaimed property laws, as to the amount of claims presented and established as compared to the total amount of property taken into state custody;

2. Such actuarial or other experience or statistics as may be available to show the frequency of the discovery of missing persons or their unknown heirs;

3. Any other discoverable and relevant data having a tendency to establish the amount of reserve necessary for the purpose stated in this section.

The State Treasurer, after having found and determined the reserve necessary as stated in this section, shall pay all amounts in custody in excess of the necessary reserve into the State Treasury to the credit of the General Revenue Fund.

When monies are deposited to the credit of the General Revenue Fund, all rights of any owner of unclaimed property to resort against the money so paid into the General Revenue Fund shall terminate, but the right of any person legally establishing a claim to any property right which has been taken into the custody of the State Treasurer shall be preserved and the value thereof shall be paid from such reserve.

Added by Laws 1967, c. 107, § 20, emerg. eff. April 24, 1967.

Amended by Laws 1968, c. 75, § 1, emerg. eff. March 25, 1968; Laws 1984, c. 107, § 2, emerg. eff. April 9, 1984; Laws 1999, c. 10, § 17, eff. July 1, 1999.

§60-671. Insufficiency of reserve.

If, at any time, the reserve as provided for in the Uniform Unclaimed Property Act is insufficient to pay in full established claims, the State Treasurer immediately shall:

1. Redetermine, on the basis of past experience, the percentage necessary to be maintained in the reserve; and

2. Cease to make any payments to the General Revenue Fund until:

- a. all validly established claims as provided for in the Uniform Unclaimed Property Act have been paid, and
- b. there is accumulated in the reserve the sum required to be kept therein under the redetermination, whereupon the State Treasurer shall resume payments to the General Revenue Fund in accordance with the terms of the Uniform Unclaimed Property Act.

Added by Laws 1967, c. 107, § 21, emerg. eff. April 24, 1967.

Amended by Laws 1984, c. 107, § 3, emerg. eff. April 9, 1984; Laws 1991, c. 331, § 28, eff. Sept. 1, 1991; Laws 1999, c. 10, § 18, eff. July 1, 1999.

§60-672. Investment of reserve fund.

The State Treasurer shall have the care, custody, and management of the reserve fund, and may invest it, at the best realizable rate, in accordance with the investment policies of the State Treasurer and the provisions of state law governing the investment of public funds of the State of Oklahoma. The income from such investments shall be paid into the State Treasury to the credit of the General Revenue Fund.

Added by Laws 1967, c. 107, § 22, emerg. eff. April 24, 1967.

Amended by Laws 1984, c. 107, § 4, emerg. eff. April 9, 1984; Laws 1999, c. 10, § 19, eff. July 1, 1999; Laws 2008, c. 108, § 5, emerg. eff. May 2, 2008.

§60-673. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-674. Claim for abandoned property.

A. A person, excluding another state, claiming an interest in any property delivered to the State Treasurer may file a claim on a form prescribed by the State Treasurer and verified by the claimant. The date of filing of a claim shall be the date it is received by the State Treasurer with all supporting documentation from the claimant. Any information submitted by a claimant which is required to be submitted to the State Treasurer to establish a claim may be kept confidential by the State Treasurer if it contains personal financial information of the claimant, personal identifying information such as the address, date of birth, telephone number or email address of the claimant, Social Security numbers, birth certificates or similar documents related to the parentage of an

individual, or any other document which is confidential by statute if in the custody of another public agency or person.

B. The State Treasurer shall consider each claim within ninety (90) days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the address to which notices are to be sent or the address of the claimant.

C. If a claim is allowed, the State Treasurer shall pay over or deliver to the claimant the property or the amount the State Treasurer actually received or the net proceeds if it has been sold by the State Treasurer, together with any additional amount required by Section 665 of this title, but no person shall have any claim under this section against the state, the holder, any transfer agent, registrar or other person acting for or on behalf of the state or a holder, for any appreciation or depreciation in the value of the property or any earnings that might otherwise accrue, after sale of the property by the State Treasurer.

Added by Laws 1967, c. 107, § 24, emerg. eff. April 24, 1967.

Amended by Laws 1988, c. 281, § 10, operative July 1, 1988; Laws 1991, c. 331, § 29, eff. Sept. 1, 1991; Laws 1999, c. 10, § 20, eff. July 1, 1999; Laws 2000, c. 136, § 6, eff. July 1, 2000; Laws 2001, c. 133, § 9, emerg. eff. April 24, 2001; Laws 2003, c. 224, § 11, eff. July 1, 2003; Laws 2011, c. 261, § 1, eff. Nov. 1, 2011; Laws 2019, c. 150, § 5, eff. July 1, 2019.

§60-674.1. Limitation on service fees for recovery of funds or property - Mineral proceeds as payment for services prohibited.

A. No person who:

1. Informs a potential claimant of any unclaimed funds or other property, tangible or intangible, held pursuant to the Uniform Disposition of Unclaimed Property Act that such claimant may be entitled to claim such unclaimed property; or

2. Files a claim for any funds or other property, tangible or intangible, on behalf of a claimant of such funds or property, shall contract for or receive from the claimant, for services, an amount that exceeds twenty-five percent (25%) of the value of the funds or property recovered.

If the funds or property involved are mineral proceeds, the amount for services shall not include a portion of the underlying minerals or any production payment, overriding royalty, or similar payment.

In the event that the claimant of such funds or property is deceased and did not personally agree to the fee in writing, a fee for recovery can only be collected from each identified heir, devisee or legatee that has affirmatively agreed to that fee in writing.

B. The provisions of this section shall apply to contracts executed on or after November 1, 2021.  
Added by Laws 1990, c. 301, § 1, emerg. eff. May 1, 1990. Amended by Laws 2021, c. 326, § 1, eff. Nov. 1, 2021.

§60-674.2. Property delivered to the State Treasurer.

A. If any claimant asserts an interest in any property delivered to the State Treasurer in which the owner of the property is determined to be deceased, the State Treasurer shall not pay over or deliver to the claimant property as provided in Section 651 et seq. of this title, unless the claimant provides the following items as applicable:

1. A certified copy of letters of administration or letters testamentary from the probate of the estate of the decedent naming the claimant as the personal representative of the estate of the decedent;

2. A certified copy of the decree of distribution from the probate of the estate of the decedent determining the claimant to be entitled to receive such property through the estate of the decedent;

3. If the owner of the property executed an inter vivos trust which provided for the disposition of the property of the owner, a properly verified copy of the trust instrument which shows the claimant is the trustee or beneficiary of the trust or otherwise entitled to the property; or

4. If the property is derived from real property located in this state, a certified copy of a final decree quieting title of the decedent's real property, determining the claimant to be the successor in interest of decedent's ownership interest.

B. If the value of the property at the time the claim is to be paid is Ten Thousand Dollars (\$10,000.00) or more, the claimant shall provide a certified copy of the death certificate of the owner of the property.

C. If the value of the property at the time the claim is paid is Twenty-five Thousand Dollars (\$25,000.00) or less, the claimant shall provide a signed affidavit executed by the claimant stating that the claimant is entitled to receive such property, the reason the claimant is entitled to receive such property, that there has been no probate of the estate of the deceased owner, that no probate is contemplated and that claimant will indemnify the state for any loss, including attorney fees, if another claimant asserts a prior right to the property.



D. The State Treasurer may require other reasonable documentation, in addition to the items listed in subsections A, B, and C of this section, to determine the validity of the claim. Added by Laws 1994, c. 304, § 1, eff. Sept. 1, 1994. Amended by Laws 1996, c. 334, § 6, eff. Nov. 1, 1996; Laws 1999, c. 84, § 1, eff. Nov. 1, 1999; Laws 1999, c. 426, § 1, eff. Nov. 1, 1999; Laws 2001, c. 133, § 10, emerg. eff. April 24, 2001; Laws 2003, c. 224, § 12, eff. July 1, 2003; Laws 2010, c. 241, § 4, emerg. eff. May 10, 2010; Laws 2012, c. 131, § 2, eff. Nov. 1, 2012; Laws 2024, c. 446, § 4, eff. Nov. 1, 2024.

NOTE: Laws 1999, c. 10, § 21 repealed by Laws 1999, c. 426, § 4, eff. Nov. 1, 1999.

§60-675. Determination of claims - Payment.

A. The State Treasurer shall consider any claim filed under the Uniform Unclaimed Property Act and may hold a hearing and receive evidence concerning it. The procedure to be followed hereunder shall be as prescribed by the Administrative Procedures Act. If a hearing is held, the State Treasurer shall prepare a finding and decision in writing on each claim filed, stating the substance of any evidence heard by the State Treasurer and the reasons for the State Treasurer's decision. The decision shall be a public record.

B. Upon approval by the State Treasurer, the claim shall be paid forthwith from the Unclaimed Property Fund. The claim shall be paid without deduction for costs of notices or sale or for service charges.

C. The State Treasurer shall not pay monies to rightful owners, or their heirs, devisees, and assigns, exceeding the reimbursement amount the Treasurer shall receive from the Mineral Owner's Fund attributable to such payments to rightful owners, or their heirs, devisees, and assigns.

D. Claims against the Mineral Owner's Fund shall be subject to the same statutory requirements and administrative rules as applicable to claims under the Uniform Unclaimed Property Act. Added by Laws 1967, c. 107, § 25, emerg. eff. April 24, 1967. Amended by Laws 1991, c. 331, § 30, eff. Sept. 1, 1991; Laws 1999, c. 10, § 22, eff. July 1, 1999; Laws 2009, c. 433, § 5, eff. Nov. 1, 2009; Laws 2010, c. 241, § 5, emerg. eff. May 10, 2010.

§60-676. Repealed by Laws 2002, c. 95, § 6, eff. July 1, 2002.

§60-677. Declining receipt of property - Delivery of property before presumed abandoned - Sale of securities.

A. The State Treasurer may decline to receive any property reported under the Uniform Unclaimed Property Act which the State Treasurer considers to have a value less than the expense of giving

notice and of sale. The State Treasurer may promulgate rules pursuant to this subsection.

B. A holder, with the written consent of the State Treasurer and upon conditions and terms prescribed by the State Treasurer, may report and deliver property before the property is presumed abandoned. If a property holder reports and delivers property to the State Treasurer before it is presumed abandoned under the Uniform Unclaimed Property Act and it is in the best interest of the property owner for the property to be treated as abandoned, the Treasurer shall treat the property as abandoned.

C. The State Treasurer may decline to accept weapons abandoned in safe deposit boxes which become property subject to the Uniform Unclaimed Property Act. Such property shall be deposited with a local sheriff or municipal police department.

D. If a claimant under the Uniform Unclaimed Property Act makes a verifiable and proper claim, but fails to properly transfer securities into the claimant's name within ninety (90) days of claim approval by the State Treasurer, the State Treasurer may, upon notice to claimant, sell and convert such securities to cash for the benefit of the claimant.

Added by Laws 1967, c. 107, § 27, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 32, eff. Sept. 1, 1991; Laws 1999, c. 10, § 24, eff. July 1, 1999; Laws 2004, c. 318, § 8, eff. July 1, 2004; Laws 2005, c. 124, § 5, eff. Nov. 1, 2005; Laws 2012, c. 131, § 3, eff. Nov. 1, 2012.

§60-677.1. Destruction of property having insubstantial commercial value.

If the State Treasurer determines after investigation that any property delivered under the Uniform Unclaimed Property Act has insubstantial commercial value, the State Treasurer may destroy or otherwise dispose of the property at any time. No action or proceeding may be maintained against the state or any officer or against the holder for or on account of any action taken by the State Treasurer pursuant to this section.

Added by Laws 1991, c. 331, § 33, eff. Sept. 1, 1991. Amended by Laws 1999, c. 10, § 25, eff. July 1, 1999; Laws 2006, c. 233, § 3, eff. Nov. 1, 2006.

§60-678. Report may be required - Failure to report property - Examination of records.

A. The State Treasurer may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under the Uniform Unclaimed Property Act. If the State Treasurer has reason to believe that any person has failed to report property in accordance with the Uniform Unclaimed Property Act, the State

Treasurer may make a demand by certified mail, return receipt requested, that such report be made and filed with the State Treasurer. The report of abandoned property or any other report required shall be made and filed with the State Treasurer within sixty (60) days after receipt of the demand.

B. The State Treasurer may at reasonable times and upon reasonable notice examine the records of any person if the State Treasurer has reason to believe that such person has failed to report property that should have been reported pursuant to the Uniform Unclaimed Property Act. The State Treasurer may contract with any other person or entity to conduct the examination on behalf of the State Treasurer. The State Treasurer may keep confidential documents and working papers obtained or compiled by the State Treasurer or the State Treasurer's agents or designated representatives in the course of conducting an examination, except for information required to be subject to public inspection pursuant to the Uniform Unclaimed Property Act.

C. If a person is treated under Section 656 of this title as the holder of the property only insofar as the interest of the business association in the property is concerned, the State Treasurer, pursuant to subsection B of this section, may examine the records of the person if the State Treasurer has given the notice required by subsection B of this section to both the person and the business association at least ninety (90) days before the examination.

D. If a holder fails after September 1, 1991, to maintain the records required by Section 679.1 of this title and the records of the holder available for the periods subject to the Uniform Unclaimed Property Act are insufficient to permit the preparation of a report, the State Treasurer may require the holder to report and pay the amount that is reasonably estimated from any available records.

Added by Laws 1967, c. 107, § 28, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 34, eff. Sept. 1, 1991; Laws 1999, c. 10, § 26, eff. July 1, 1999; Laws 2008, c. 108, § 6, emerg. eff. May 2, 2008; Laws 2019, c. 150, § 6, eff. July 1, 2019.

§60-679. Proceeding to compel delivery - Costs of examinations or investigations.

A. The State Treasurer may bring an action in a court of appropriate jurisdiction to enforce the Uniform Unclaimed Property Act.

B. The actual cost of any examination or investigation incurred by the State Treasurer in administering any provision of the Uniform Unclaimed Property Act may be borne by the holder examined or investigated, provided that in no case may the charges exceed the

value of the property found to be reportable and deliverable as a result of the examination, and either:

1. A written demand for a report shall have been made and not forthcoming in time specified in Section 678 of this title;

2. A report has not been received, and the examination or investigation by the State Treasurer establishes that the holder willfully or without reasonable cause has failed to report property reportable under the Uniform Unclaimed Property Act and property reportable thereunder is discovered by such examination or investigation; or

3. A report has been received and the examination or investigation by the State Treasurer establishes that the holder willfully or without reasonable cause has failed to report additional property reportable under the Uniform Unclaimed Property Act.

C. The cost of examination made pursuant to subsection C of Section 678 of this title may be imposed only against the business association.

Added by Laws 1967, c. 107, § 29, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 35, eff. Sept. 1, 1991; Laws 1999, c. 10, § 27, eff. July 1, 1999.

§60-679.1. Records of names and addresses of owners and instruments.

A. Every holder required to file a report under Section 661 of this title, as to any property for which it has obtained the last-known address of the owner, shall maintain a record of the name and last-known address of the owner for ten (10) years after the property is reported, except to the extent that a shorter time period is provided in subsection B of this section or by rule of the State Treasurer or the holder's regulatory agency or commission.

