

1 ENGROSSED HOUSE
2 BILL NO. 1850

By: Schreiber of the House

and

Howard of the Senate

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6 An Act relating to trusts; creating the Oklahoma
7 Uniform Trust Code; providing scope of act; defining
8 terms; providing when person or organization has
9 knowledge of a fact; providing when this act governs
10 the duties and power of trustee, relations among
11 trustees, and the rights and interests of a
12 beneficiary; providing that terms of trust prevail
13 over provisions of this act; providing exceptions;
14 providing that the common law of trusts and
15 principles equity supplement this act in most
16 circumstances; providing what governing law applies
17 for determining the meaning and effect of the terms
18 of a trust; providing guidelines for the principal
19 place of administration; providing methods of
20 notices; providing for waiver of notice; providing
21 for rules of construction the interpretation of and
22 disposition of property by will also apply to the
23 interpretation of the terms of a trust and the
24 disposition of the trust property; defining term;
providing for insurable interests of trustees;
providing guidelines on who may receive an insurable
interest of a trustee; providing the role of a court
in administration of a trust; providing who shall
have jurisdiction over the trust; providing for venue
location for legal proceedings; providing that notice
to certain representatives has the same effect as if
notice were given directly to the other person;
providing that consent by a representative is binding
on the person they represent in certain
circumstances; providing that a settlor may not
represent and be a beneficiary in certain
circumstances; providing representation power by a
holder of general testamentary power of appointment;
providing representation powers by fiduciaries and
parents; providing for representation in certain
instances by a person having substantiality identical
interests; providing for appointment of a

1 representative; providing power and duties of
2 representative; providing methods of creating a
3 trust; providing requirements for creating a trust;
4 providing when a trust created in another state is
5 valid; providing trust purpose; providing purpose of
6 a charitable trust; providing a court select purpose
7 or beneficiary for a charitable trust in certain
8 circumstances; providing who may maintain a
9 proceeding to enforce a charitable trust; providing
10 that a trust is void if the creation was induced by
11 fraud, duress, or undue influence; providing
12 requirements for an oral trust; providing rules for
13 noncharitable trust created without ascertainable
14 beneficiary; providing when a trust terminates;
15 providing who may commence a proceeding for the
16 modification and termination of a trust; providing
17 procedure for the modification or termination of a
18 noncharitable irrevocable trust; providing that the
19 court may modify or terminate a trust in certain
20 circumstances; providing that a court may apply cy
21 pres to modify or terminate charitable trust in
22 certain circumstances; providing for modification or
23 termination of uneconomic trusts in certain
24 circumstances; providing for manner of distribution
if uneconomic trust is terminated; providing trust
that are exempt from modification or termination if
they are uneconomical; providing that a court may
reform a trust to correct certain mistakes; providing
that a court may modify a trust to achieve a settlors
tax objectives; providing that a trustee may combine
multiple trusts into a single trust; providing that a
trustee may divide a single trust into multiple
trusts; providing that whether or not the terms the
trust contain a spend thrift certain rules apply for
creditors claim against a settlor; providing rules
for a creditors claims against a settlor; providing
required capacity of settlor of a revocable trust;
providing power of settlor in a revocable trust;
providing power of settlor has power of withdrawal
for a revocable trust; providing limitations on
actions contesting the validity of a revocable trust;
providing for a beneficiary of a trust to return any
distributions in certain circumstances; providing for
accepting or declining of trusteeship; providing when
a trustee is required to post a bond; providing
procedures and requirements for co-trustees of a
trust; providing when a vacancy in a trusteeship

1 occurs; providing for appointment of successor
2 trustees; providing procedure for the resignation of
3 a trustee; providing for the removal of a trustee by
4 the court; requiring former trustees to deliver
5 property held to a successor trustee; providing for
6 compensation of trustees; providing for reimbursement
7 of expenses by a trustee; providing duty of trustees
8 to administer trust; providing for a duty of loyalty
9 by a trustee; providing for impartiality by a trustee
10 when a trust has more than one beneficiary; requiring
11 a trustee to administer trust prudently; providing
12 what costs a trustee may incur in administering the
13 trust; requiring trustees who were selected because
14 of a special skill or expertise to use such skill or
15 expertise in administering the trust; providing that
16 a trustee may delegate duties and powers; providing
17 requirements for delegating duties and powers;
18 providing that trustee shall take reasonable steps to
19 take control of and protect the trust property;
20 providing requirements for recordkeeping and
21 identification of trust property by a trustee;
22 requiring that a trustee shall take reasonable steps
23 to enforce claim of the trust and to defend claims
24 against the trust; requiring a trustee to collect
trust property from former trustees and to redress a
breach of trust committed by a former trustee;
providing that a trustee has a duty to inform and
make reports to certain individuals; providing
trustee has certain discretionary powers; providing
general powers of a trustee; providing specific
powers of trustee; providing procedure and
requirements for distribution of a trust upon
termination; providing when a trustee is entitled to
a contribution by a co-trustee; providing that a
trustee is accountable to a beneficiary for any
profit made by the trustee, even absent a breach of
trust; providing that absent a breach of trust, a
trustee is not liable to a beneficiary for a loss or
deprivation in the value of the trust or for not
making a profit; providing that a trustee is not
liable for a breach of trust if reasonably relying
upon the terms of the trust; providing that a trustee
is not liable for certain events that occur that
affect administration or distribution of a trust;
providing limitation on personal liability of a
trustee; providing that trustees who hold an interest
as a general partner in a general or limited

1 partnership is not personally liable for certain
2 actions and events; providing that a trustee may
3 provide a certification of trust in certain
4 circumstances; providing requirements of a
5 certification of trust; providing exemptions for a
6 certification of trust may be used; providing
7 requirements for electronic records and signatures;
8 providing for severability of act for provisions that
9 are held invalid; providing application to existing
10 relationships; providing for codification; and
11 providing an effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1501 of Title 60, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma
Uniform Trust Code".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1502 of Title 60, unless there
is created a duplication in numbering, reads as follows:

The Oklahoma Uniform Trust Act applies to express trusts,
charitable or noncharitable, and trusts created pursuant to a
statute, judgment, or decree that requires the trust to be
administered in the manner of an express trust.