B. Any business association that sells in this state its travelers checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this state, shall maintain a record of the instruments while they remain outstanding, indicating the state and date of issue for three (3) years after the date the property is reportable.

Added by Laws 1991, c. 331, § 36, eff. Sept. 1, 1991. Amended by Laws 1999, c. 10, § 28, eff. July 1, 1999.

§60-680. Interest - Penalties - Waiver or remittance.

A. A person who fails to pay or deliver property within the time prescribed by the Uniform Unclaimed Property Act may be required to pay interest at the annual rate of ten percent (10%) on

the property or value thereof from the date the property should have been paid or delivered.

B. In addition to the penalty imposed in subsection A of this section, a person who willfully fails to render any report or deliver property or perform any other duties required under the Uniform Unclaimed Property Act may be required to pay a civil penalty of One Hundred Dollars (\$100.00) for each day the report is withheld or the duty is not performed, but not more than Five Thousand Dollars (\$5,000.00).

C. A person who willfully fails to pay or deliver property to the State Treasurer as required under the Uniform Unclaimed Property Act may be required to pay a civil penalty equal to twenty-five percent (25%) of the value of the property that should have been paid or delivered.

D. A person who willfully refuses after written demand by the State Treasurer to pay or deliver property to the State Treasurer as required under the Uniform Unclaimed Property Act is guilty of a misdemeanor and upon conviction may be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisonment for not more than six (6) months, or both.

E. The interest or penalty or any portion thereof, as imposed by subsection A, B or C of this section, may be waived or remitted by the State Treasurer if the person's failure to pay abandoned funds or deliver property is satisfactorily explained to the State Treasurer or if such failure has resulted from a mistake by the person of either the law or the facts subjecting that person to pay abandoned funds or deliver property subject to the Uniform Unclaimed Property Act, or inability to pay such interest or penalty resulting from insolvency. The State Treasurer shall promulgate rules in accordance with the Administrative Procedures Act requiring the identification and recording of those circumstances under which interest or penalty, as imposed by subsection A, B, or C of this section, may be waived. The State Treasurer may also authorize amnesty programs to promote voluntary compliance with the Uniform Unclaimed Property Act, and may participate and cooperate with other state administrators of abandoned or unclaimed property programs in nationwide amnesty programs. For purposes of this section, amnesty programs are programs in which potential holders of unclaimed property are granted waivers of interest and civil penalties if they voluntarily begin to comply with the reporting requirements of the state's unclaimed property laws.

Added by Laws 1967, c. 107, § 30, emerg. eff. April 24, 1967.

Amended by Laws 1982, c. 278, § 9, eff. Jan. 1, 1983; Laws 1989, c. 244, § 1, eff. Nov. 1, 1989; Laws 1991, c. 331, § 37, eff. Sept. 1, 1991; Laws 1999, c. 10, § 29, eff. July 1, 1999; Laws 2000, c. 136, § 7, eff. July 1, 2000; Laws 2004, c. 318, § 9, eff. July 1, 2004.

§60-681. Promulgation of rules - Continuation of rules in effect.

The State Treasurer may promulgate necessary rules to carry out the provisions of the Uniform Unclaimed Property Act. Promulgation of any rules shall be in accordance with the Administrative Procedures Act. Any administrative rules of the Oklahoma Tax Commission which are in effect on the date the responsibilities of the Uniform Unclaimed Property Act are transferred to the State Treasurer pursuant to the provisions of subsection D of Section 1 of this act. All powers and duties of the Oklahoma Tax Commission or references to the Oklahoma Tax Commission within such rules shall be deemed to be powers and duties of the State Treasurer or references to the State Treasurer.

Added by Laws 1967, c. 107, § 31, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 38, eff. Sept. 1, 1991; Laws 1999, c. 10, § 30, eff. July 1, 1999.

§60-682. Effect of foreign laws.

This act does not apply to any property held, due and owing in a foreign country and arising out of a foreign transaction.

Laws 1967, c. 107, § 32, emerg. eff. April 24, 1967; Laws 1991, c. 331, § 39, eff. Sept. 1, 1991.

§60-683. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-683.1. Exchange of information with other states - Reports - Continuation of agreements - Joint enforcement of act.

A. The State Treasurer may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise determine unclaimed personal property that it or another state may be entitled to subject to a claim of custody. The State Treasurer by rule may require the reporting of information needed to enable compliance with agreements made under this section and prescribe the form. Any agreements entered into by the Oklahoma Tax Commission which are in effect on the date the responsibilities of the Uniform Unclaimed Property Act are transferred to the State Treasurer shall be effective agreements of the State Treasurer until such time as the State Treasurer chooses to amend, repeal or modify them. All powers and duties of the Oklahoma Tax Commission or references to the Oklahoma Tax Commission within such rules shall be deemed to be powers and duties of the State Treasurer or references to the State Treasurer.

B. To avoid conflicts between the procedures in effect in this state and the procedures in other jurisdictions that enact the Uniform Unclaimed Property Act, the State Treasurer, so far as it is consistent with the purposes, policies, and provisions of the Uniform Unclaimed Property Act, before promulgating, amending, or

repealing rules, shall advise and consult with administrators in other jurisdictions that enact substantially the Uniform Unclaimed Property Act and take into consideration the rules of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act.

C. The State Treasurer may join with other states to seek enforcement of the Uniform Unclaimed Property Act against any person who is or may be holding property reportable under the Uniform Unclaimed Property Act.

D. At the request of another state, the Attorney General of this state may bring an action in the name of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the Attorney General in bringing the action.

E. The State Treasurer may request that the Attorney General of another state or any other person bring an action to enforce the Uniform Unclaimed Property Act in the other state. This state shall pay all expenses including attorney fees in an action under this subsection. The State Treasurer may agree to pay the person bringing the action attorney fees based in whole or in part on a percentage of the value of property recovered in the action. Any expenses paid pursuant to this subsection may not be deducted from the amount that is subject to a claim by the owner under the Uniform Unclaimed Property Act.

Added by Laws 1991, c. 331, § 40, eff. Sept. 1, 1991. Amended by Laws 1999, c. 10, § 31, eff. July 1, 1999.

§60-683.2. Application and effect of act.

(a) This act does not relieve a holder of a duty that arose before the effective date of this act to report, pay, or deliver property. A holder who did not comply with the law in effect before the effective date of this act is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this subsection, subject to subsection (b) of Section 666 of this title.

(b) The initial report filed under this act for property that was not required to be reported before the effective date of this act but which is subject to this act must include all items of property that would have been presumed abandoned during the ten-year period preceding the effective date of this act as if this act had been in effect during that period.

(c) Museums shall not be subject to the provisions of the Uniform Unclaimed Property Act, but a museum may avail itself of the provisions of this act by complying with the requirements of this act.

Added by Laws 1991, c. 331, § 41, eff. Sept. 1, 1991. Amended by Laws 1992, c. 404, § 2, emerg. eff. June 11, 1992.

§60-684. Repealed by Laws 1991, c. 331, § 64, eff. Sept. 1, 1991.

§60-684.1. Recovery of property by another state.

A. At any time after personal property has been paid or delivered to the State Treasurer under the Uniform Unclaimed Property Act, another state may recover the property if:

1. The property was subjected to custody by this state because the records of the holder did not reflect the last-known address of the apparent owner when the property was presumed abandoned under the Uniform Unclaimed Property Act, and the other state establishes that the last-known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;

2. The last-known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state;

3. The records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last-known address of the actual owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;

4. The property was subjected to custody by this state under subsection (f) of Section 659 of this title and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or

5. The property is the sum payable on a travelers check, money order, or other similar instrument that was subjected to custody by this state under Section 651.2 of this title, and the instrument was purchased in the other state, and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.

B. The claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the State Treasurer, which shall decide the claim within ninety (90) days after it is presented. The State Treasurer shall allow the claim if the State Treasurer determines that the other state is entitled to the abandoned property under subsection A of this section.

C. The State Treasurer shall require a state, before recovering property under this section, to agree to indemnify this state and its officers and employees against liability on a claim for the property.



Added by Laws 1991, c. 331, § 42, eff. Sept. 1, 1991. Amended by Laws 1999, c. 10, § 32, eff. July 1, 1999.

§60-685.1. Application and construction of act.

The Uniform Unclaimed Property Act (1981) shall be applied and construed so as to effectuate its general purpose to make uniform the law with respect to unclaimed property among states enacting it. Added by Laws 1991, c. 331, § 43, eff. Sept. 1, 1991.

§60-686. Citation.

Section 651 et seq. of this title may be cited as the Uniform Unclaimed Property Act.

Added by Laws 1967, c. 107, § 36, emerg. eff. April 24, 1967.

Amended by Laws 1991, c. 331, § 44, eff. Sept. 1, 1991; Laws 1999, c. 10, § 33, eff. July 1, 1999.

§60-688. Duties relating to administration - Transfer from Tax Commission to State Treasurer - Transfer of administrative rules.

A. Effective July 1, 1999, all duties relating to administration of the Uniform Unclaimed Property Act shall be transferred from the Oklahoma Tax Commission to the State Treasurer. Funds sufficient to administer the Uniform Unclaimed Property Act shall be appropriated to the State Treasurer for fiscal year 2000. All funds related to the Uniform Unclaimed Property Act shall be transferred to the control of the State Treasurer on July 1, 1999. Provided, fiscal year 2000 shall be a transitional year in which the State Treasurer shall gradually assume complete administration and management over the program and staff currently carrying out the administration of the Uniform Unclaimed Property Act. The State Treasurer and the Tax Commission shall enter into a contract whereby funds shall be paid to the Tax Commission by the State Treasurer throughout fiscal year 2000 in exchange for the Tax Commission's agreement to continue to operate the program. During this transition year, the employees assigned to the Unclaimed Property Division shall continue to be employees of the Tax Commission without loss of classified status. Effective July 1, 2000, the Unclaimed Property Division shall be administered by the Office of the State Treasurer. Prior to July 1, 2000, the State Treasurer shall identify initial staffing needs for the Unclaimed Property Division. The State Treasurer shall give due consideration for employment to any employee of the Tax Commission who desires to remain employed in the Unclaimed Property Division after July 1, 2000. The State Treasurer shall have complete discretion in selecting staff to perform those duties effective July 1, 2000. Employees of the Tax Commission who are selected and employed by the State Treasurer to perform duties associated with the Uniform Unclaimed Property Act, or other duties, shall not retain their

classified status. The Tax Commission shall make every effort to retain any classified employee in the Unclaimed Property Division in other comparable classified positions at the Tax Commission if the employee is not offered employment with the State Treasurer.

B. Notwithstanding the provisions of subsection A of this section, nothing shall preclude the State Treasurer from entering into cooperative arrangements with other state agencies, including the Tax Commission, to provide services relating to the administration of the Uniform Unclaimed Property Act after July 1, 2000.

C. The Tax Commission shall not use any information or evidence obtained in the course of examination of records of any person pursuant to the Uniform Unclaimed Property Act for purposes of investigation or enforcement of any state tax law.

D. Effective July 1, 1999, all administrative rules promulgated by the Tax Commission pursuant to the Uniform Unclaimed Property Act shall be transferred to and become a part of the administrative rules of the State Treasurer. The Office of Administrative Rules in the Secretary of State's office shall provide adequate notice in the Oklahoma Register of the transfer of rules, and shall place the transferred rules under the Administrative Code section of the State Treasurer. From and after July 1, 1999, any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the State Treasurer.

Added by Laws 1999, c. 10, § 1, eff. July 1, 1999.

§60-701. Accounts presumed abandoned - Escheat.

All Postal Savings System accounts created by the deposits of persons whose last-known addresses are in this state which have not been claimed by the persons entitled thereto before May 1, 1971, are presumed to have been abandoned by their owners and are declared to escheat and become the property of this state.

Laws 1971, c. 41, § 1, emerg. eff. March 25, 1971.

§60-702. Request for account cards.

The Attorney General shall request from the Bureau of Accounts of the United States Treasury Department records providing the following information: the names of depositors at the post offices of this state whose accounts are unclaimed, their last addresses as shown by the records of the Post Office Department, and the balance in each account. He shall agree to return to the Bureau of Accounts promptly all account cards showing last addresses in another state.

Laws 1971, c. 41, § 2, emerg. eff. March 25, 1971.

§60-703. Proceedings to escheat accounts.

The Attorney General may bring proceedings in the district court of Oklahoma County to escheat unclaimed Postal Savings System

accounts held by the United States Treasury Department. A single proceeding may be used to escheat as many accounts as may be available for escheat at one time.

Laws 1971, c. 41, § 3, emerg. eff. March 25, 1971.

§60-704. Notice to depositors.

The Attorney General shall notify depositors whose accounts are to be escheated as follows:

1. A letter advising that a Postal Savings System account in the name of the addressee is about to be escheated and setting forth the procedure by which a deposit may be claimed shall be mailed by first class mail to the named depositor at the last address shown on the account records for each account to be escheated having an unpaid principal balance of more than Twenty-five Dollars (\$25.00).

2. A general notice of intention to escheat Postal Savings System accounts shall be published once in each of three (3) successive weeks in a legal newspaper of general circulation in the county in this state in which is located the last address shown on the account records for each account to be escheated having an unpaid principal balance of more than Twenty-five Dollars (\$25.00).

3. A special notice of intention to escheat the unclaimed Postal Savings System accounts originally deposited in each post office must be published once in each of three (3) successive weeks in a legal newspaper of general circulation in the county in which the post office is located. This notice must list the names of the owners of each unclaimed account to be escheated having a principal balance of Three Dollars (\$3.00) or more.

Laws 1971, c. 41, § 4, emerg. eff. March 25, 1971.

§60-705. Collection and deposit of funds.

The Attorney General shall present a copy of each final judgment of escheat to the United States Treasury Department for payment of the principal due and the interest computed under regulations of the United States Treasury Department. The payment received shall be deposited in the General Revenue Fund in the State Treasury.

Added by Laws 1971, c. 41, § 5, emerg. eff. March 25, 1971.

§60-706. Indemnification.

This state shall indemnify the United States for any losses suffered as a result of the escheat of unclaimed Postal Savings System accounts. The burden of the indemnification falls upon the fund into which the proceeds of the escheated accounts have been paid.

Laws 1971, c. 41, § 6, emerg. eff. March 25, 1971.

§60-707. Short title.

This act may be cited as the Escheat of Postal Savings System Accounts Act.  
Laws 1971, c. 41, § 7, emerg. eff. March 25, 1971.

§60-751. Definitions.

As used in this act, unless otherwise clearly required by the context:

1. "Beneficiary" means and includes any person entitled, but for his disclaimer, to take an interest, as grantee; as donee; under any assignment or instrument of conveyance or transfer; by succession to a disclaimed interest, other than by will, intestate succession or through the exercise or nonexercise of a testamentary power of appointment; as beneficiary of an inter vivos trust or insurance contract; pursuant to the exercise or nonexercise of a nontestamentary power of appointment; as donee of a power of appointment created by a nontestamentary instrument; or otherwise under any nontestamentary instrument;

2. "Interest" means and includes the whole of any property, real or personal, legal or equitable, or any fractional part, share or particular portion or specific assets thereof or any estate in any such property including but not limited to a joint tenancy interest in any such property, or power to appoint, consume, apply or expend property or any other right, power, privilege or immunity relating thereto; and

3. "Disclaimer" means a written instrument which declines, refuses, releases or disclaims an interest which would otherwise be succeeded to by a beneficiary, which instrument defines the nature and extent of the interest disclaimed thereby and which must be signed, witnessed and acknowledged by the disclaimant in the manner provided for deeds of real estate.

Amended by Laws 1988, c. 319, § 8, eff. Nov. 1, 1988.

§60-752. Right to file disclaimer - Minor incompetent or deceased beneficiaries.

A beneficiary may disclaim any interest in whole or in part, or with reference to specific parts, shares, portions or assets thereof, by filing a disclaimer in the manner hereinafter provided. A guardian, executor, administrator or other personal representative of the estate of a minor, incompetent or deceased beneficiary, if he deems it in the best interests of those interested in the estate of such beneficiary and of those who take the beneficiary's interest by virtue of the disclaimer and not detrimental to the best interests of the beneficiary, with or without an order of the probate court, may execute and file a disclaimer on behalf of the beneficiary within the time and in the manner in which the beneficiary himself could disclaim if he were living, of legal age and competent. A

beneficiary likewise may execute and file a disclaimer by agent or attorney so empowered.

Added by Laws 1973, c. 159, § 2.

§60-753. Time for filing disclaimer.

Such disclaimer shall be filed at any time after the creation of the interest, but in all events within nine (9) months after the effective date of the nontestamentary instrument creating the interest, or, if the disclaimant is not then finally ascertained as a beneficiary or his interest has not then become indefeasibly fixed both in quality and in quantity, such disclaimer shall be filed not later than nine (9) months after the event which would cause him so to become finally ascertained and his interest to become indefeasibly fixed both in quality and quantity. With respect to a disclaimer, an interest which is a joint tenancy interest in property shall not be considered to be indefeasibly fixed both in quality and quantity until the death of all but one of the persons owning such joint tenancy interest.

Amended by Laws 1988, c. 319, § 9, eff. Nov. 1, 1988.

§60-754. Place of filing disclaimer - Delivery of copies - Interest in real estate.

The disclaimer defined in Section 751 of this title shall be effective upon being filed on the miscellaneous docket in the office of the county clerk of any county of the State of Oklahoma in which the district court would have jurisdiction and venue of the matter. A copy of the disclaimer shall be delivered or mailed to the trustee of any trust in which the interest disclaimed exists or to any other person who has legal title to, or possession of, the property in which the interest disclaimed exists, and no such trustee or person shall be liable for any otherwise proper distribution or other disposition made without actual notice of the disclaimer. If an interest in or relating to real estate is disclaimed, the original of the disclaimer, or a copy of the disclaimer certified as true and complete by the custodian wherein the disclaimer has been filed, shall also be filed with the county clerk in the county or counties where the real estate is situated and shall constitute notice to all persons only from and after the time of the filing.

Added by Laws 1973, c. 159, § 4. Amended by Laws 2001, c. 67, § 1, eff. Nov. 1, 2001.

§60-755. Disposition of interest disclaimed.

Unless otherwise provided in the nontestamentary instrument creating the interest with reference to the possibility of a disclaimer by the beneficiary, the interest disclaimed shall be distributed or otherwise be disposed of in the same manner as if the disclaimant had died immediately preceding the death or other event

which causes him to become finally ascertained as a beneficiary and his interest to become indefeasibly fixed both in quality and quantity and, in any case, the disclaimer shall relate for all purposes to that date, whether filed before or after such death or other event. However, one disclaiming an interest in a nonresiduary gift under a trust instrument or otherwise shall not be excluded, unless his disclaimer so provides, from sharing in a gift of the residue even though, through lapse, such residue includes the assets disclaimed. If the disclaimer pertains to a joint tenancy interest in property, the interest disclaimed shall be distributed or otherwise be disposed of in the same manner as if the disclaimant had died immediately preceding the death of the other person having a joint tenancy interest in the same property whose death most closely preceded the effective date of the disclaimer or, if no person having a joint tenancy interest has died, then as if the disclaimant never owned the joint tenancy interest which was disclaimed.

Amended by Laws 1988, c. 319, § 10, eff. Nov. 1, 1988.

§60-756. Uniform Fraudulent Conveyances Act not abrogated - Bar on right to disclaim in certain cases.

Nothing included in this act shall be deemed to amend, repeal or abrogate in any manner Title 24 O. S. 1971, Sections 101 through 111, inclusive. Any voluntary assignment or transfer of, or contract to assign or transfer, an interest in real or personal property, or written waiver of the right to disclaim the succession to an interest in real or personal property, by any beneficiary, or any sale or other disposition of an interest in real or personal property pursuant to judicial process, made before he has disclaimed, as herein provided, bars the right otherwise hereby conferred on such beneficiary to disclaim as to such interest.

Added by Laws 1973, c. 159, § 6.

§60-757. Spendthrift provisions - Binding effect of disclaimer - Spouse of disclaimant.

The right to disclaim granted by this act shall exist irrespective of any limitation imposed on the interest of the disclaimant in the nature of an express or implied spendthrift provision or similar restriction. A disclaimer, when filed as provided in this act, or a written waiver of the right to disclaim, shall be binding upon the disclaimant or beneficiary so waiving and all parties thereafter claiming by, through or under him, except that a beneficiary so waiving may thereafter transfer, assign or release his interest if such is not prohibited by an express or implied spendthrift provision. If an interest in real estate is disclaimed and the disclaimer is duly filed in accordance with the provisions of Section 4 of this act, the spouse of the disclaimant,

if such spouse has consented to the disclaimer in writing, shall thereupon be automatically debarred from any claim, right or interest in such real estate to which such spouse, except for such disclaimer, would have been entitled.

Added by Laws 1973, c. 159, § 7.

§60-758. Other rights not abridged.

This act shall not abridge the right of any person, apart from this act, under any existing or future statute or rule of law, to disclaim any interest or to assign, convey, release, renounce or otherwise dispose of any interest.

Added by Laws 1973, c. 159, § 8.

§60-759. Interests not fixed or finally ascertained - Right to disclaim.

Any interest which exists on the effective date of this act but which has not then become indefeasibly fixed both in quality and quantity, or the taker of which has not then become finally ascertained, may be thereafter disclaimed in the manner provided herein.

Added by Laws 1973, c. 159, § 9.

§60-801. Short title.

This act shall be known as the Oklahoma Airspace Act.

Added by Laws 1973, c. 199, § 1, eff. Oct. 1, 1973.

§60-802. Airspace defined - Provisions pertaining to aviation not affected.

For purposes of this act, airspace is defined as that space which extends from the surface of the earth upward and which is either occupied or subject to being occupied for the reasonable enjoyment and use of the land surface and any structures thereon by the surface owner or owners, his or their heirs, successors or assigns. The airspace owned by a surface owner or owners is that which lies within the vertical upward extension of his or their surface boundaries. Airspace as defined herein shall in no way be deemed to contravene, supersede, amend, modify or alter the existing powers, requirements, limitations or other provisions of statutory or common law pertaining to aviation, air transportation, air commerce, or air operations.

Added by Laws 1973, c. 199, § 2, eff. Oct. 1, 1973.

§60-803. Airspace as real property.

Airspace as defined herein is real property, and until title thereto or rights, interests or estates therein are separately transferred, airspace is the property of the person or persons holding title to the land surface beneath it, subject to the

limitations relating to wind or solar energy agreements provided in Section 1 of this act.

Added by Laws 1973, c. 199, § 3, eff. Oct. 1, 1973. Amended by Laws 2010, c. 334, § 2, eff. July 1, 2010.

§60-804. Airspace subject to same statutes, rules of law and common law as other real property.

A. It is the purpose of this act that airspace shall be subject to being acquired, held, enjoyed, possessed, alienated, granted, sold, conveyed, exchanged, transferred, partitioned, assigned, demised, leased, released, charged, mortgaged, encumbered, assessed, devised, condemned, vacated, zoned, platted, divided, subdivided, and otherwise utilized and manipulated in the same manner, upon the same conditions and for the same uses and purposes as other real property; and airspace shall be subject to the same statutes, rules of law, and common law as other real property.

B. All of the rights, privileges, immunities, incidents, powers, remedies, burdens, servitudes, duties, liabilities, limitations and restrictions which apply to titles, estates, rights and interests in other real property shall apply to airspace.

C. No power set forth herein, however, shall alter, amend, supersede, hinder, contravene, prevent or affect the exercise of the rights, privileges and immunities otherwise granted by statutory or common law to individuals, partnerships, corporations, business associations or governmental bodies engaged in aviation, air transportation, air commerce, air operations, or to public service corporations.

Added by Laws 1973, c. 199, § 4, eff. Oct. 1, 1973.

§60-805. Titles, estates, rights and interests as pertaining to airspace.

Subject to the limitations relating to wind or solar energy agreements provided in Section 1 of this act, all forms of titles, estates, rights and interests which may presently exist or which may hereafter be created by law or equity or under statutes pertaining to real property may be legally created, transferred and conveyed in airspace, whether or not such airspace is contiguous to the surface of the earth; and the same shall constitute titles, estates, rights and interests in real property under and subject to the laws pertaining thereto.

Added by Laws 1973, c. 199, § 5, eff. Oct. 1, 1973. Amended by Laws 2010, c. 334, § 3, eff. July 1, 2010.

§60-806. State, governmental units, individuals, corporations, etc. as possessing same powers and duties with respect to airspace as to other property.



A. The state and all of its departments, commissions, agencies, instrumentalities, divisions, subdivisions and authorities, including all counties, municipal corporations and governmental units of any kind, shall have the same powers, rights and duties with respect to airspace as are possessed with respect to other real property.

B. All private individuals, partnerships, corporations, foundations, trustees, fiduciaries, and all other private persons whatever their legal status, shall have the same powers, rights and duties with respect to airspace as are possessed with respect to other real property.

Added by Laws 1973, c. 199, § 6, eff. Oct. 1, 1973.

§60-807. Division of airspace.

Airspace may be divided or apportioned horizontally and vertically, and in any geometric shape or design, in the exercise of any of the powers, rights or duties by public bodies or private persons under this act.

Added by Laws 1973, c. 199, § 7, eff. Oct. 1, 1973.

§60-808. Right, title, and interest to pass at death of owner.

The right, title, interest and estate of a decedent in and to airspace shall pass at his death by testamentary disposition, or in the event of intestacy, shall pass in the same manner as provided by the laws of this state for the descent of other real property.

Added by Laws 1973, c. 199, § 8, eff. Oct. 1, 1973.

§60-809. Taxation.

All titles, estates, rights and interests in airspace are subject to taxation to the same extent and in the same manner as other real property is taxed; and for the purpose of taxation, titles, estates, rights and interests in airspace held by persons other than by the owner or owners of the land surface shall be taxed separately from the land surface and from other separately owned airspace, and the owner or owners of the land surface shall not be taxed for airspace which is not owned, nor to the extent that his or their rights therein have been diminished. Nothing contained in this section shall be construed to authorize taxation of unimproved or undeveloped airspace either by adding to the assessed valuation of the surface or by taxation on said unimproved or undeveloped airspace itself. This act shall not apply to aviation, air or space travel.

Added by Laws 1973, c. 199, § 9, eff. Oct. 1, 1973.

§60-810. Powers of state over highways, streets, bridges, etc. not extended so as to cause violations.

The powers granted under this act shall in no way extend the power of state and local authorities having jurisdiction over highways, roads, streets, alleys, bridges or rights-of-way to the point that (a) federal regulations pertaining to federal aid rights-of-way are violated, (b) constitutional limits on the power of such authorities are exceeded, or (c) the right of the public to full and unobstructed use of highways, roads, streets, alleys, bridges and rights-of-way is impaired.

Added by Laws 1973, c. 199, § 10, eff. Oct. 1, 1973.

§60-811. Joint development use plans.

A. The state and any of its political subdivisions, port authorities and turnpike authorities may join, cooperate and contract with other agencies or instrumentalities of federal, state or local governments, or with private persons, corporations, partnerships, business associations, fiduciaries or personal representatives in and for the acquisition, condemnation, purchase, lease, sale, assignment, mortgage or use of title, rights, interests and estates in airspace. This power shall include, but shall not be limited to, the joint development and multiple use of rights-of-way and adjoining property or airspace. In furtherance of such functions, the aforementioned entities and authorities shall have the following powers:

1. To do all things necessary to develop and effectuate a joint development and multiple use plan for an area which is to be developed, including the coordination of such plan and cooperation with all other affected agencies of federal, state or local governments; to collect and distribute informational material pertaining thereto; to cooperate and coordinate activities and functions with interested or affected private persons, corporations, partnerships, business associations, fiduciaries, personal representatives or groups; to employ consultants, planners and professional or advisory personnel or services; to contract with federal, state, regional or local authorities or agencies, or with private persons, corporations, partnerships, business associations or other such organizations or associations for the preparation of transportation and land use studies; and to contract for services, labor, supplies, equipment or other items with governmental authorities or private persons, corporations, partnerships, business associations, fiduciaries, personal representatives or other persons as may be necessary to effectuate the joint development and multiple use plan;

2. To apply for, accept, receive, spend and account for such funds, grants, loans, gifts and services from federal, state, regional or local governments or their instrumentalities or from private persons or from other sources as may be needed to develop and effectuate the joint development and multiple use plan; and to

provide and agree to such reasonable conditions and requirements as may be necessary in connection therewith; and

3. To perform such other acts and enter into such contracts or execute such other legal documents as may be necessary or appropriate to develop, effectuate or execute the joint development and multiple use plan.

B. The state and any of its political subdivisions, port authorities and turnpike authorities may join with any other federal, state, regional or local governmental authority in the condemnation through exercise of the power of eminent domain of land or airspace in excess of that necessary for the highway, road or street right-of-way, whenever such excess condemnation is necessary and appropriate to effectuate a joint development and multiple use plan.

Added by Laws 1973, c. 199, § 11, eff. Oct. 1, 1973.

§60-812. Sale of unneeded airspace or real property.

Any governmental authority, agency or instrumentality which holds right, title, interest or estate in airspace or in other real property which is not needed for a public purpose or for public use may sell, convey or transfer the right, title, interest or estate owned by it, or any lesser right, title, interest or estate, to such persons as the laws of this state permit at public or private sale for not less than seventy-five percent (75%) of the appraised value thereof, as established by two or more disinterested, qualified appraisers. Along with transfers of unneeded airspace or real property, or right, title, interest or estate therein, the transferor may also grant or transfer easements or other rights and interests in retained airspace and real property which may be required to provide access to or support of structures erected in the transferred airspace or property.

Added by Laws 1973, c. 199, § 12, eff. Oct. 1, 1973.

§60-813. Governmental authority holding only easements for use as rights-of-way.