SECTION 3. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1503 of Title 60, unless there
is created a duplication in numbering, reads as follows:

1 As used in this act:

2 1. "Action", with respect to an act of a trustee, includes a
3 failure to act;

4 2. "Ascertainable standard" means a standard relating to an
5 individual's health, education, support, or maintenance within the
6 meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the Internal
7 Revenue Code of 1986, as in effect on the effective date of this
8 act, or as later amended;

9 3. "Beneficiary" means a person who:

10 a. has a present or future beneficial interest in a
11 trust, vested or contingent, or

12 b. in a capacity other than that of trustee, holds a
13 power of appointment over trust property;

14 4. "Charitable trust" means a trust, or portion of a trust,
15 created for a charitable purpose described in subsection A of
16 Section 24 of this act;

17 5. "Environmental law" means a federal, state, or local law,
18 rule, regulation, or ordinance relating to the protection of the
19 environment;

20 6. "Guardian of the property" means a person appointed by the
21 court to administer the estate of a minor or adult individual;

22 7. "Guardian of the person" means a person appointed by the
23 court to make decisions regarding the support, care, education,
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1 health, and welfare of a minor or adult individual. The term does
2 not include a guardian ad litem;

3 8. "Interests of the beneficiaries" means the beneficial
4 interests provided in the terms of the trust;

5 9. "Jurisdiction", with respect to a geographic area, includes
6 a state or country;

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

12 11. "Power of withdrawal" means a presently exercisable general
13 power of appointment other than a power:

14 a. exercisable by a trustee and limited by an
15 ascertainable standard, or

16 b. exercisable by another person only upon consent of the
17 trustee or a person holding an adverse interest;

18 12. "Property" means anything that may be the subject of
19 ownership, whether real or personal, legal or equitable, or any
20 interest therein;

21 13. "Qualified beneficiary" means a beneficiary who, on the
22 date the beneficiary's qualification is determined:

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- 1 a. is a distributee or permissible distributee of a
2 present interest in the trust income or principal, or
3 has a vested remainder in the trust,
4 b. is a charitable organization expressly entitled to
5 receive benefits under the terms of a charitable
6 trust, or
7 c. is the Attorney General of this state with respect to
8 a charitable trust having its principal place of
9 administration in this state;

10 14. "Revocable", as applied to a trust, means revocable by the
11 settlor without the consent of the trustee or a person holding an
12 adverse interest;

13 15. "Settlor" means a person, including a testator, who
14 creates, or contributes property to, a trust. If more than one
15 person creates or contributes property to a trust, each person is a
16 settlor of the portion of the trust property attributable to that
17 person's contribution except to the extent another person has the
18 power to revoke or withdraw that portion;

19 16. "Spendthrift provision" means a term of a trust which
20 restrains both voluntary and involuntary transfer of a beneficiary's
21 interest;

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

1 United States. The term includes an Indian tribe or band recognized
2 by federal law or formally acknowledged by a state;

3 18. "Terms of a trust" means:

4 a. except as otherwise provided in subparagraph b of this
5 paragraph, the manifestation of the settlor's intent
6 regarding a trust's provisions as:

7 (1) expressed in the trust instrument, or

8 (2) established by other evidence that would be
9 admissible in a judicial proceeding, or

10 b. the trust's provisions, as established, determined, or
11 amended by:

12 (1) a trustee or other person in accordance with
13 applicable law,

14 (2) a court order, or

15 (3) a nonjudicial settlement agreement under Section
16 1402 of Title 60 of the Oklahoma Statutes;

17 19. "Trust instrument" means an instrument executed by the
18 settlor that contains terms of the trust, including any amendments
19 thereto; and

20 20. "Trustee" includes an original, additional, and successor
21 trustee, and a co-trustee.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1504 of Title 60, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Subject to subsection B of this section, a person has
2 knowledge of a fact if the person:

- 3 1. Has actual knowledge of it;
- 4 2. Has received a notice or notification of it; or
- 5 3. From all the facts and circumstances known to the person at
6 the time in question, has reason to know it.

7 B. An organization that conducts activities through employees
8 has notice or knowledge of a fact involving a trust only from the
9 time the information was received by an employee having
10 responsibility to act for the trust, or would have been brought to
11 the employee's attention if the organization had exercised
12 reasonable diligence. An organization exercises reasonable
13 diligence if it maintains reasonable routines for communicating
14 significant information to the employee having responsibility to act
15 for the trust and there is reasonable compliance with the routines.
16 Reasonable diligence does not require an employee of the
17 organization to communicate information unless the communication is
18 part of the individual's regular duties or the individual knows a
19 matter involving the trust would be materially affected by the
20 information.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1505 of Title 60, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. Except as otherwise provided in the terms of the trust, this
2 act governs the duties and powers of a trustee, relations among
3 trustees, and the rights and interests of a beneficiary.

4 B. The terms of a trust prevail over any provision of this act
5 except:

6 1. The requirements for creating a trust;

7 2. Subject to the Oklahoma Uniform Directed Trust Act, Sections
8 1209, 1211, and 1212 of Title 60 of the Oklahoma Statutes, the duty
9 of a trustee to act in good faith and in accordance with the terms
10 and purposes of the trust and the interests of the beneficiaries;

11 3. The requirement that a trust and its terms be for the
12 benefit of its beneficiaries, and that the trust have a purpose that
13 is lawful, not contrary to public policy, and possible to achieve;

14 4. The power of the court to modify or terminate a trust under
15 Sections 28 through 34 of this act;

16 5. The effect of a spendthrift provision and the rights of
17 certain creditors and assignees to reach a trust as provided in
18 Section 36 of this act;

19 6. The power of the court under Section 41 of this act to
20 require, dispense with, or modify or terminate a bond;

21 7. The power of the court under subsection B of Section 47 of
22 this act to adjust a trustee's compensation specified in the terms
23 of the trust which is unreasonably low or high;

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1 8. The duty under paragraphs 2 and 3 of Section 60 of this act
2 to notify qualified beneficiaries of an irrevocable trust who have
3 attained twenty-five (25) years of age of the existence of the
4 trust, of the identity of the trustee, and of their right to request
5 trustee's reports;

6 9. The duty under subsection A of Section 60 of this act to
7 respond to the request of a qualified beneficiary of an irrevocable
8 trust for trustee's reports and other information reasonably related
9 to the administration of a trust;

10 10. The rights under Sections 68 through 71 of this act of a
11 person other than a trustee or beneficiary;

12 11. Periods of limitation for commencing a judicial proceeding;

13 12. The power of the court to take such action and exercise
14 such jurisdiction as may be necessary in the interests of justice;
15 and

16 13. The subject matter jurisdiction of the court and venue for
17 commencing a proceeding as provided in Section 14 of this act.