In situations in which a governmental authority or agency holds only an easement for use as a right-of-way over land on which is constructed a highway, street, road, alley or bridge:

1. The governmental authority or agency shall possess for and on behalf of the public the right to use such easement for highway, street, road, alley or bridge purposes with full, free and unobstructed passage over such improvement as well as the right to construct, maintain, repair, alter and remove such improvement, subject to all other laws pertaining thereto; and

2. In addition thereto, the governmental authority and agency shall possess for and on behalf of the public the right to make full use of the airspace over, under or upon said right-of-way, provided

that the residual right, title, interest and estate of the owner or owners of the fee in and to the land on which said improvement exists shall not in any way be encumbered, limited or additionally burdened without just compensation being paid to such owner or owners and with the determination of such just compensation to be made in the manner provided by law for additional takings under the power of eminent domain.

Added by Laws 1973, c. 199, § 13, eff. Oct. 1, 1973.

§60-814. Right of eminent domain.

This act shall not alter, amend, repeal, modify or affect the laws of this state providing for the exercise of the power of eminent domain by public or quasi-public agencies, authorities and instrumentalities or by private persons, except as may be specifically provided herein and except that the power of eminent domain may be exercised to condemn and acquire airspace in the same manner as provided by law for the acquisition of other real property or for rights or interests in same. The procedure and rules provided by law for condemnation of real property by public or quasi-public agencies, authorities and instrumentalities and by private persons shall apply to the condemnation of airspace. Whenever more than one procedure for condemnation is provided by law and whenever there is doubt as to which procedure applies in a particular condemnation proceeding, the condemnation procedure applicable to the State Highway Commission or agency shall be followed.

Added by Laws 1973, c. 199, § 14, eff. Oct. 1, 1973.

§60-815. Laws pertaining to powers, privileges, immunities, duties and liabilities of agencies not affected.

Except as specifically provided herein, this act shall not alter, amend, repeal, modify or affect the laws of this state which pertain to the powers, privileges, immunities, duties and liabilities of authorities, agencies, instrumentalities or other such divisions or departments of state and local governments, or to improvement districts or to private persons.

Added by Laws 1973, c. 199, § 15, eff. Oct. 1, 1973.

§60-820.1. Airspace Severance Restriction Act.

A. This act shall be known and may be cited as the "Airspace Severance Restriction Act".

B. It is the intent of this act to restrict the permanent severing of the airspace over any real property located in this state for the purpose of developing and operating commercial wind or solar energy conversion systems. Leasing arrangements for development of wind or solar energy conversion systems may be made only with the legally authorized owner of the surface estate

pursuant to the provisions and restrictions provided by this act or otherwise provided by law. The provisions of this act shall not apply to any property owner utilizing wind or solar energy conversion systems for domestic use only.

C. For the purposes of this act a "wind or solar energy agreement" means a lease agreement, whether or not stated in the form of a restriction, covenant, or condition, in any deed, wind or solar easement, wind or solar option or lease securing land for the study or production of wind or solar-generated energy, or any other instrument executed by or on behalf of any owner of land or airspace for the purpose of allowing another party to study the potential for, or to develop, a wind or solar energy conversion system on the land or in the airspace. A wind or solar energy agreement shall in no way be deemed to contravene, supersede, amend, modify or alter the existing powers, requirements, limitations or other provisions of statutory or common law pertaining to aviation, air transportation, air commerce or air operations.

D. A wind or solar energy agreement shall run with the land benefitted and burdened and shall terminate upon the conditions stated in the wind or solar agreement.

E. An instrument entered into subsequent to July 1, 2010, that creates a land right or an option to secure a land right in real property or the vertical space above real property for a solar energy system, for a wind or solar energy conversion system, or for wind measurement equipment, shall be created in writing, and the instrument, or related memorandum of easement, or an abstract, shall be filed, duly recorded, and indexed in the office of the county clerk in the county in which the real property subject to the instrument is located. The instrument, but not the related memorandum of easement or abstract, shall include but not be limited to:

1. The names of the parties;
2. A legal description of the real property involved;
3. The nature of the interest created;
4. The consideration paid for the transfer;
5. A description of the improvements the developer intends to make on the real property, including, but not limited to, roads, transmission lines, substations, wind turbines and meteorological towers;
6. A description of any decommissioning security as defined in subsection B of this section, or other requirements related to decommissioning; and
7. The terms or conditions, if any, under which the interest may be revised or terminated.

F. No interest in any resource located on a tract of land and solely associated with the production or potential production of wind or solar-generated energy on the tract of land may be severed

from the surface estate except that such rights may be leased for a definite term pursuant to the provisions of this act.

G. The provisions of this act shall not affect any agreements or contracts entered into pursuant to the provisions of the Oklahoma Airspace Act, Section 801 et seq. of this title.

Added by Laws 2010, c. 334, § 1, eff. July 1, 2010. Amended by Laws 2011, c. 50, § 1, emerg. eff. April 13, 2011.

§60-831. Short title.

This act shall be known and may be cited as the "Residential Property Condition Disclosure Act".

Added by Laws 1994, c. 198, § 1, eff. July 1, 1995.

§60-832. Definitions.

As used in this act:

1. "Offer to purchase" means an offer to purchase property made by a purchaser pursuant to a written contract;

2. "Seller" means one or more persons who are attempting to transfer a possessory interest in property and who are either:

a. represented by a real estate licensee; or

b. not represented by a real estate licensee but receive a written request from the purchaser to deliver or cause to be delivered a disclaimer statement or disclosure statement as such terms are defined in paragraphs 11 and 12 of this section;

3. "Purchaser" means one or more persons who are attempting to acquire a possessory interest in property;

4. "Real estate licensee" means a person licensed under the Oklahoma Real Estate License Code;

5. "Transfer" means a sale or conveyance, exchange or option to purchase by written instrument of a possessory interest in property for consideration;

6. "Person" means an individual, corporation, limited liability company, partnership, association, trust or other legal entity or any combination thereof;

7. "Contract" means a real estate purchase contract for the sale, conveyance or exchange of property, option to purchase property, or a lease with an option to purchase property;

8. "Property" means residential real property improved with not less than one nor more than two dwelling units;

9. "Defect" means a condition, malfunction or problem that would have a materially adverse effect on the monetary value of the property, or that would impair the health or safety of future occupants of the property;

10. "Disclosure" means a written declaration required by this act based on actual knowledge of the seller regarding certain

physical conditions of the property. A disclosure for purposes of this act is not a warranty, implied or express, of any kind;

11. "Disclaimer statement" means the statement described in paragraph 1 of subsection A of Section 3 of this act; and

12. "Disclosure statement" means the statement described in paragraph 2 of subsection A of Section 3 of this act.

Added by Laws 1994, c. 198, § 2, eff. July 1, 1995.

§60-833. Disclaimer and disclosure statements.

A. A seller of property located in this state shall deliver, or cause to be delivered, to the purchaser of such property one of the following:

1. A written property disclaimer statement on a form established by rule by the Oklahoma Real Estate Commission which states that the seller:

- a. has never occupied the property and makes no disclosures concerning the condition of the property, and
- b. has no actual knowledge of any defect; or

2. A written property condition disclosure statement on a form established by rule by the Oklahoma Real Estate Commission which shall include the information set forth in subsection B of this section.

B. 1. The disclosure statement shall include an identification of items and improvements which are included in the sale of the property and whether such items or improvements are in normal working order. The disclosures required shall also include a statement of whether the seller has actual knowledge of defects or information in relation to the following:

- a. water and sewer systems, including the source of household water, water treatment systems, sprinkler systems, occurrence of water in the heating and air conditioning ducts, water seepage or leakage, drainage or grading problems and flood zone status,
- b. structural systems, including the roof, walls, floors, foundation and any basement,
- c. plumbing, electrical, heating and air conditioning systems,
- d. infestation or damage of wood-destroying organisms,
- e. major fire or tornado damage,
- f. land use matters,
- g. existence of hazardous or regulated materials and other conditions having an environmental impact,
- h. existence of prior manufacturing of methamphetamine,
- i. any other defects known to the seller, and
- j. other matters the Oklahoma Real Estate Commission deems appropriate.

2. The disclosure statement shall include the following notices to the purchaser in bold and conspicuous type:

- a. "The information and statements contained in this disclosure statement are declarations and representations of the seller and are not the representations of the real estate licensee.",
- b. "The information contained in this disclosure statement is not intended to be a part of any contract between the purchaser and the seller.", and
- c. "The declarations and information contained in this disclosure statement are not warranties, express or implied of any kind, and are not a substitute for any inspections or warranties the purchaser may wish to obtain."

C. Either the disclaimer statement or the disclosure statement required by this section must be completed, signed and dated by the seller. The date of completion on either statement may not be more than one hundred eighty (180) days prior to the date of receipt of the statement by the purchaser.

D. The Oklahoma Real Estate Commission shall develop by rule the forms for the residential property condition disclaimer and the residential property condition disclosure statement. After development of the initial forms, the Oklahoma Real Estate Commission may amend by rule the forms as is necessary and appropriate.

Such forms shall be made available upon request irrespective of whether the person requesting a disclaimer or disclosure form is represented by a real estate licensee.

Added by Laws 1994, c. 198, § 3, eff. July 1, 1995. Amended by Laws 2003, c. 52, § 1, eff. Nov. 1, 2003.

#### §60-834. Delivery of statements.

A. A seller should deliver either the disclaimer statement or disclosure statement to the purchaser as soon as practicable, but in any event it shall be delivered before acceptance of an offer to purchase.

B. If the disclaimer statement or disclosure statement is delivered to the purchaser after an offer to purchase has been made, the offer to purchase shall be accepted only after the purchaser has acknowledged receipt of the disclaimer statement or disclosure statement and confirmed the offer to purchase.

C. If the seller becomes aware of a defect after delivery to the purchaser of either a disclaimer statement or a disclosure statement, then the seller shall promptly deliver to the purchaser either a disclosure statement or an amended disclosure statement which discloses the newly discovered defect. The disclosure statement or any amendment shall be in writing and shall be signed



and dated by the seller. However, if the required document is delivered to the purchaser after an offer to purchase has been made, the offer to purchase shall be accepted only after the purchaser has acknowledged receipt of the required document and confirmed the offer to purchase.

D. The purchaser shall acknowledge in writing receipt of the disclaimer statement or the disclosure statement and any amendment to the disclosure statement. The purchaser shall sign and date any acknowledgment. Such acknowledgment should accompany the offer to purchase the property. If the purchaser confirms the offer to purchase, such confirmation shall be in writing, shall be signed and dated by the purchaser and shall be promptly delivered to the seller.

Added by Laws 1994, c. 198, § 4, eff. July 1, 1995.

§60-835. Limitation of seller's liability.

A. The seller shall not be liable for a defect or other condition in the property if the existence of the defect or other condition in the property was disclosed in the disclosure statement or any amendment delivered to the purchaser before acceptance of the offer to purchase.

B. The seller shall not be liable for any erroneous, inaccurate or omitted information supplied to the purchaser as a disclosure required by this act if:

1. The error, inaccuracy or omission results from an approximation of information by the seller, provided:

- a. accurate information was unknown to the seller at the time the disclosure was made,
- b. the approximation was clearly identified as such and was reasonable and based on the best information available to the seller, and
- c. the approximation was not used to circumvent the disclosure requirements of this act;

2. The error, inaccuracy or omission was not within the actual knowledge of the seller; or

3. The disclosure was based on information provided by public agencies and the seller reasonably believed the information to be correct.

C. The delivery by a public agency of any information required to be disclosed by the seller of the property shall satisfy the requirements of this act as to the disclosures to which the information being furnished is applicable.

Added by Laws 1994, c. 198, § 5, eff. July 1, 1995.

§60-836. Duties of real estate licensee.

A. A real estate licensee representing or assisting a seller has the duty to obtain from the seller a disclaimer statement or a

disclosure statement and any amendment required by the Residential Property Condition Disclosure Act and to make such statement available to potential purchasers prior to acceptance of an offer to purchase.

B. A real estate licensee representing or assisting a purchaser has the duty to obtain and make available to the purchaser a disclaimer statement or a disclosure statement and any amendment required by the Residential Property Condition Disclosure Act prior to the acceptance of an offer to purchase.

C. A real estate licensee has the duty to disclose to the purchaser any defects in the property actually known to the licensee which are not included in the disclosure statement or any amendment.

D. A real estate licensee who has complied with the requirements of subsections A, B and C of this section, as applicable, shall have no further duties to the seller or the purchaser regarding any disclosures required under the Residential Property Condition Disclosure Act.

A real estate licensee who has not complied with the requirements of subsections A, B and C of this section shall be subject to disciplinary action by the Oklahoma Real Estate Commission as set forth in paragraph 6 of Section 858-208 of Title 59 of the Oklahoma Statutes.

E. A real estate licensee has no duty to the seller or the purchaser to conduct an independent inspection of the property and has no duty to independently verify the accuracy or completeness of any statement made by the seller in the disclaimer statement or the disclosure statement and any amendment.

Added by Laws 1994, c. 198, § 6, eff. July 1, 1995. Amended by Laws 2007, c. 42, § 6, eff. Jan. 1, 2008.

#### §60-837. Remedies.

A. The purchaser may recover in a civil action only in the event of any of the following:

1. The failure of the seller to provide to the purchaser a disclaimer statement or a disclosure statement and any amendment prior to acceptance of an offer to purchase;

2. The failure of the seller to disclose in the disclosure statement or any amendment provided to the purchaser a defect which was actually known to the seller prior to acceptance of an offer to purchase; or

3. The failure of the real estate licensee to disclose to the purchaser any defects in the property actually known to the real estate licensee prior to acceptance of an offer to purchase and which were not included in the disclosure statement or any amendment provided to the purchaser.

B. The sole and exclusive civil remedy at common law or otherwise for a failure under subsection A of this section by the

seller or the real estate licensee shall be an action for actual damages, including the cost of repairing the defect, suffered by the purchaser as a result of a defect existing in the property as of the date of acceptance by the seller of an offer to purchase and shall not include the remedy of exemplary damages.

C. Any action brought under this act shall be commenced within two (2) years after the date of transfer of real property subject to this act.

D. In any civil action brought under this act, the prevailing party shall be allowed court costs and a reasonable attorney fee to be set by the court and to be collected as costs.

E. A transfer of a possessory interest in property subject to this act may not be invalidated solely because of the failure of any person to comply with this act.

F. This act applies to, regulates and determines rights, duties, obligations and remedies at common law or otherwise of the seller, the real estate licensee and the purchaser with respect to disclosure of defects in property and supplants and abrogates all common law liability, rights, duties, obligations and remedies therefore.

Added by Laws 1994, c. 198, § 7, eff. July 1, 1995. Amended by Laws 2003, c. 52, § 2, eff. Nov. 1, 2003.

§60-838. Exemptions from application of act.

A. This act does not apply to:

1. Transfers pursuant to court order, including, but not limited to, transfers pursuant to a writ of execution, transfers by eminent domain and transfers pursuant to an order for partition;

2. Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a mortgagee's sale under a power of sale after default in an obligation secured by any instrument containing a power of sale, or transfers by a mortgagee who has acquired the real property at a sale conducted pursuant to a power of sale or a sale pursuant to a decree of foreclosure or has acquired the real property by deed in lieu of foreclosure;

3. Transfers by a fiduciary who is not an owner occupant of the subject property in the course of the administration of a decedent's estate, guardianship, conservatorship or trust;

4. Transfers from one co-owner to one or more other co-owners;

5. Transfers made to a spouse, or to the person or persons in the lineal line of consanguinity of one or more of the owners;

6. Transfers between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree;

7. Transfers made pursuant to mergers and from a subsidiary to a parent or the reverse;

8. Transfers or exchanges to or from any governmental entity;  
or

9. Transfers of a newly constructed, previously unoccupied dwelling.

B. Nothing in this act shall be construed to alter or change the requirements of Section 858-513 of Title 59 of the Oklahoma Statutes, regarding psychologically impacted real estate.

Added by Laws 1994, c. 198, § 8, eff. July 1, 1995.

§60-839. Notices and acknowledgments.

Any notices or acknowledgments required under this act need not be sworn to, verified or acknowledged.

Added by Laws 1994, c. 198, § 9, eff. July 1, 1995.

§60-851. Nature of developments.

The term "real estate development" shall include developments:

1. Which consist or will consist of separately owned lots, parcels or areas with either or both of the following features:

a. One or more additional contiguous or noncontiguous lots, parcels or areas owned in common by the owners of the separately owned lots, parcels or areas.

b. Mutual, common or reciprocal interests in or restrictions upon, all or portions of such separately owned lots, parcels or areas, or both.

2. The estate in a separately or commonly owned lot, parcel or area may be an estate of inheritance, estate in fee, an estate for life, or an estate for years.

Either common ownership of the additional contiguous or noncontiguous lots, parcels or areas referred to in subparagraph a. of paragraph 1. above, or the enjoyment of the mutual, common or reciprocal interests in, or restrictions upon the separately owned lots, parcels or areas pursuant to subparagraph b. of paragraph 1. above, or both, may be through ownership of shares of stock or membership in an owners association or otherwise.

Added by Laws 1975, c. 292, § 1, emerg. eff. June 5, 1975.

§60-852. Owners association.

A. An "owners association" may be formed by the owner or owners of real estate development for the purpose of:

1. providing management, maintenance, preservation and control of commonly owned areas or any portion of or interest in them, and/or

2. enforcing all mutual, common or reciprocal interests in or restrictions upon all or portions of such separately owned lots, parcels, or areas, or both.

B. An owners association shall be formed by the execution of an instrument signed and acknowledged by all owners of the real property included. Such instrument shall set forth in detail the nature of the obligations of the members and shall be filed of record in the office of the county clerk of the county wherein the real property is located. The instrument shall include a description of said real property.

C. The owners association shall have the power to enforce any obligation in connection with membership in the owners association by means of a levy or assessment which may become a lien upon the separately or commonly owned lots, parcels or areas of defaulting owners or members, which said lien may be foreclosed in any manner provided by law for the foreclosure of mortgages or deeds of trust, with or without a power of sale. In an action brought to enforce any lien authorized pursuant to the provisions of this section, the prevailing party shall be entitled to recover reasonable attorney's fees to be fixed by the court, which shall be taxed as costs in the action. No lien may be placed or mortgage foreclosed unless the homeowner was informed in writing upon joining the owners association of the existence and content of the owners association restrictions and rules, and of the potential for financial liability to the individual owner by joining said owners association.  
Amended by Laws 1986, c. 48, § 1, eff. Nov. 1, 1986.

§60-853. Taxes and special assessments.

Each separately owned lot, parcel or area together with its proportionate interest in the common element, shall constitute a separate and distinct unit; for the purpose of assessment of taxes, special assessments, and other charges which may be lawfully assessed against owners of real property, and each holder of such shall be liable solely for the amount of taxes against his individual estate and shall not be affected by the consequences resulting from the tax delinquency of other unit holders.  
Added by Laws 1975, c. 292, § 3, emerg. eff. June 5, 1975.

§60-854. Membership - Covenants and restrictions.

Membership of said owners association shall consist of recorded owners of separately owned lots in the real estate development. Membership is transferred upon legal transfer of title to the separately owned lots. The owners association may also enforce the covenant and restrictions of the real estate development when specified by the covenants and restrictions.  
Laws 1975, c. 292, § 4, emerg. eff. June 5, 1975.

§60-855. Application of act.

The powers granted the owners association under this act shall apply only to owners associations created subsequent to the effective date of this act.

Added by Laws 1975, c. 292, § 5, emerg. eff. June 5, 1975.

§60-856. Enforcement of restrictions and covenants.

Any person owning property in a real estate development shall be entitled to bring action against any other person owning property in such development to enforce any of the restrictions or covenants of the real estate development which are specified by the covenants or restrictions. In any action to enforce any restriction or covenant pursuant to the provisions of this section, the prevailing party shall be entitled to recover reasonable attorney's fees to be fixed by the court, which shall be taxed as costs in the action.

Added by Laws 1986, c. 48, § 2, eff. Nov. 1, 1986.

§60-857. Copies of recorded covenants and restrictions.

A copy or a certified copy of all the recorded covenants and restrictions of a real estate development shall be provided by the title company closing the sale to the buyer of property in the real estate development as a part of the closing of the real estate sale. The buyer may be charged no more than Twenty-five Dollars (\$25.00) for the copy, and the copy shall either be provided prior to or at the time of closing either by mail to the buyer's last-known address, hand-delivered or electronically delivered.

Added by Laws 1999, c.384, § 10, eff. Nov. 1, 1999. Amended by Laws 2018, c. 274, § 2, eff. Nov. 1, 2018.

§60-858. Displaying the flag of the United States.

An owners association, condominium association, cooperative association or residential real estate management association shall not adopt or enforce any policy or enter into any agreement that would restrict or prevent a member of the association from displaying the flag of the United States at a reasonable height, not to exceed twenty (20) feet, on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use.

Added by Laws 2017, c. 172, § 2, emerg. eff. May 2, 2017.

§60-860. Community Residential Living for Persons with Developmental or Physical Disabilities Act.

Sections 860 through 867 of this title shall be known and may be cited as the "Community Residential Living for Persons with Developmental or Physical Disabilities Act".

Added by Laws 1987, c. 169, § 1, eff. Nov. 1, 1987. Amended by Laws 1996, c. 354, § 41, eff. Nov. 1, 1996.

§60-861. Legislative findings - Goal of act.

A. The Legislature makes the following findings with regard to the rights of persons with developmental or physical disabilities:

1. Persons with developmental or physical disabilities have a right to appropriate treatment, services, and habilitation for such disabilities;

2. The treatment, services, and habilitation for a person with developmental or physical disabilities should be designed to maximize the developmental potential of the person and should be provided for in the setting that is least restrictive of the person's personal liberty; and

3. All programs for persons with developmental or physical disabilities should meet standards which are designed to ensure:

- a. the most favorable possible outcome for those served,
- b. in the case of residential programs for persons with developmental or physical disabilities, that care is appropriate to the needs of the persons being served by such programs,
- c. that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and
- d. that the facilities subject to such programs provide for the humane care of the residents of the facilities and protect their rights.

B. The Legislature declares that it is the goal of the Community Residential Living for Persons with Developmental or Physical Disabilities Act to improve the quality of life of all persons with developmental or physical disabilities and to integrate persons with developmental or physical disabilities into the mainstream of society by ensuring them the availability of community residential opportunities in the residential areas of this state. In order to implement this goal, the Community Residential Living for Persons with Developmental or Physical Disabilities Act shall be liberally construed toward that end.

Added by Laws 1987, c. 169, § 2, eff. Nov. 1, 1987. Amended by Laws 1996, c. 354, § 42, eff. Nov. 1, 1996.

§60-862. Definitions.

As used in the Community Residential Living for Persons with Developmental or Physical Disabilities Act:

1. "Commission" means the Commission for Human Services;
2. "Developmental disability" means a severe, chronic disability of a person which:
  - a. is attributable to a mental or physical impairment or combination of mental and physical impairments,
  - b. is manifested before the person attains twenty-two (22) years of age,

- c. is likely to continue indefinitely,
- d. results in substantial functional limitations in three or more of the following areas of major life activity:
  - (1) self-care,
  - (2) receptive and expressive language,
  - (3) learning,
  - (4) mobility,
  - (5) self-direction,
  - (6) capacity for independent living, and
  - (7) economic self-sufficiency, and
- e. reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;

3. "Physical disability" means a condition which causes the restricted use of extremities by an individual or which limits other bodily functions of an individual and which requires the specialized training, habilitation or rehabilitation services provided by a group home;

4. "Director" means the Director of the Department of Human Services;

5. "Group home" means a community-based residential facility located in a single-family zoning area that admits not more than six persons with developmental or physical disabilities who require specialized living arrangements, and that provides for such persons a home that is subject to the care and supervision of a responsible adult and which is licensed by or which has a contract with the Department of Human Services;

6. "Permitted use" means a use by right which is authorized in all residential zoning districts; and

7. "Political subdivision" means a municipality or county, whichever holds primary jurisdiction.

Added by Laws 1987, c. 169, § 3, eff. Nov. 1, 1987. Amended by Laws 1989, c. 330, § 1, eff. Nov. 1, 1989; Laws 1996, c. 354, § 43, eff. Nov. 1, 1996.

§60-863. Establishment of group home - Procedure.

- A. 1. a. A group home is a residential use of property for the purposes of zoning and shall be treated as a permitted use in all residential zones or districts, including all single-family residential zones or districts of all political subdivisions of this state. No political subdivision may require that a group home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance different from those required for other



dwellings of similar density in the same zone; provided, however, prior to the establishment of a group home in any residential area within a political subdivision, the owner of such home shall file with the political subdivision an application for the establishment of such group home in such residential area. The political subdivision shall provide for notice to be given to all affected real property owners. The notice shall contain a legal description of the property and the street address or approximate location of the group home.

- b. For the purposes of this section, the term "affected real property owners" shall mean all owners of real property which is located within three hundred (300) feet of the exterior boundary of the property on which the group home is to be located. The political subdivision may deny the application if the owner of the group home fails to obtain a license from the Department of Human Services or if the group home fails to comply with the spacing requirements of subsection B of this section.

2. After the initial approval process, the political subdivision shall have the right to require a rezoning application, special exception, or variance filing and a public hearing, if such procedures are normally required for any other similar use in the zoning district.

B. 1. Any rules promulgated by the State Board of Health for purposes of implementing the Community Residential Living for Persons with Developmental or Physical Disabilities Act shall remain in effect until such rules are superseded by rules promulgated by the Commission for Human Services, pursuant to this section. At such time, rules promulgated by the State Board of Health shall terminate.

2. For the purposes of safeguarding the health and safety of persons with developmental or physical disabilities and avoiding an over-concentration of group homes, either along or in conjunction with similar community-based residences, within one hundred eighty (180) days of the effective date of the Community Residential Living for Persons with Developmental or Physical Disabilities Act, the Commission for Human Services shall promulgate rules which shall encompass the following matters:

- a. limitations on the number of new group homes to be permitted on blocks, block faces, and other appropriate geographic areas, to one thousand two hundred (1,200) feet between group homes, or similar community residential facilities serving persons in drug, alcohol, juvenile, child, parole, and other

programs of treatment, care, supervision, or rehabilitation in a community setting; provided, however, this provision shall not apply to group homes located outside of the corporate limits of a municipality,

- b. assurance that adequate arrangements are made for the residents of group homes to receive such care and habilitation as is necessary and appropriate to their needs and to further their progress towards independent living,
- c. protection of the health and safety of the residents of group homes. Compliance with these rules shall not relieve the operator of any group home of the obligation to comply with the requirements or standards of a political subdivision pertaining to building, housing, health, fire, safety, and motor vehicle parking space that generally apply to single-family residences in the zoning district. No requirements for business licenses, gross receipt taxes, environmental impact studies, or clearances may be imposed on such homes if such fees, taxes, or clearances are not imposed on all structures in the zoning district housing a like number of persons. A group home shall not be excluded from a single family zone as a result of requirements promulgated by the Commission,
- d. procedures by which a resident of a residential zoning district or the governing body of a political subdivision in which a group home is, or is to be, located may petition the Department of Human Services to deny an application for a license to operate a group home on the grounds that the operation of such a home would be in violation of the limits established pursuant to the provisions of subparagraph a of paragraph 2 of subsection B of this section, and
- e. fees for licenses or renewal of licenses required by this section.

C. In order to facilitate the implementation of subparagraph a of paragraph 2 of subsection B of this section, the Department shall maintain a list of the location, capacity, and current occupancy of all group homes. The Department shall ensure that this list shall not contain the names or other identifiable information about any residents of such home and that copies of this list shall be available upon request to any resident of this state and any state agency or political subdivision.

Added by Laws 1987, c. 169, § 4, eff. Nov. 1, 1987. Amended by Laws 1989, c. 330, § 2, eff. Nov. 1, 1989; Laws 1996, c. 354, § 44, eff. Nov. 1, 1996; Laws 2003, c. 22, § 1, eff. Nov. 1, 2003.

§60-864. Restrictions, conditions, exceptions or covenants in deeds not to prohibit use as group home.

Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, plat, or other instrument of or pertaining to the transfer, sale, lease, or use of property shall not specifically prohibit the residential use of such property by a group home, provided the provisions of this section shall not otherwise prohibit any restriction, reservation, condition, exception or covenant in any such instrument effecting the occupancy, structure and use of such property.

Added by Laws 1987, c. 169, § 5, eff. Nov. 1, 1987. Amended by Laws 1996, c. 354, § 45, eff. Nov. 1, 1996.

§60-865. Group home not to include.

As used in the Community Residential Living for Persons with Developmental or Physical Disabilities Act, a group home does not include any of the following:

1. A hospital or home for persons with mental illness;
2. An establishment commonly described as an alcohol or substance abuse rehabilitation center; or
3. A residential facility for persons released from or assigned to correctional institutions.

Added by Laws 1987, c. 169, § 6, eff. Nov. 1, 1987. Amended by Laws 1996, c. 354, § 46, eff. Nov. 1, 1996.

§60-866. Size limitation - Ordinances.

A political subdivision, by ordinance, may provide that a group home may consist of not more than eight persons with developmental or physical disabilities.

Added by Laws 1989, c. 330, § 3, eff. Nov. 1, 1989. Amended by Laws 1996, c. 354, § 47, eff. Nov. 1, 1996.

§60-867. Size limitation - Exemptions.

Group homes which were licensed by the State Department of Health prior to November 1, 1989, shall not be subject to the group home size limitation of six persons and are not required to meet such limitation as a condition of renewal of the license of the group home by the Department of Human Services or as a condition of renewal of the contract with the Department, as long as the group home remains in the same physical facility and otherwise complies with the provisions of the license, and rules pertaining thereto.

Added by Laws 1989, c. 330, § 4, eff. Nov. 1, 1989. Amended by Laws 1996, c. 354, § 48, eff. Nov. 1, 1996.

§60-1001. Adoption and description of official system of coordinates.

A. The systems of plane coordinates which have been established by the National Oceanic and Atmospheric Administration/National Geodetic Survey, formerly the National Ocean Service/National Geodetic Survey, formerly the United States Coast and Geodetic Survey, or its successors for defining and stating the geographic positions or locations of points on the surface of the earth within the State of Oklahoma are hereafter to be known and designated as the Oklahoma Coordinate System of 1927, the Oklahoma Coordinate System of 1983, and the Oklahoma Plane Coordinate System (OKPCS).