18 SECTION 6. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1506 of Title 60, unless there
20 is created a duplication in numbering, reads as follows:

21 The common law of trusts and principles of equity supplement
22 this act, except to the extent modified by this act or another
23 statute of this state.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1507 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 The meaning and effect of the terms of a trust are determined
5 by:

6 1. The law of the jurisdiction designated in the terms unless
7 the designation of that jurisdiction's law is contrary to a strong
8 public policy of the jurisdiction having the most significant
9 relationship to the matter at issue; or

10 2. In the absence of a controlling designation in the terms of
11 the trust, the law of the jurisdiction having the most significant
12 relationship to the matter at issue.

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1508 of Title 60, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Without precluding other means for establishing a sufficient
17 connection with the designated jurisdiction, terms of a trust
18 designating the principal place of administration are valid and
19 controlling if:

20 1. A trustee's principal place of business is located in or a
21 trustee is a resident of the designated jurisdiction; or

22 2. All or part of the administration occurs in the designated
23 jurisdiction.

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1 B. A trustee is under a continuing duty to administer the trust
2 at a place appropriate to its purposes, its administration, and the
3 interests of the beneficiaries.

4 C. Without precluding the right of the court to order, approve,
5 or disapprove a transfer, the trustee, in furtherance of the duty
6 prescribed by subsection B of this section, may transfer the trust's
7 principal place of administration to another state or to a
8 jurisdiction outside of the United States.

9 D. The trustee shall notify the qualified beneficiaries of a
10 proposed transfer of a trust's principal place of administration not
11 less than sixty (60) days before initiating the transfer. The
12 notice of proposed transfer must include:

13 1. The name of the jurisdiction to which the principal place of
14 administration is to be transferred;

15 2. The address and telephone number at the new location at
16 which the trustee can be contacted;

17 3. An explanation of the reasons for the proposed transfer;

18 4. The date on which the proposed transfer is anticipated to
19 occur; and

20 5. The date, not less than sixty (60) days after the giving of
21 the notice, by which the qualified beneficiary must notify the
22 trustee of an objection to the proposed transfer.

23 E. The authority of a trustee under this section to transfer a
24 trust's principal place of administration terminates if a qualified

1 beneficiary notifies the trustee of an objection to the proposed
2 transfer on or before the date specified in the notice.

3 F. In connection with a transfer of the trust's principal place
4 of administration, the trustee may transfer some or all of the trust
5 property to a successor trustee designated in the terms of the trust
6 or appointed pursuant to Section 43 of this act.

7 SECTION 9. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1509 of Title 60, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Notice to a person under this act or the sending of a
11 document to a person under this act must be accomplished in a manner
12 reasonably suitable under the circumstances and likely to result in
13 receipt of the notice or document. Permissible methods of notice or
14 for sending a document include first-class mail, personal delivery,
15 delivery to the person's last known place of residence or place of
16 business, or a properly directed electronic message.

17 B. Notice otherwise required under this act or a document
18 otherwise required to be sent under this act need not be provided to
19 a person whose identity or location is unknown to and not reasonably
20 ascertainable by the trustee.

21 C. Notice under this act or the sending of a document under
22 this act may be waived by the person to be notified or sent the
23 document.

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1 D. Notice of a judicial proceeding must be given as provided in
2 the applicable rules of civil procedure.

3 SECTION 10. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1510 of Title 60, unless there
5 is created a duplication in numbering, reads as follows:

6 The rules of construction that apply in this state to the
7 interpretation of and disposition of property by will also apply as
8 appropriate to the interpretation of the terms of a trust and the
9 disposition of the trust property.

10 SECTION 11. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1511 of Title 60, unless there
12 is created a duplication in numbering, reads as follows:

13 A. In this section, "settlor" means a person that executes a
14 trust instrument. The term includes a person for which a fiduciary
15 or agent is acting.

16 B. A trustee of a trust has an insurable interest in the life
17 of an individual insured under a life insurance policy that is owned
18 by the trustee of the trust acting in a fiduciary capacity or that
19 designates the trust itself as the owner if, on the date the policy
20 is issued:

21 1. The insured is:

22 a. a settlor of the trust, or
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1 b. an individual in whom a settlor of the trust has, or
2 would have had if living at the time the policy was
3 issued, an insurable interest; and

4 2. The life insurance proceeds are primarily for the benefit of
5 one or more trust beneficiaries that have:

6 a. an insurable interest in the life of the insured, or

7 b. a substantial interest engendered by love and
8 affection in the continuation of the life of the
9 insured and, if not already included under

10 subparagraph a of this paragraph, who are:

11 (1) related within the third degree or closer, as
12 measured by the civil law system of determining
13 degrees of relation, either by blood or law, to
14 the insured, or

15 (2) stepchildren of the insured.

16 The following table identifies the relatives of an insured
17 within three degrees of lineal and collateral consanguinity using
18 the civil law method, with each row representing a generation.

			Great- Grandparents (3)
		Grandparents (2)	

1		Parents	Aunts and Uncles	
2		(1)	(3)	
3	INSURED	Sisters and		
4		Brothers		
5		(2)		
6	Children	Nieces and		
7	(1)	Nephews		
8		(3)		
9	Grandchildren			
10	(2)			
11	Great-			
12	Grandchildren			
13	(3)			
14				

15 SECTION 12. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1601 of Title 60, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The court may intervene in the administration or
19 construction of a trust to the extent its jurisdiction is invoked by
20 an interested person or as provided by law.

21 B. A trust is not subject to continuing judicial supervision
22 unless ordered by the court.

23 C. A judicial proceeding involving a trust may relate to any
24 matter involving the trust's administration or construction,

1 including a request for instructions and an action to declare
2 rights.