For the purpose of the use of the Oklahoma Coordinate System of 1927 and the Oklahoma Coordinate System of 1983, the state is divided into a North Zone and a South Zone.

B. 1. The area now included in the following counties shall constitute the North Zone: Adair, Alfalfa, Beaver, Blaine, Canadian, Cherokee, Cimarron, Craig, Creek, Custer, Delaware, Dewey, Ellis, Garfield, Grant, Harper, Kay, Kingfisher, Lincoln, Logan, Major, Mayes, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Roger Mills, Rogers, Sequoyah, Texas, Tulsa, Wagoner, Washington, Woods and Woodward.

2. The area now included in the following counties shall constitute the South Zone: Atoka, Beckham, Bryan, Caddo, Carter, Choctaw, Cleveland, Coal, Comanche, Cotton, Garvin, Grady, Greer, Harmon, Haskell, Hughes, Jackson, Jefferson, Johnston, Kiowa, Latimer, Leflore, Love, McClain, McCurtain, McIntosh, Marshall, Murray, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Seminole, Stephens, Tillman and Washita.

3. For the purpose of the use of the Oklahoma Plane Coordinate System (OKPCS), the most recent system of plane coordinate and zone designation that has been established by the National Geodetic Survey (NGS), or a successor, that is based on the North American Terrestrial Reference Frame of 2022 (NATRF2022), or a successor, and the National Spatial Reference System (NSRS), or a successor, and known as the State Plane Coordinate System (SPCS), or a successor, for defining and stating the geographic positions or location of points within the state shall be known as the "Oklahoma Plane Coordinate System" (OKPCS).

C. 1. As established for use in the North Zone, the Oklahoma Coordinate System of 1927 or the Oklahoma Coordinate System of 1983 shall be named; and in any land description in which it is used, it shall be designated the "Oklahoma Coordinate System of 1927 North Zone" or the "Oklahoma Coordinate System of 1983 North Zone".

2. As established for use in the South Zone, the Oklahoma Coordinate System of 1927 or the Oklahoma Coordinate System of 1983 shall be named; and in any land description in which it is used, it

shall be designated the "Oklahoma Coordinate System of 1927 South Zone" or the "Oklahoma Coordinate System of 1983 South Zone".

3. As established for use, the Oklahoma Plane Coordinate System (OKPCS) shall be named, and in any land description in which it is used, it shall be designated the "Oklahoma Plane Coordinate System" (OKPCS).

Added by Laws 1990, c. 138, § 1, eff. Nov. 1, 1990. Amended by Laws 2024, c. 209, § 1, eff. Nov. 1, 2024.

§60-1002. Plane coordinate values.

The plane coordinate values for a point on the earth's surface, used to express the geographic position or location of such point in the appropriate zone of this system, shall consist of two (2) distances expressed in U.S. Survey Feet and decimals of a foot when using the Oklahoma Coordinate System of 1927 and expressed in meters or U.S. Survey feet and decimals of a meter or U.S. Survey foot when using the Oklahoma Coordinate System of 1983 and expressed in International feet or meters and decimals of an International foot or meter when using the Oklahoma Plane Coordinate System (OKPCS). One of these distances, to be known as the "x-coordinate" (also known as "easting"), shall give the position in an east-and-west direction; the other, to be known as the "y-coordinate" (also known as "northing"), shall give the position in a north-and-south direction. These coordinates shall be made to depend on and conform to plane rectangular coordinate values derived from the National Spatial Reference System (NSRS) as defined and promulgated by the National Oceanic and Atmospheric Administration/National Geodetic Survey, or its successors, and whose plane coordinates have been computed on the systems defined in this act.

Added by Laws 1990, c. 138, § 2, eff. Nov. 1, 1990. Amended by Laws 2024, c. 209, § 2, eff. Nov. 1, 2024.

§60-1003. Plane coordinates as supplement to Oklahoma base lines and meridians.

For purposes of describing the location of any survey station or land boundary corner in the State of Oklahoma, a plane coordinate may be used to supplement but not to change the position of a land boundary corner or land description as created by the Oklahoma base lines and meridians.

Added by Laws 1990, c. 138, § 3, eff. Nov. 1, 1990.

§60-1004. Tract of land in more than one coordinate zone.

When any tract of land to be defined by a single description extends from one coordinate zone into other zones, the positions of all points on its boundaries shall be referred to one of the zones, the zone which is used being specifically named in the description.

Added by Laws 1990, c. 138, § 4, eff. Nov. 1, 1990. Amended by Laws 2024, c. 209, § 3, eff. Nov. 1, 2024.

§60-1005. Definitions.

A. For purposes of more precisely defining the Oklahoma Coordinate System of 1927, the following definition by the United States Coast and Geodetic Survey (now National Ocean Service/National Geodetic Survey) is adopted:

1. The "Oklahoma Coordinate System of 1927 North Zone", is a Lambert conformal conic projection of the Clarke spheroid of 1866, having parallels at north latitudes 35 degrees 34 minutes and 36 degrees 46 minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 98 degrees 00 minutes west of Greenwich and the parallel 35 degrees 00 minutes north latitude. This origin is given the coordinates:  $x = 2,000,000$  feet and  $y = 0$  feet.

2. The "Oklahoma Coordinate System of 1927 South Zone", is a Lambert conformal conic projection of the Clarke spheroid of 1866, having parallels at north latitudes 33 degrees 56 minutes and 35 degrees 14 minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 98 degrees 00 minutes west of Greenwich and the parallel 33 degrees 20 minutes north latitude. This origin is given the coordinates:  $x = 2,000,000$  feet and  $y = 0$  feet.

B. For purposes of more precisely defining the Oklahoma Coordinate System of 1983, the following definition by the National Ocean Service/National Geodetic Survey is adopted:

1. The "Oklahoma Coordinate System of 1983 North Zone" is a Lambert conformal conic projection of the North American Datum of 1983, having parallels at north latitudes 35 degrees 34 minutes and 36 degrees 46 minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 98 degrees 00 minutes west of Greenwich and the parallel 35 degrees 00 minutes north latitude. This origin is given the coordinates:  $x = 600,000$  meters and  $y = 0$  meters.

2. The "Oklahoma Coordinate System of 1983 South Zone" is a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 33 degrees 56 minutes and 35 degrees 14 minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 98 degrees 00 minutes west of Greenwich and the parallel 33 degrees 20 minutes north latitude. This origin is given the coordinates:  $x = 600,000$  meters and  $y = 0$  meters.

C. For purposes of more precisely defining the Oklahoma Plane Coordinate System (OKPCS), the Oklahoma Plane Coordinate System shall be the State Plane Coordinate System of 2022 (SPC2022) or its

most recent successor as defined by the National Geodetic Survey or its successor agency.

Added by Laws 1990, c. 138, § 5, eff. Nov. 1, 1990. Amended by Laws 2024, c. 209, § 4, eff. Nov. 1, 2024.

§60-1006. Repealed by Laws 2024, c. 209, § 8, eff. Nov. 1, 2024.

§60-1007. Conversion of feet to meters.

A. For the Oklahoma Coordinate System of 1927 and the Oklahoma Coordinate System of 1983, the unit used to convert feet to meters shall be the United States survey foot 39.37/12 feet for each meter and defined as the U.S. survey foot.

B. For the Oklahoma Plane Coordinate System (OKPCS), the international conversion value (1 International foot equals 0.3048 meters exactly) shall be used and defined as a foot.

Added by Laws 1990, c. 138, § 7, eff. Nov. 1, 1990. Amended by Laws 2024, c. 209, § 5, eff. Nov. 1, 2024.

§60-1008. Limitations on use of coordinates - Prior recordations - Nonconformity with System.

A. The use of the "Oklahoma Coordinate System of 1927 North Zone", or the term "Oklahoma Coordinate System of 1927 South Zone" or "Oklahoma Coordinate System of 1983 North Zone" or "Oklahoma Coordinate System of 1983 South Zone" or "Oklahoma Plane Coordinate System" (OKPCS) on any map, report of survey, or other document shall be limited to coordinates based on the Oklahoma Coordinate System as defined in this act.

B. Any legal description prepared prior to the most recent system of plane coordinates established by the National Geodetic Survey (NGS) or its successor, or any continual use of legal descriptions prepared pursuant to the provisions of this act which have been recorded or filed in official records within the State of Oklahoma, shall not be affected by this section.

C. Nonconformity with the Oklahoma Coordinate System established by this act shall not invalidate any deed, map, plat, survey, description or other document which is otherwise proper.  
Added by Laws 1990, c. 138, § 8, eff. Nov. 1, 1990. Amended by Laws 2024, c. 209, § 6, eff. Nov. 1, 2024.

§60-1009. Indian Meridian and Baseline - Cimarron Meridian and Baseline - Effect of act.

Nothing in this act shall invalidate or affect surveys done by the land tie method or surveys referring to the Indian Meridian and Baseline or Cimarron Meridian and Baseline.

Added by Laws 1990, c. 138, § 9, eff. Nov. 1, 1990. Amended by Laws 2024, c. 209, § 7, eff. Nov. 1, 2024.

§60-1101. Unconstitutional.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of *Weddington v. Henry*, 202 P.3d 143, 2008 OK 102 (2009).

§60-1102. Unconstitutional.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of *Weddington v. Henry*, 202 P.3d 143, 2008 OK 102 (2009).

§60-1103. Unconstitutional.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of *Weddington v. Henry*, 202 P.3d 143, 2008 OK 102 (2009).

§60-1104. Unconstitutional.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of *Weddington v. Henry*, 202 P.3d 143, 2008 OK 102 (2009).

§60-1105. Unconstitutional.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of *Weddington v. Henry*, 202 P.3d 143, 2008 OK 102 (2009).

§60-1106. Unconstitutional.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of *Weddington v. Henry*, 202 P.3d 143, 2008 OK 102 (2009).

§60-1107. Unconstitutional.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of *Weddington v. Henry*, 202 P.3d 143, 2008 OK 102 (2009).

§60-1108. Unconstitutional.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of *Weddington v. Henry*, 202 P.3d 143, 2008 OK 102 (2009).

§60-1109. Unconstitutional.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of *Weddington v. Henry*, 202 P.3d 143, 2008 OK 102 (2009).

§60-1201. Short title – Oklahoma Uniform Trust Reform Act of 2024.



Sections 2 through 18 of this act shall be known and may be cited as the "Oklahoma Uniform Directed Trust Act of 2024".

Added by Laws 2024, c. 369, § 2, eff. Nov. 1, 2024.

§60-1202. Definitions.

As used in the Oklahoma Uniform Directed Trust Act of 2024:

1. "Breach of trust" means a violation by a trust director or trustee of a duty imposed on that director or trustee by the terms of the trust, this act, or laws of this state other than this act pertaining to trusts;

2. "Directed trust" means a trust for which the terms of the trust grant a power of direction;

3. "Directed trustee" means a trustee that is subject to a trust director's power of direction;

4. "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity;

5. "Power of direction" means a power over a trust granted to a person by the terms of the trust to the extent the power is exercisable while the person is not serving as a trustee. The term includes a power over the investment, management, or distribution of trust property or other matters of trust administration. The term excludes the powers described in subsection B of Section 6 of this act;

6. "Settlor" means a person, including a testator, that creates or contributes property to a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion;

7. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States;

8. "Terms of a trust" means:

a. except as otherwise provided in subparagraph b of this paragraph, the manifestation of the settlor's intent regarding a trust's provisions as:

- (1) expressed in the trust instrument, or
- (2) established by other evidence that would be admissible in a judicial proceeding, or

b. the trust's provisions as established, determined, or amended by:

- (1) a trustee or trust director in accordance with applicable law, or
- (2) a court order;

9. "Trust director" means a person that is granted a power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee. The person is a trust director whether or not the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or settlor of the trust; and

10. "Trustee" means an original, additional, and successor trustee, and a cotrustee.

Added by Laws 2024, c. 369, § 3, eff. Nov. 1, 2024.

§60-1203. Scope and application.

A. This act applies to a trust, whenever created, that has its principal place of administration in this state and is subject to the following rules:

1. If the trust was created before the effective date of this act, this act applies only to a decision or action occurring on or after the effective date of this act; and

2. If the principal place of administration of the trust is changed to this state on or after the effective date of this act, this act applies only to a decision or action occurring on or after the date of the change.

B. Without precluding other means to establish a sufficient connection with the designated jurisdiction in a directed trust, the terms of the trust which designate the principal place of administration of the trust are valid and controlling if:

1. A trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction;

2. A trust director's principal place of business is located in or a trust director is a resident of the designated jurisdiction; or

3. All or part of the administration occurs in the designated jurisdiction.

Added by Laws 2024, c. 369, § 4, eff. Nov. 1, 2024.

§60-1204. Common law and principles of equity supplemental.

The common law and principles of equity supplement this act, except to the extent modified by this act or by other laws of this state other than this act.

Added by Laws 2024, c. 369, § 5, eff. Nov. 1, 2024.

§60-1205. Excluded from application.

A. In this section, "power of appointment" means a power that enables a person acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over trust property.

B. This act does not apply to a:

1. Power of appointment;

2. Power to appoint or remove a trustee or trust director;

3. Power of a settlor over a trust to the extent the settlor has a power to revoke the trust;

4. Power of a beneficiary over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of:

- a. the beneficiary, or
- b. another beneficiary represented by the beneficiary with respect to the exercise or nonexercise of the power; or

5. Power over a trust, if:

- a. the terms of the trust provide that the power is held in a nonfiduciary capacity, and
- b. the power must be held in a nonfiduciary capacity to achieve the settlor's tax objectives under the United States Internal Revenue Code of 1986, as amended, and regulations issued thereunder, as amended.

C. Unless the terms of a trust provide otherwise, a power granted to a person to designate a recipient of an ownership interest in, or power of appointment over trust property which is exercisable while the person is not serving as a trustee is a power of appointment and not a power of direction.

Added by Laws 2024, c. 369, § 6, eff. Nov. 1, 2024.

§60-1206. Power of direction.

A. Subject to Section 8 of this act, the terms of a trust may grant a power of direction to a trust director.

B. Unless the terms of a trust provide otherwise:

1. A trust director may exercise any further power appropriate to the exercise or nonexercise of a power of direction granted to the director under subsection A of this section; and

2. Trust directors with joint powers must act by majority decision.

Added by Laws 2024, c. 369, § 7, eff. Nov. 1, 2024.

§60-1207. Power of direction – Situations in which trust director subject to rules as trustee.

A trust director is subject to the same rules as a trustee in a like position and under similar circumstances in the exercise or nonexercise of a power of direction or further power under paragraph 1 of subsection B of Section 7 of this act regarding:

1. A payback provision in the terms of a trust necessary to comply with the reimbursement requirements of Medicaid law in Section 1917 of the Social Security Act, 42 U.S.C., Section 1396p(d)(4)(A), as amended, and regulations issued thereunder, as amended; and

2. A charitable interest in the trust, including providing notice regarding the interest to the Attorney General.

Added by Laws 2024, c. 369, § 8, eff. Nov. 1, 2024.

§60-1208. Trust director – Fiduciary duty and liability – Providing health care.