3 SECTION 13. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1602 of Title 60, unless there
5 is created a duplication in numbering, reads as follows:

6 A. By accepting the trusteeship of a trust having its principal
7 place of administration in this state or by moving the principal
8 place of administration to this state, the trustee submits
9 personally to the jurisdiction of the courts of this state regarding
10 any matter involving the trust.

11 B. With respect to their interests in the trust, the
12 beneficiaries of a trust having its principal place of
13 administration in this state are subject to the jurisdiction of the
14 courts of this state regarding any matter involving the trust. By
15 accepting a distribution from such a trust, the recipient submits
16 personally to the jurisdiction of the courts of this state regarding
17 any matter involving the trust.

18 C. This section does not preclude other methods of obtaining
19 jurisdiction over a trustee, beneficiary, or other person receiving
20 property from the trust.

21 SECTION 14. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1603 of Title 60, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. Except as otherwise provided in subsection B of this
2 section, venue for a judicial proceeding involving a trust is proper
3 in the county of this state in which the trust's principal place of
4 administration is or will be located and, if the trust is created by
5 will and the estate is not yet closed, in the county in which the
6 decedent's estate is being administered.

7 B. If a trust has no trustee, venue for a judicial proceeding
8 for the appointment of a trustee may be in a county of this state in
9 which a beneficiary resides, in a county in which any trust property
10 is located, and if the trust is created by will, in the county in
11 which the decedent's estate was or is being administered.

12 SECTION 15. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1701 of Title 60, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Notice to a person who may represent and bind another person
16 under this article has the same effect as if notice were given
17 directly to the other person.

18 B. The consent of a person who may represent and bind another
19 person under this article is binding on the person represented
20 unless the person represented objects to the representation before
21 the consent would otherwise have become effective.

22 C. Except as otherwise provided in Section 29 of this act, a
23 person who under this article may represent a settlor who lacks
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1 capacity may receive notice and give a binding consent on the
2 settlor's behalf.

3 D. A settlor may not represent and bind a beneficiary under
4 this article with respect to the termination or modification of a
5 trust under subsection A of Section 29 of this act.

6 SECTION 16. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1702 of Title 60, unless there
8 is created a duplication in numbering, reads as follows:

9 To the extent there is no conflict of interest between the
10 holder of a general testamentary power of appointment and the
11 persons represented with respect to the particular question or
12 dispute, the holder may represent and bind persons whose interests,
13 as permissible appointees, takers in default, or otherwise, are
14 subject to the power.

15 SECTION 17. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1703 of Title 60, unless there
17 is created a duplication in numbering, reads as follows:

18 To the extent there is no conflict of interest between the
19 representative and the person represented or among those being
20 represented with respect to a particular question or dispute:

21 1. A guardian of the property may represent and bind the estate
22 that the guardian controls;

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1 2. A guardian of the person may represent and bind the ward if
2 a guardian of the property of the ward's estate has not been
3 appointed;

4 3. An agent having authority to act with respect to the
5 particular question or dispute may represent and bind the principal;

6 4. A trustee may represent and bind the beneficiaries of the
7 trust;

8 5. A personal representative of a decedent's estate may
9 represent and bind persons interested in the estate; and

10 6. A parent may represent and bind the parent's minor or unborn
11 child if a guardian of the property or guardian of the person for
12 the child has not been appointed.

13 SECTION 18. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1704 of Title 60, unless there
15 is created a duplication in numbering, reads as follows:

16 Unless otherwise represented, a minor, incapacitated, or unborn
17 individual, or a person whose identity or location is unknown and
18 not reasonably ascertainable, may be represented by and bound by
19 another having a substantially identical interest with respect to
20 the particular question or dispute, but only to the extent there is
21 no conflict of interest between the representative and the person
22 represented.

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1 SECTION 19. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1705 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 A. If the court determines that an interest is not represented
5 under this act, or that the otherwise available representation might
6 be inadequate, the court may appoint a representative to receive
7 notice, give consent, and otherwise represent, bind, and act on
8 behalf of a minor, incapacitated, or unborn individual, or a person
9 whose identity or location is unknown, in the same manner as
10 appointment of a guardian ad litem. A representative may be
11 appointed to represent several persons or interests.

12 B. A representative may act on behalf of the individual
13 represented with respect to any matter arising under this act,
14 whether or not a judicial proceeding concerning the trust is
15 pending.

16 C. In making decisions, a representative may consider general
17 benefit accruing to the living members of the individual's family.

18 SECTION 20. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1801 of Title 60, unless there
20 is created a duplication in numbering, reads as follows:

21 A trust may be created by:

22 1. Transfer of property to another person as trustee during the
23 settlor's lifetime or by will or other disposition taking effect
24 upon the settlor's death;

1 2. Declaration by the owner of property that the owner holds
2 identifiable property as trustee; or

3 3. Exercise of a power of appointment in favor of a trustee.

4 SECTION 21. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1802 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 A. A trust is created only if:

8 1. The settlor has capacity to create a trust;

9 2. The settlor indicates an intention to create the trust;

10 3. The trust has a definite beneficiary or is:

11 a. a charitable trust, or

12 b. a trust for a noncharitable purpose, as provided in
13 Section 27 of this act;

14 4. The trustee has duties to perform; and

15 5. The same person is not the sole trustee and sole
16 beneficiary.

17 B. A beneficiary is definite if the beneficiary can be
18 ascertained now or in the future.

19 C. A power in a trustee to select a beneficiary from an
20 indefinite class is valid. If the power is not exercised within a
21 reasonable time, the power fails and the property subject to the
22 power passes to the persons who would have taken the property had
23 the power not been conferred.

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1 SECTION 22. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1803 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 A trust not created by will is validly created if its creation
5 complies with the law of the jurisdiction in which the trust
6 instrument was executed, or the law of the jurisdiction in which, at
7 the time of creation:

- 8 1. The settlor was domiciled, had a place of abode, or was a
9 national;
- 10 2. A trustee was domiciled or had a place of business; or
- 11 3. Any trust property was located.

12 SECTION 23. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1804 of Title 60, unless there
14 is created a duplication in numbering, reads as follows:

15 A trust may be created only to the extent its purposes are
16 lawful, not contrary to public policy, and possible to achieve. A
17 trust and its terms must be for the benefit of its beneficiaries.