A. Subject to subsection B of this section, with respect to a power of direction or further power under paragraph 1 of subsection B of Section 7 of this act:

1. A trust director has the same fiduciary duty and liability in the exercise or nonexercise of the power:

- a. if the power is held individually, as a sole trustee in a like position and under similar circumstances, or
- b. if the power is held jointly with a trustee or another trust director, as a cotrustee in a like position and under similar circumstances; and

2. The terms of the trust may vary the director's duty or liability to the same extent the terms of the trust could vary the duty or liability of a trustee in a like position and under similar circumstances.

B. Unless the terms of a trust provide otherwise, if a trust director is licensed, certified, or otherwise authorized or permitted by law other than this act to provide health care in the ordinary course of the director's business or practice of a profession, to the extent the director acts in that capacity, the director has no duty or liability under this act.

C. The terms of a trust may impose a duty or liability on a trust director in addition to the duties and liabilities under this section.

Added by Laws 2024, c. 369, § 9, eff. Nov. 1, 2024.

§60-1209. Directed trustee – Reasonable action to comply – Exceptions – Non-effective release of trustee.

A. Subject to subsection B of this section, a directed trustee shall take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction or further power under paragraph 1 of subsection B of Section 7 of this act, and the trustee is not liable for the action.

B. A directed trustee must not comply with a trust director's exercise or nonexercise of a power of direction or further power under paragraph 1 of subsection B of Section 7 of this act to the extent that by complying, the trustee would engage in willful misconduct.

C. An exercise of a power of direction under which a trust director may release a trustee or another trust director from liability for breach of trust is not effective if:

1. The breach involved the trustee's or other director's willful misconduct;

2. The release was induced by improper conduct of the trustee or other director in procuring the release; or

3. At the time of the release, the trust director did not know the material facts relating to the breach.

D. A directed trustee that has reasonable doubt about its duty under this section may petition the district court for instructions.

E. The terms of a trust may impose a duty or liability on a directed trustee in addition to the duties and liabilities under this section.

Added by Laws 2024, c. 369, § 10, eff. Nov. 1, 2024.

§60-1210. Trustee to provide information to trust director – Trust director to provide information to trustee – Liability.

A. Subject to Section 12 of this act, a trustee shall provide information to a trust director to the extent the information is reasonably related both to:

1. The powers or duties of the trustee; and
2. The powers or duties of the director.

B. Subject to Section 12 of this act, a trust director shall provide information to a trustee or another trust director to the extent the information is reasonably related both to:

1. The powers or duties of the director; and
2. The powers or duties of the trustee or other director.

C. A trustee that acts in reliance on information provided by a trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless by so acting, the trustee engages in willful misconduct.

D. A trust director that acts in reliance on information provided by a trustee or another trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless by so acting, the trust director engages in willful misconduct.

Added by Laws 2024, c. 369, § 11, eff. Nov. 1, 2024.

§60-1211. Non-duty of trustee and trust director.

A. Unless the terms of a trust provide otherwise:

1. A trustee does not have a duty to:
  - a. monitor a trust director, or
  - b. inform or give advice to a settlor, beneficiary, trustee, or trust director concerning an instance in which the trustee might have acted differently than the director; and

2. By taking an action described in paragraph 1 of this subsection, a trustee does not assume the duty excluded by paragraph 1 of this subsection.

B. Unless the terms of a trust provide otherwise:

1. A trust director does not have a duty to:

- a. monitor a trustee or another trust director, or
- b. inform or give advice to a settlor, beneficiary, trustee, or another trust director concerning an instance in which the director might have acted differently than a trustee or another trust director; and

2. By taking an action described in paragraph 1 of this subsection, a trust director does not assume the duty excluded by paragraph 1 of this subsection.

Added by Laws 2024, c. 369, § 12, eff. Nov. 1, 2024.

#### §60-1212. Cotrustee relief from liability.

The terms of a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercise of a power of the other cotrustee to the same extent that in a directed trust a directed trustee is relieved from duty and liability with respect to a trust director's power of direction under Sections 10 through 12 of this act.

Added by Laws 2024, c. 369, § 13, eff. Nov. 1, 2024.

#### §60-1213. Limitations on actions against trust director.

A. An action against a trust director for breach of trust must be commenced within the same limitation period for an action for breach of trust against a trustee in a like position and under similar circumstances.

B. A report or accounting has the same effect on the limitation period for an action against a trust director for breach of trust that the report or accounting would have in an action for breach of trust against a trustee in a like position and under similar circumstances.

Added by Laws 2024, c. 369, § 14, eff. Nov. 1, 2024.

#### §60-1214. Defenses available to trust director.

In an action against a trust director for breach of trust, the director may assert the same defenses a trustee in a like position and under similar circumstances could assert in an action for breach of trust against the trustee.

Added by Laws 2024, c. 369, § 15, eff. Nov. 1, 2024.

#### §60-1215. Personal jurisdiction.

A. By accepting appointment as a trust director of a trust subject to this act, the director submits to personal jurisdiction of the courts of this state regarding any matter related to a power or duty of the director.

B. This section does not preclude other methods of obtaining jurisdiction over a trust director.

Added by Laws 2024, c. 369, § 16, eff. Nov. 1, 2024.

§60-1216. Matters in which trust director subject to rules applicable to trustee.

Unless the terms of a trust provide otherwise, the rules applicable to a trustee apply to a trust director regarding the following matters:

1. Acceptance;
2. Giving of bond to secure performance;
3. Reasonable compensation;
4. Resignation;
5. Removal; and
6. Vacancy and appointment of a successor.

Added by Laws 2024, c. 369, § 17, eff. Nov. 1, 2024.

§60-1217. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C., Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C., Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C., Section 7003(b).

Added by Laws 2024, c. 369, § 18, eff. Nov. 1, 2024.

§60-1301. Short title – Oklahoma Qualified Dispositions into Trust Act.

Sections 19 through 37 of this act shall be known and may be cited as the "Oklahoma Qualified Dispositions into Trust Act".

Added by Laws 2024, c. 369, § 19, eff. Nov. 1, 2024.

§60-1302. Definitions.

A. As used in the Oklahoma Qualified Dispositions into Trust Act:

1. "Claim" means a right to payment, whether or not the right is reduced to judgment liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured;
2. "Creditor" means, with respect to a transferor, a person who has a claim;
3. "Debt" means liability on a claim;
4. "Disposition" means a transfer, conveyance, or assignment of property, including a change in the legal ownership of property occurring upon the substitution of one trustee for another or the addition of one or more new trustees, or the exercise of a power so as to cause a transfer of property to a trustee or trustees. The term does not include the release or relinquishment of an interest

in property that theretofore was the subject of a qualified disposition;

5. "Property" means real property, personal property, and interests in real or personal property;

6. "Qualified disposition" means a disposition by or from a transferor to a qualified person or qualified persons, without consideration or for less than fair market value, by means of a trust instrument;

7. "Spouse" and "former spouse" mean only persons to whom the transferor was married at, or before, the time the qualified disposition was made; and

8. "Transferor" means any person as an owner of property or as a holder of a power of appointment which authorizes the holder to appoint in favor of the holder, the holder's creditors, the holder's estate, or the creditors of the holder's estate or as a trustee, directly or indirectly, who makes a disposition or causes a disposition to be made.

B. The terms transferor and beneficiary may be any individual, corporation, partnership, limited liability company, association, joint stock company, business trust, trust, unincorporated organization, or two or more persons having a joint or common interest.

Added by Laws 2024, c. 369, § 20, eff. Nov. 1, 2024.

§60-1303. Trust instrument defined.

A. For the purposes of the Oklahoma Qualified Dispositions into Trust Act, a trust instrument is an instrument appointing a qualified person or qualified persons for the property that is the subject of a disposition, which instrument:

1. Expressly incorporates the law of this state to govern the validity, construction, and administration of the trust;

2. Is irrevocable, but a trust instrument may not be deemed revocable on account of its inclusion of one or more of the following:

- a. a transferor's power to veto a distribution from the trust,
- b. an inter vivos power of appointment, other than an inter vivos power exercisable solely by the transferor in favor of the transferor, the transferor's creditors, the transferor's estate, or the creditors of the transferor's estate,
- c. a testamentary power of appointment,
- d. the transferor's potential or actual receipt of income, including rights to such income retained in the trust instrument,
- e. the transferor's potential or actual receipt of income or principal from a charitable remainder unitrust or



- charitable remainder annuity trust as such terms are defined in Section 664 of the Internal Revenue Code of 1986, 26 U.S.C., Section 664, as of January 1, 2009,
- f. the transferor's receipt each year of a percentage of the value as determined from time to time pursuant to the trust instrument, but not exceeding the amount that may be defined as income under Section 643(b) of the Internal Revenue Code of 1986, 26 U.S.C., Section 643(b), as of January 1, 2009,
  - g. the transferor's receipt each year of a percentage of the value as determined from time to time pursuant to the trust instrument, but not exceeding the amount that may be defined as income under Section 664 of the Internal Revenue Code of 1986, 26 U.S.C., Section 643(b), as of January 1, 2009,
  - h. the transferor's potential or actual receipt or use of principal if the potential or actual receipt or use of principal would be the result of a qualified person, including a qualified person acting at the direction of a trust advisor described in this act, acting either in the qualified person's sole discretion or pursuant to an ascertainable standard contained in the trust instrument,
  - i. the transferor's right to remove a trustee, protector, or trust advisor and to appoint a new trustee, protector, or trust advisor, other than a trustee who is a related or subordinate party with respect to the transferor within the meaning of Section 672(c) of the Internal Revenue Code of 1986, 26 U.S.C., Section 672(c), as of January 1, 2009,
  - j. the transferor's potential or actual use of real property held under a qualified personal residence trust within the meaning of such term as described in the regulations promulgated under Section 2702(c) of the Internal Revenue Code of 1986, 26 U.S.C., Section 2702(c), as of January 1, 2009,
  - k. a pour-back provision that pours back to the transferor's will or revocable trust all or part of the trust assets,
  - l. the transferor's potential or actual receipt of income or principal to pay, in whole or in part, income taxes due on income of the trust if the potential or actual receipt of income or principal is pursuant to a provision in the trust instrument that expressly provides for the payment of the taxes and if the potential or actual receipt of income or principal would be the result of a qualified person's acting in

the qualified person's discretion or pursuant to a mandatory direction in the trust instrument or acting at the direction of a trust advisor described in Section 24 of this act,

- m. the ability, whether pursuant to discretion, direction, or the grantor's exercise of a testamentary power of appointment, of a qualified person to pay, after the death of the transferor, all or any part of the debts of the transferor outstanding at the time of the transferor's death, the expenses of administering the transferor's estate, or any estate or inheritance tax imposed on or with respect to the transferor's estate,
- n. a transferor's service as a noncontrolling member of a distribution committee that functions as a distribution trust advisor, which is a fiduciary given authority by the instrument to exercise all or any portions of the powers and discretions over any discretionary distributions of income or principal, or
- o. a transferor's enjoyment of a power to reacquire the trust corpus by substituting other property of an equivalent value within the meaning of Section 675(4) (C) of the Internal Revenue Code of 1986, 26 U.S.C., Section 675(4) (C), as of January 1, 2021, and

3. Provides that the interest of the transferor or other beneficiary in the trust property or the income from the trust property may not be transferred, assigned, pledged, or mortgaged, whether voluntarily or involuntarily, before the qualified person distributes the property or income from the property to the beneficiary, and such provision of the trust instrument constitutes a restriction on the transfer of the transferor's beneficial interest in the trust that is enforceable under applicable nonbankruptcy law within the meaning of Section 541(c) (2) of the Bankruptcy Code, 11 U.S.C., Section 541(c) (2), as of January 1, 2009.

B. A disposition by a trustee that is not a qualified person to a trustee that is a qualified person may not be treated as other than a qualified disposition solely because the trust instrument fails to meet the requirements of paragraph 1 of subsection A of this section.

Added by Laws 2024, c. 369, § 21, eff. Nov. 1, 2024.

§60-1304. Qualified person defined.

A. For the purposes of the Oklahoma Qualified Dispositions into Trust Act, a qualified person is:

1. An individual who, except for brief intervals, military service, attendance at an educational or training institution, or

for absences for good cause shown, resides in this state, whose true and permanent home is in this state, who does not have a present intention of moving from this state, and who has the intention of returning to this state when away;

2. A trust company that is organized under state law or under federal law and that has its principal place of business in this state; or

3. A bank or savings association that possesses and exercises trust powers, has its principal place of business in this state, and the deposits of which are insured by the Federal Deposit Insurance Corporation.

B. A qualified person must meet the requirements as provided in Section 23 of this act.

Added by Laws 2024, c. 369, § 22, eff. Nov. 1, 2024.

§60-1305. Governing law – Jurisdiction over trusts created in foreign jurisdictions.

A. Except as expressly provided by the terms of a governing instrument or by a court order, a general law or a state jurisdiction provision stating that the laws of this state govern is valid, effective, and conclusive for the trust if all of the following are true:

1. Some or all of the trust assets are deposited in this state or physical evidence of such assets is held in this state and the trust is being administered by a qualified person. "Deposited in this state" includes being held in a checking account, time deposit, certificate of deposit, brokerage account, trust company fiduciary account, or other similar account or deposit that is located in this state, including Oklahoma investments;

2. A trustee is a qualified person who is designated as a trustee under the governing instrument or a successor trusteeship, or designated by a court having jurisdiction over the trust; and

3. The administration, including physically maintaining trust records in this state, and preparing or arranging for the preparation of, on an exclusive basis or a nonexclusive basis, an income tax return that must be filed by the trust, occurs wholly or partly in this state.

B. The courts of this state have jurisdiction over a trust created in a foreign jurisdiction if the administration of the trust meets the criteria of paragraphs 1 through 3 of subsection A of this section.

C. Nothing in this section may be construed to be the exclusive means of providing a valid effective and conclusive state jurisdiction provision.

Added by Laws 2024, c. 369, § 23, eff. Nov. 1, 2024.

§60-1306. Qualified person – Excluded persons – Application to transferors.

Neither the transferor nor any other natural person who is a nonresident of this state nor an entity that is not authorized by the laws of this state to act as a trustee or whose activities are not subject to supervision as provided in Section 22 of this act may be considered a qualified person. However, nothing in this act precludes a transferor from appointing, removing, or replacing one or more cotrustees, trust advisors, or trust protectors, regardless of whether or not such trust advisor or trust protector is a fiduciary.

Added by Laws 2024, c. 369, § 24, eff. Nov. 1, 2024.

§60-1307. Investment trust advisors – Qualifications – Powers.

Any person may serve as an investment trust advisor, notwithstanding that the person is the transferor of the qualified disposition, but a transferor may not otherwise serve as a fiduciary under a trust instrument except as stated in paragraph 2 of subsection A of Section 21 of this act. While serving as an investment trust advisor of the trust, the person may have all powers authorized by statute or by the trust instrument, including the power to vote by proxy any stock owned by the trust.

Added by Laws 2024, c. 369, § 25, eff. Nov. 1, 2024.

§60-1308. Qualified person – Resignation – Successor.

If a qualified person of a trust ceases to meet the requirements of Section 22 of this act and there remains no trustee that meets such requirements, such qualified person shall be deemed to have resigned as of the time of such cessation, and thereupon the successor qualified person provided for in the trust instrument shall become a qualified person of the trust, or in the absence of any successor qualified person provided for in the trust instrument, the circuit court shall, upon application of any interested party, appoint a successor qualified person.

Added by Laws 2024, c. 369, § 26, eff. Nov. 1, 2024.

§60-1309. Qualified disposition – Status retained when not all trustees are qualified persons.

In the case of a disposition to more than one trustee, a disposition that is otherwise a qualified disposition may not be treated as other than a qualified disposition solely because not all of the trustees are qualified persons.

Added by Laws 2024, c. 369, § 27, eff. Nov. 1, 2024.

§60-1310. Qualified disposition – Applicability of act – Limit on powers and rights of transferor.

A qualified disposition is subject to Sections 29 through 34 of this act, notwithstanding a transferor's retention of any or all of the powers and rights described in paragraph 2 of subsection A of Section 21 of this act and the transferor's service as a trust advisor pursuant to Section 25 of this act. The transferor has only such powers and rights as are conferred by the trust instrument. Except as permitted by Sections 21 and 25 of this act, a transferor has no rights or authority with respect to the property that is the subject of a qualified disposition or the income therefrom, and any agreement or understanding purporting to grant or permit the retention of any greater rights or authority is void.  
Added by Laws 2024, c. 369, § 28, eff. Nov. 1, 2024.

§60-1311. Actions against qualified disposition property not permitted – Exceptions.

Notwithstanding any other provision of law, except as set forth in Section 30 of this act, no action of any kind, including an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity for an attachment or other provisional remedy against property that is the subject of a qualified disposition or for avoidance of a qualified disposition unless the settlor's transfer of property was made with the intent to defraud that specific creditor. This protection, however, only applies to qualified dispositions up to, but not exceeding, Ten Million Dollars (\$10,000,000.00).  
Added by Laws 2024, c. 369, § 29, eff. Nov. 1, 2024.

§60-1312. Cause of action or claim for relief by creditor of transferor – Requirements.

A. A cause of action or claim for relief with respect to a qualified disposition of a transferor's assets under Section 29 of this act is extinguished unless the action under Section 29 of this act may only be brought by a creditor of the transferor who meets one of the following requirements:

1. Is a creditor of the settlor before the settlor's assets are transferred to the trust; or
2. Becomes a creditor subsequent to the transfer into trust, and the asset was listed on a financial statement provided to a bank or financial institution by or on behalf of the transferor for the purpose of obtaining credit as a borrower, guarantor, surety, pledgor, or otherwise.

B. Any action under Section 29 of this act may be filed at any time, but in any event not later than five (5) years after the creditor has obtained a final, unappealable judgment against the transferor. In such action, the creditor may proceed against the transferred property or recover the value thereof in an amount up to the amount of such judgment against the transferor.

C. This section and Sections 29, 31, 32, and 33 of this act are inseparably interwoven with substantive rights that a deprivation of legal rights would result if another jurisdiction's laws and regulations to the contrary are applied to a claim or cause of action described therein.

Added by Laws 2024, c. 369, § 30, eff. Nov. 1, 2024.

§60-1313. Qualified disposition – Time deemed to have been made – Property transferred to spendthrift trust for purpose of obtaining loan secured by mortgage or deed of trust – Enforceability.

A qualified disposition that is made by means of a disposition by a transferor who is a trustee is deemed to have been made as of the time, whether before, on, or after the effective date of this act, the property that is the subject of the qualified disposition was originally transferred to the transferor, or any predecessor trustee, making the qualified disposition in a form that meets the requirements of paragraphs 2 and 3 of subsection A of Section 21 of this act. Further, the provisions of this section shall apply to determine the date the transfer is deemed to have been made, notwithstanding that the original transfer was to a trust originally within or outside of the jurisdiction of Oklahoma.

If property transferred to a spendthrift trust is conveyed to the settlor or to a beneficiary for the purpose of obtaining a loan secured by a mortgage or deed of trust on the property and then reconveyed to the trust within one hundred eighty (180) days of recording the mortgage or deed of trust, the transfer is disregarded and the reconveyance relates back to the date the property was originally transferred to the trust. The mortgage or deed of trust on the property is enforceable against the trust.

Added by Laws 2024, c. 369, § 31, eff. Nov. 1, 2024.

§60-1314. Creditors' rights to qualified disposition – Personal liability of qualified person.

Notwithstanding any law to the contrary, a creditor, including a creditor whose claim arose before or after a qualified disposition, or any other person has only such rights with respect to a qualified disposition as are provided in Sections 29 through 36 of this act, and no such creditor nor any other person has any claim or cause of action against the trustee or advisor, described in Section 24 of this act, of a trust that is the subject of a qualified disposition, or against any person involved in the counseling, drafting, preparation, execution, or funding of a trust that is the subject of a qualified disposition. In addition to the provisions of Section 37 of this act, at no time is a qualified person personally liable to a creditor of a transferor or any other person for distributions made by the qualified person, before the creditor or person notified the qualified person, in writing, that a claim or cause of action

existed. This applies regardless of whether the distributions are made to or for the benefit of the transferor or a beneficiary during the period in which a creditor or other person could make a claim as provided in Section 30 of this act.

Added by Laws 2024, c. 369, § 32, eff. Nov. 1, 2024.

§60-1315. Actions against trustee or advisor of trust subject to qualified disposition – Jurisdiction – Attorney fees and costs – Burden of proof.

Notwithstanding any other provision of law, no action of any kind, including an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity against the trustee or advisor, described in Section 24 of this act, of a trust that is the subject of a qualified disposition, or against any person involved in the counseling, drafting, preparation, execution, or funding of a trust that is the subject of a qualified disposition, if, as of the date such action is brought, an action by a creditor with respect to such qualified disposition would be barred under Sections 29 through 32 of this act. A court of this state has exclusive jurisdiction over an action brought under a claim for relief that is based on a transfer of property to a trust that is the subject of this section. A court of this state may award attorney fees and costs to the prevailing party in such an action. In any action described in this section, the burden to prove the matter by clear and convincing evidence is upon the creditor.

Added by Laws 2024, c. 369, § 33, eff. Nov. 1, 2024.

§60-1316. Multiple qualified dispositions by same trust instrument.

If more than one qualified disposition is made by means of the same trust instrument:

1. The making of a subsequent qualified disposition shall be disregarded in determining whether a creditor's claim with respect to a prior qualified disposition is extinguished as provided in Section 30 of this act; and

2. Any distribution to a beneficiary is deemed to have been made from the latest such qualified disposition.

Added by Laws 2024, c. 369, § 34, eff. Nov. 1, 2024.

§60-1317. Non-application of act if transferor is indebted – Qualifying situations – Application if transferor is married – Notice of transfer of property.

A. Notwithstanding the provisions of Sections 29 through 34 of this act, but subject to subsection B of this section, the Oklahoma Qualified Dispositions into Trust Act does not apply in any respect to any person to whom at the time of transfer the transferor is indebted on account of an agreement or order of court for the

payment of support or alimony in favor of the transferor's spouse, former spouse, or children, or for a division or distribution of property in favor of the transferor's spouse or former spouse, to the extent of the debt.

B. If the transferor is married at the time of the transfer, the provisions of Sections 29 through 34 of this act, apply to:

1. Any of the transferor's separate property transferred to the trust; and

2. Any marital property transferred to the trust if the spouse or former spouse was provided with notice in the form set forth in subsection C of this section, or executed a written consent to the transfer after being provided the information set forth in the notice.

C. For purposes of the application of this section, a notice of transfer of property to a trust pursuant to the Oklahoma Qualified Dispositions into Trust Act:

1. Shall also contain the following language in capital letters, at or near the top of the notice: YOUR SPOUSE IS CREATING A PERMANENT TRUST INTO WHICH PROPERTY IS BEING TRANSFERRED. YOUR RIGHTS TO THIS PROPERTY MAY BE AFFECTED DURING YOUR MARRIAGE, UPON DIVORCE (INCLUDING THE PAYMENT OF CHILD SUPPORT OR ALIMONY OR A DIVISION OR DISTRIBUTION OF PROPERTY IN A DIVORCE), OR AT THE DEATH OF YOUR SPOUSE. YOU HAVE A VERY LIMITED PERIOD OF TIME TO OBJECT TO THE TRANSFER OF PROPERTY INTO THIS TRUST. YOU MAY, UPON REQUEST TO THE TRUSTEE AT THE ADDRESS BELOW, BE FURNISHED A COPY OF THE TRUST DOCUMENT. IF YOU HAVE ANY QUESTIONS, YOU SHOULD IMMEDIATELY SEEK INDEPENDENT LEGAL ADVICE. IF YOU FAIL TO OBJECT WITHIN THE REQUIRED TIME PERIOD, YOU WILL HAVE CONSENTED TO THE TRANSFER OF PROPERTY INTO THIS TRUST;

2. Shall contain a description of the property being transferred to the trust and the name of the trust;

3. May require that any person who is eligible to receive information pursuant to this section be bound by the duty of confidentiality that binds the trustee before receiving such information from the trustee; and

4. Shall be provided by the transferor, the transferor's agent, the trustee, or other fiduciary of the trust.

D. If a notice is provided under this section before the property is transferred, the period to commence an action under Section 30 of this act shall commence running on the date of the transfer. If a notice is provided after the date the property is transferred, the period to commence an action pursuant to Section 30 of this act commences running on the date the notice is provided.

E. The exception contained in subsection A of this section does not apply to any claim for forced heirship or legitime.

Added by Laws 2024, c. 369, § 35, eff. Nov. 1, 2024.



§60-1318. Avoidance of qualified disposition – Extent – Qualified person lien rights – Beneficiary rights.

A qualified disposition is avoided only to the extent necessary to satisfy the transferor's debt to the creditor at whose insistence the disposition had been avoided, together with such costs, including attorney fees, as the court may allow. If any qualified disposition is avoided as provided in this section, then:

1. If the court is satisfied that a qualified person has not acted in bad faith in accepting or administering the property that is the subject of the qualified disposition:

- a. such qualified person has a first and paramount lien against the property that is the subject of the qualified disposition in an amount equal to the entire cost, including attorney fees, properly incurred by such qualified person in the defense of the action or proceedings to avoid the qualified disposition. It is presumed that such qualified person did not act in bad faith merely by accepting such property, and
- b. the qualified disposition is avoided subject to the proper fees, costs, preexisting rights, claims, and interests of such qualified person, and of any predecessor qualified person that has not acted in bad faith; and

2. If the court is satisfied that a beneficiary of a trust has not acted in bad faith, the avoidance of the qualified disposition is subject to the right of such beneficiary to retain any distribution made upon the exercise of a trust power or discretion vested in the qualified person or qualified persons of such trust, which power or discretion was properly exercised prior to the creditor's commencement of an action to avoid the qualified disposition. It is presumed that the beneficiary, including a beneficiary who is also a transferor of the trust, did not act in bad faith merely by creating the trust or by accepting a distribution made in accordance with the terms of the trust.

Added by Laws 2024, c. 369, § 36, eff. Nov. 1, 2024.

§60-1319. Discretionary interests.

A. The following provisions apply only to discretionary interests:

1. A discretionary interest is neither a property interest nor an enforceable right. It is a mere expectancy;

2. No creditor may force a distribution with regard to a discretionary interest. No creditor may require the trustee to exercise the trustee's discretion to make a distribution with regard to a discretionary interest; and

3. A court may review a trustee's distribution discretion only if the trustee:

- a. acts dishonestly,
- b. acts with an improper motive, or
- c. fails, if under a duty to do so, to act.

B. A reasonableness standard may not be applied to the exercise of discretion by the trustee with regard to a discretionary interest. Other than for the circumstances listed in this section, a court has no jurisdiction to review the trustee's discretion or to force a distribution.

C. Absent express language to the contrary, in the event that the distribution language in a discretionary interest permits unequal distributions between beneficiaries or distributions to the exclusion of other beneficiaries, the trustee may distribute all of the accumulated, accrued, or undistributed income and principal to one beneficiary in the trustee's discretion.

D. Regardless of whether a beneficiary has any outstanding creditors, a trustee of a discretionary interest may directly pay any expense on behalf of such beneficiary and may exhaust the income and principal of the trust for the benefit of such beneficiary. No trustee is liable to any creditor for paying the expenses of a beneficiary of a discretionary interest.

Added by Laws 2024, c. 369, § 37, eff. Nov. 1, 2024.

§60-1401. Rules against perpetuities not applicable.

For all trusts created under this title, the rules against perpetuities shall not apply, it being the intent that trusts created in this state may have perpetual duration if a timing provision or limit is not specified in the trust document.

Added by Laws 2024, c. 369, § 38, eff. Nov. 1, 2024.

§60-1402. Binding nonjudicial settlement agreements – Validity.

A. Except as otherwise provided in subsection B of this section, the trustee and the qualified beneficiaries may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

B. A nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this act or other applicable law.

C. Matters that may be resolved by a nonjudicial settlement agreement include, but are not limited to:

1. The interpretation or construction of the terms of the trust;
2. The approval of a trustee's report or accounting;
3. Direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;

4. The resignation or appointment of a trustee and the determination of a trustee's compensation;
5. Transfer of a trust's principal place of administration;
6. Liability of a trustee for an action relating to the trust;
7. The extent or waiver of bond of a trustee;
8. The governing law of the trust;
9. The criteria for distribution to a beneficiary where the trustee is given discretion;
10. The resignation, appointment, and establishment of the powers and duties of trust protectors or trust advisors; and
11. The approval of an investment decision, delegation, policy, plan, or program.

D. Any qualified beneficiary or trustee may request the court to approve a nonjudicial settlement agreement, to determine whether the representation was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

Added by Laws 2024, c. 369, § 39, eff. Nov. 1, 2024.

§60-1403. Task Force on Trust Administration Review and Reform.

A. There is hereby created the Task Force on Trust Administration Review and Reform. The Task Force shall be composed of the following seven (7) members:

1. The Governor shall appoint three members, one of whom shall be a member of the Oklahoma State Chamber, and one of whom shall be a member of the Oklahoma Bankers Association;
2. The President Pro Tempore of the Oklahoma State Senate shall appoint two members; and
3. The Speaker of the Oklahoma House of Representatives shall appoint two members.

B. The Task Force shall review and make recommendations for changing Oklahoma's trust administration statutes in order to provide an efficient framework for the administration of trusts.

C. The Task Force shall provide a report to the Governor, the President Pro Tempore of the Oklahoma State Senate, and the Speaker of the Oklahoma House of Representatives with its recommendations for legislation by November 1 of each year in which changes are recommended.

D. A majority of the members shall constitute a quorum for the purpose of conducting the business of the Task Force. The Task Force shall meet quarterly and at such other times as may be called by the chair.

E. Members of the Task Force shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in accordance with the provisions of the State Travel Reimbursement Act.

F. Administrative support for the Task Force including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Task Force shall be provided by the Oklahoma Legislative Office of Fiscal Transparency.

Added by Laws 2024, c. 220, § 1, eff. Nov. 1, 2024.

NOTE: Editorially renumbered from § 1201 of this title to avoid duplication in numbering.