18 SECTION 24. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1805 of Title 60, unless there
20 is created a duplication in numbering, reads as follows:

21 A. A charitable trust may be created for the relief of poverty,
22 the advancement of education or religion, the promotion of health,
23 governmental or municipal purposes, or other purposes the
24 achievement of which is beneficial to the community.

1 B. If the terms of a charitable trust do not indicate a
2 particular charitable purpose or beneficiary, the court may select
3 one or more charitable purposes or beneficiaries. The selection
4 must be consistent with the settlor's intention to the extent it can
5 be ascertained.

6 C. The settlor of a charitable trust, among others, may
7 maintain a proceeding to enforce the trust.

8 SECTION 25. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1806 of Title 60, unless there
10 is created a duplication in numbering, reads as follows:

11 A trust is void to the extent its creation was induced by fraud,
12 duress, or undue influence.

13 SECTION 26. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1807 of Title 60, unless there
15 is created a duplication in numbering, reads as follows:

16 Except as required by a statute other than this act, a trust
17 need not be evidenced by a trust instrument, but the creation of an
18 oral trust and its terms may be established only by clear and
19 convincing evidence.

20 SECTION 27. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1808 of Title 60, unless there
22 is created a duplication in numbering, reads as follows:

23 Except as otherwise provided in this act or by another statute,
24 the following rules apply:

1 1. A trust may be created for a noncharitable purpose without a
2 definite or definitely ascertainable beneficiary or for a
3 noncharitable but otherwise valid purpose to be selected by the
4 trustee;

5 2. A trust authorized by this section may be enforced by a
6 person appointed in the terms of the trust or, if no person is so
7 appointed, by a person appointed by the court; and

8 3. Property of a trust authorized by this section may be
9 applied only to its intended use, except to the extent the court
10 determines that the value of the trust property exceeds the amount
11 required for the intended use. Except as otherwise provided in the
12 terms of the trust, property not required for the intended use must
13 be distributed to the settlor, if then living, otherwise to the
14 settlor's successors in interest.

15 SECTION 28. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1809 of Title 60, unless there
17 is created a duplication in numbering, reads as follows:

18 A. In addition to the methods of termination prescribed by
19 Sections 29 through 32 of this act, a trust terminates to the extent
20 the trust is revoked or expires pursuant to its terms, no purpose of
21 the trust remains to be achieved, or the purposes of the trust have
22 become unlawful, contrary to public policy, or impossible to
23 achieve.

24

1 B. A proceeding to approve or disapprove a proposed
2 modification or termination under Sections 29 through 34 of this
3 act, or trust combination or division under Section 35 of this act,
4 may be commenced by a trustee or beneficiary, and a proceeding to
5 approve or disapprove a proposed modification or termination under
6 Section 29 of this act may be commenced by the settlor. The settlor
7 of a charitable trust may maintain a proceeding to modify the trust
8 under Section 31 of this act.

9 SECTION 29. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1810 of Title 60, unless there
11 is created a duplication in numbering, reads as follows:

12 A. If, upon petition, the court finds that the settlor and all
13 beneficiaries consent to the modification or termination of a
14 noncharitable irrevocable trust, the court shall approve the
15 modification or termination even if the modification or termination
16 is inconsistent with a material purpose of the trust. A settlor's
17 power to consent to a trust's modification or termination may be
18 exercised by an agent under a power of attorney only to the extent
19 expressly authorized by the power of attorney or the terms of the
20 trust; by the settlor's guardian of the property with the approval
21 of the court supervising the guardianship if an agent is not so
22 authorized; or by the settlor's guardian of the person with the
23 approval of the court supervising the guardianship if an agent is
24 not so authorized and a guardian of the property has not been

1 appointed. This subsection does not apply to irrevocable trusts
2 created before or to revocable trusts that become irrevocable before
3 the effective date of this act.

4 B. A noncharitable irrevocable trust may be terminated upon
5 consent of all of the beneficiaries if the court concludes that
6 continuance of the trust is not necessary to achieve any material
7 purpose of the trust. A noncharitable irrevocable trust may be
8 modified upon consent of all of the beneficiaries if the court
9 concludes that modification is not inconsistent with a material
10 purpose of the trust.

11 C. A spendthrift provision in the terms of the trust is not
12 presumed to constitute a material purpose of the trust.

13 D. Upon termination of a trust under subsection A or B of this
14 section, the trustee shall distribute the trust property as agreed
15 by the beneficiaries.

16 E. If not all of the beneficiaries consent to a proposed
17 modification or termination of the trust under subsection A or B of
18 this section, the modification or termination may be approved by the
19 court if the court is satisfied that:

20 1. If all of the beneficiaries had consented, the trust could
21 have been modified or terminated under this section; and

22 2. The interests of a beneficiary who does not consent will be
23 adequately protected.

24

1 SECTION 30. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1811 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The court may modify the administrative or dispositive terms
5 of a trust or terminate the trust if, because of circumstances not
6 anticipated by the settlor, modification or termination will further
7 the purposes of the trust. To the extent practicable, the
8 modification must be made in accordance with the settlor's probable
9 intention.

10 B. The court may modify the administrative terms of a trust if
11 continuation of the trust on its existing terms would be
12 impracticable or wasteful or impair the trust's administration.

13 C. Upon termination of a trust under this section, the trustee
14 shall distribute the trust property in a manner consistent with the
15 purposes of the trust.

16 SECTION 31. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1812 of Title 60, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Except as otherwise provided in subsection B of this
20 section, if a particular charitable purpose becomes unlawful,
21 impracticable, impossible to achieve, or wasteful:

22 1. The trust does not fail, in whole or in part;

23 2. The trust property does not revert to the settlor or the
24 settlor's successors in interest; and

1 3. The court may apply cy pres to modify or terminate the trust
2 by directing that the trust property be applied or distributed, in
3 whole or in part, in a manner consistent with the settlor's
4 charitable purposes.

5 B. A provision in the terms of a charitable trust that would
6 result in distribution of the trust property to a noncharitable
7 beneficiary prevails over the power of the court under subsection A
8 of this section to apply cy pres to modify or terminate the trust
9 only if, when the provision takes effect, the trust property is to
10 revert to the settlor and the settlor is still living.

11 SECTION 32. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1813 of Title 60, unless there
13 is created a duplication in numbering, reads as follows:

14 A. After notice to the qualified beneficiaries, the trustee of
15 a trust consisting of trust property having a total value less than
16 Fifty Thousand Dollars (\$50,000.00) may terminate the trust if the
17 trustee concludes that the value of the trust property is
18 insufficient to justify the cost of administration.

19 B. The court may modify or terminate a trust or remove the
20 trustee and appoint a different trustee if it determines that the
21 value of the trust property is insufficient to justify the cost of
22 administration.

23
24

1 C. Upon termination of a trust under this section, the trustee
2 shall distribute the trust property in a manner consistent with the
3 purposes of the trust.

4 D. This section does not apply to an easement for conservation
5 or preservation.

6 SECTION 33. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1814 of Title 60, unless there
8 is created a duplication in numbering, reads as follows:

9 The court may reform the terms of a trust, even if unambiguous,
10 to conform the terms to the settlor's intention if it is proved by
11 clear and convincing evidence what the settlor's intention was and
12 that the terms of the trust were affected by a mistake of fact or
13 law, whether in expression or inducement.

14 SECTION 34. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1815 of Title 60, unless there
16 is created a duplication in numbering, reads as follows:

17 To achieve the settlor's tax objectives, the court may modify
18 the terms of a trust in a manner that is not contrary to the
19 settlor's probable intention. The court may provide that the
20 modification has retroactive effect.

21 SECTION 35. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1816 of Title 60, unless there
23 is created a duplication in numbering, reads as follows:

24

1 After notice to the qualified beneficiaries, a trustee may
2 combine two or more trusts into a single trust or divide a trust
3 into two or more separate trusts, if the result does not impair the
4 rights of any beneficiary or adversely affect achievement of the
5 purposes of the trust.

6 SECTION 36. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1901 of Title 60, unless there
8 is created a duplication in numbering, reads as follows:

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

11 1. Except as provided by the laws of this state, during the
12 lifetime of the settlor, the property of a revocable trust is
13 subject to claims of the settlor's creditors; and

14 2. Except as provided by the laws of this state, after the
15 death of a settlor, and subject to the settlor's right to direct the
16 source from which liabilities will be paid, the property of a trust
17 that was revocable at the settlor's death is subject to claims of
18 the settlor's creditors, costs of administration of the settlor's
19 estate, the expenses of the settlor's funeral and disposal of
20 remains, and statutory allowances to a surviving spouse and children
21 to the extent the settlor's probate estate is inadequate to satisfy
22 those claims, costs, expenses, and allowances.

23 B. For purposes of this section:
24

1 1. During the period the power may be exercised, the holder of
2 a power of withdrawal is treated in the same manner as the settlor
3 of a revocable trust to the extent of the property subject to the
4 power; and

5 2. Upon the lapse, release, or waiver of the power, the holder
6 is treated as the settlor of the trust only to the extent the value
7 of the property affected by the lapse, release, or waiver exceeds
8 the greater of the amount specified in Section 2041(b)(2) or 2514(e)
9 of the Internal Revenue Code of 1986, or Section 2503(b) of the
10 Internal Revenue Code of 1986, in each case as in effect on the
11 effective date of this act, or as later amended.

12 SECTION 37. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2001 of Title 60, unless there
14 is created a duplication in numbering, reads as follows:

15 The capacity required to create, amend, revoke, or add property
16 to a revocable trust, or to direct the actions of the trustee of a
17 revocable trust, is the same as that required to make a will.

18 SECTION 38. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2002 of Title 60, unless there
20 is created a duplication in numbering, reads as follows:

21 A. To the extent a trust is revocable by a settlor, a trustee
22 may follow a direction of the settlor that is contrary to the terms
23 of the trust. To the extent a trust is revocable by a settlor in
24 conjunction with a person other than a trustee or person holding an

1 adverse interest, the trustee may follow a direction from the
2 settlor and the other person holding the power to revoke even if the
3 direction is contrary to the terms of the trust.

4 B. To the extent a trust is revocable and the settlor has
5 capacity to revoke the trust, rights of the beneficiaries are
6 subject to the control of, and the duties of the trustee are owed
7 exclusively to, the settlor.

8 C. During the period the power may be exercised, the holder of
9 a power of withdrawal has the rights of a settlor of a revocable
10 trust under this section to the extent of the property subject to
11 the power.

12 SECTION 39. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2003 of Title 60, unless there
14 is created a duplication in numbering, reads as follows:

15 A. A person may commence a judicial proceeding to contest the
16 validity of a trust that was revocable at the settlor's death within
17 three (3) years after the later of either the settlor's death or
18 actual or constructive notice of the existence and terms of the
19 trust.

20 B. Upon the death of the settlor of a trust that was revocable
21 at the settlor's death, the trustee may proceed to distribute the
22 trust property in accordance with the terms of the trust. The
23 trustee is not subject to liability for doing so unless:

24

1 1. The trustee knows of a pending judicial proceeding
2 contesting the validity of the trust;

3 2. The trustee knows of claims, costs, expenses, or allowances
4 that would be payable from the trust pursuant to paragraph 2 of
5 subsection A of Section 36 of this act; or

6 3. A potential contestant has notified the trustee of a
7 possible judicial proceeding to contest the trust and a judicial
8 proceeding is commenced within sixty (60) days after the contestant
9 sent the notification.

10 C. A beneficiary of a trust that is determined to have been
11 invalid or which is subject to claims, costs, expenses, or
12 allowances under paragraph 2 of subsection B of this section is
13 liable to return any distribution received.

14 SECTION 40. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2101 of Title 60, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Except as otherwise provided in subsection C of this
18 section, a person designated as trustee accepts the trusteeship:

19 1. By substantially complying with a method of acceptance
20 provided in the terms of the trust; or

21 2. If the terms of the trust do not provide a method or the
22 method provided in the terms is not expressly made exclusive, by
23 accepting delivery of the trust property, exercising powers or
24

1 performing duties as trustee, or otherwise indicating acceptance of
2 the trusteeship.

3 B. A person designated as trustee who has not yet accepted the
4 trusteeship may reject the trusteeship. A designated trustee who
5 does not accept the trusteeship within a reasonable time after
6 knowing of the designation is deemed to have rejected the
7 trusteeship.

8 C. A person designated as trustee, without accepting the
9 trusteeship, may:

10 1. Act to preserve the trust property if, within a reasonable
11 time after acting, the person sends a rejection of the trusteeship
12 to the settlor or, if the settlor is dead or lacks capacity, to a
13 qualified beneficiary; and

14 2. Inspect or investigate trust property to determine potential
15 liability under environmental or other law or for any other purpose.

16 SECTION 41. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2102 of Title 60, unless there
18 is created a duplication in numbering, reads as follows:

19 A. A trustee shall give bond to secure performance of the
20 trustee's duties only if the court finds that a bond is needed to
21 protect the interests of the beneficiaries or is required by the
22 terms of the trust and the court has not dispensed with the
23 requirement.

24

1 B. The court may specify the amount of a bond, its liabilities,
2 and whether sureties are necessary. The court may modify or
3 terminate a bond at any time.

4 C. A regulated financial service institution qualified to do
5 trust business in this state need not give bond, even if required by
6 the terms of the trust.

7 SECTION 42. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2103 of Title 60, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Co-trustees who are unable to reach a unanimous decision may
11 act by majority decision.

12 B. If a vacancy occurs in a co-trusteeship, the remaining co-
13 trustees may act for the trust.

14 C. Subject to Section 1212 of Title 60 of the Oklahoma
15 Statutes, a co-trustee must participate in the performance of a
16 trustee's function unless the co-trustee is unavailable to perform
17 the function because of absence, illness, disqualification under
18 other law, or other temporary incapacity or the co-trustee has
19 properly delegated the performance of the function to another
20 trustee.

21 D. If a co-trustee is unavailable to perform duties because of
22 absence, illness, disqualification under other law, or other
23 temporary incapacity, and prompt action is necessary to achieve the
24 purposes of the trust or to avoid injury to the trust property, the

1 remaining co-trustee or a majority of the remaining co-trustees may
2 act for the trust.

3 E. A trustee may not delegate to a co-trustee the performance
4 of a function the settlor reasonably expected the trustees to
5 perform jointly. Unless a delegation was irrevocable, a trustee may
6 revoke a delegation previously made.

7 F. Except as otherwise provided in subsection G of this
8 section, a trustee who does not join in an action of another trustee
9 is not liable for the action.

10 G. Subject to Section 1212 of Title 60 of the Oklahoma
11 Statutes, each trustee shall exercise reasonable care to:

12 1. Prevent a co-trustee from committing a serious breach of
13 trust; and

14 2. Compel a co-trustee to redress a serious breach of trust.

15 H. A dissenting trustee who joins in an action at the direction
16 of the majority of the trustees and who notified any co-trustee of
17 the dissent at or before the time of the action is not liable for
18 the action unless the action is a serious breach of trust.

19 SECTION 43. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2104 of Title 60, unless there
21 is created a duplication in numbering, reads as follows:

22 A. A vacancy in a trusteeship occurs if:

23 1. A person designated as trustee rejects the trusteeship;

24

1 2. A person designated as trustee cannot be identified or does
2 not exist;

3 3. A trustee resigns;

4 4. A trustee is disqualified or removed;

5 5. A trustee dies; or

6 6. A guardian is appointed for an individual serving as
7 trustee.

8 B. If one or more co-trustees remain in office, a vacancy in a
9 trusteeship need not be filled. A vacancy in a trusteeship must be
10 filled if the trust has no remaining trustee.

11 C. A vacancy in a trusteeship of a noncharitable trust that is
12 required to be filled must be filled in the following order of
13 priority:

14 1. By a person designated in the terms of the trust to act as
15 successor trustee;

16 2. By a person appointed by unanimous agreement of the
17 qualified beneficiaries; or

18 3. By a person appointed by the court.

19 D. A vacancy in a trusteeship of a charitable trust that is
20 required to be filled must be filled in the following order of
21 priority:

22 1. By a person designated in the terms of the trust to act as
23 successor trustee;

24

1 2. By a person selected by the charitable organizations
2 expressly designated to receive distributions under the terms of the
3 trust if the Office of the Attorney General concurs in the
4 selection; or

5 3. By a person appointed by the court.

6 E. Whether or not a vacancy in a trusteeship exists or is
7 required to be filled, the court may appoint an additional trustee
8 or special fiduciary whenever the court considers the appointment
9 necessary for the administration of the trust.

10 SECTION 44. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2105 of Title 60, unless there
12 is created a duplication in numbering, reads as follows:

13 A. A trustee may resign:

14 1. Upon at least thirty (30) days' notice to the qualified
15 beneficiaries, the settlor, if living, and all co-trustees; or

16 2. With the approval of the court.

17 B. In approving a resignation, the court may issue orders and
18 impose conditions reasonably necessary for the protection of the
19 trust property.

20 C. Any liability of a resigning trustee or of any sureties on
21 the trustee's bond for acts or omissions of the trustee is not
22 discharged or affected by the trustee's resignation, but may be
23 discharged by court order upon notice to the qualified
24 beneficiaries, the settlor, if living, and all co-trustees.

1 SECTION 45. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2106 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The settlor, a co-trustee, or a beneficiary may request the
5 court to remove a trustee, or a trustee may be removed by the court
6 on its own initiative.

7 B. The court may remove a trustee if:

8 1. The trustee has committed a serious breach of trust;
9 2. Lack of cooperation among co-trustees substantially impairs
10 the administration of the trust;

11 3. Due to unfitness, unwillingness, or persistent failure of
12 the trustee to administer the trust effectively, the court
13 determines that removal of the trustee best serves the interests of
14 the beneficiaries; or

15 4. There has been a substantial change of circumstances or
16 removal is requested by all of the qualified beneficiaries, the
17 court finds that removal of the trustee best serves the interests of
18 all of the beneficiaries and is not inconsistent with a material
19 purpose of the trust, and a suitable co-trustee or successor trustee
20 is available.

21 C. Pending a final decision on a request to remove a trustee,
22 or in lieu of or in addition to removing a trustee, the court may
23 order such appropriate relief under subsection B of Section 175.57
24

1 of Title 60 of the Oklahoma Statutes as may be necessary to protect
2 the trust property or the interests of the beneficiaries.

3 SECTION 46. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2107 of Title 60, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Unless a co-trustee remains in office or the court otherwise
7 orders, and until the trust property is delivered to a successor
8 trustee or other person entitled to it, a trustee who has resigned
9 or been removed has the duties of a trustee and the powers necessary
10 to protect the trust property.

11 B. A trustee who has resigned or been removed shall proceed
12 expeditiously to deliver the trust property within the trustee's
13 possession to the co-trustee, successor trustee, or other person
14 entitled to it.

15 SECTION 47. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2108 of Title 60, unless there
17 is created a duplication in numbering, reads as follows:

18 A. If the terms of a trust do not specify the trustee's
19 compensation, a trustee is entitled to compensation that is
20 reasonable under the circumstances.

21 B. If the terms of a trust specify the trustee's compensation,
22 the trustee is entitled to be compensated as specified, but the
23 court may allow more or less compensation if:

24

1 1. The duties of the trustee are substantially different from
2 those contemplated when the trust was created; or

3 2. The compensation specified by the terms of the trust would
4 be unreasonably low or high.

5 SECTION 48. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2109 of Title 60, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A trustee is entitled to be reimbursed out of the trust
9 property, with interest as appropriate, for:

10 1. Expenses that were properly incurred in the administration
11 of the trust; and

12 2. To the extent necessary to prevent unjust enrichment of the
13 trust, expenses that were not properly incurred in the
14 administration of the trust.

15 B. An advance by the trustee of money for the protection of the
16 trust gives rise to a lien against trust property to secure
17 reimbursement with reasonable interest.

18 SECTION 49. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2201 of Title 60, unless there
20 is created a duplication in numbering, reads as follows:

21 Upon acceptance of a trusteeship, the trustee shall administer
22 the trust in good faith, in accordance with its terms and purposes
23 and the interests of the beneficiaries, and in accordance with this
24 act.

1 SECTION 50. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2202 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A trustee shall administer the trust solely in the interests
5 of the beneficiaries.

6 B. Subject to the rights of persons dealing with or assisting
7 the trustee as provided in subsection I of Section 175.57 of Title
8 60 of the Oklahoma Statutes, a sale, encumbrance, or other
9 transaction involving the investment or management of trust property
10 entered into by the trustee for the trustee's own personal account
11 or which is otherwise affected by a conflict between the trustee's
12 fiduciary and personal interests is voidable by a beneficiary
13 affected by the transaction unless:

- 14 1. The transaction was authorized by the terms of the trust;
- 15 2. The transaction was approved by the court;
- 16 3. The beneficiary did not commence a judicial proceeding
17 within the time allowed by subsection E of Section 175.57 of Title
18 60 of the Oklahoma Statutes;
- 19 4. The beneficiary consented to the trustee's conduct, ratified
20 the transaction, or released the trustee in compliance with
21 subsection G of Section 175.57 of Title 60 of the Oklahoma Statutes;

22 or

1 5. The transaction involves a contract entered into or claim
2 acquired by the trustee before the person became or contemplated
3 becoming trustee.

4 C. A sale, encumbrance, or other transaction involving the
5 investment or management of trust property is presumed to be
6 affected by a conflict between personal and fiduciary interests if
7 it is entered into by the trustee with:

8 1. The trustee's spouse;

9 2. The trustee's descendants, siblings, parents, or their
10 spouses;

11 3. An agent or attorney of the trustee; or

12 4. A corporation or other person or enterprise in which the
13 trustee, or a person that owns a significant interest in the
14 trustee, has an interest that might affect the trustee's best
15 judgment.

16 D. A transaction between a trustee and a beneficiary that does
17 not concern trust property but that occurs during the existence of
18 the trust or while the trustee retains significant influence over
19 the beneficiary and from which the trustee obtains an advantage is
20 voidable by the beneficiary unless the trustee establishes that the
21 transaction was fair to the beneficiary.

22 E. A transaction not concerning trust property in which the
23 trustee engages in the trustee's individual capacity involves a
24

1 conflict between personal and fiduciary interests if the transaction
2 concerns an opportunity properly belonging to the trust.

3 F. An investment by a trustee in securities of an investment
4 company or investment trust to which the trustee, or its affiliate,
5 provides services in a capacity other than as trustee is not
6 presumed to be affected by a conflict between personal and fiduciary
7 interests if the investment otherwise complies with the prudent
8 investor rule of the Oklahoma Uniform Prudent Investor Act. In
9 addition to its compensation for acting as trustee, the trustee may
10 be compensated by the investment company or investment trust for
11 providing those services out of fees charged to the trust. If the
12 trustee receives compensation from the investment company or
13 investment trust for providing investment advisory or investment
14 management services, the trustee must at least annually notify the
15 persons entitled under Section 60 of this act to receive a copy of
16 the trustee's annual report of the rate and method by which that
17 compensation was determined.

18 G. In voting shares of stock or in exercising powers of control
19 over similar interests in other forms of enterprise, the trustee
20 shall act in the best interests of the beneficiaries. If the trust
21 is the sole owner of a corporation or other form of enterprise, the
22 trustee shall elect or appoint directors or other managers who will
23 manage the corporation or enterprise in the best interests of the
24 beneficiaries.

1 H. This section does not preclude the following transactions,
2 if fair to the beneficiaries:

3 1. An agreement between a trustee and a beneficiary relating to
4 the appointment or compensation of the trustee;

5 2. Payment of reasonable compensation to the trustee;

6 3. A transaction between a trust and another trust, decedent's
7 estate, or conservatorship of which the trustee is a fiduciary or in
8 which a beneficiary has an interest;

9 4. A deposit of trust money in a regulated financial-service
10 institution operated by the trustee; or

11 5. An advance by the trustee of money for the protection of the
12 trust.

13 I. The court may appoint a special fiduciary to make a decision
14 with respect to any proposed transaction that might violate this
15 section if entered into by the trustee.

16 SECTION 51. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2203 of Title 60, unless there
18 is created a duplication in numbering, reads as follows:

19 If a trust has two or more beneficiaries, the trustee shall act
20 impartially in investing, managing, and distributing the trust
21 property, giving due regard to the beneficiaries' respective
22 interests.

23

24

1 SECTION 52. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2204 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 A trustee shall administer the trust as a prudent person would,
5 by considering the purposes, terms, distributional requirements, and
6 other circumstances of the trust. In satisfying this standard, the
7 trustee shall exercise reasonable care, skill, and caution.

8 SECTION 53. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2205 of Title 60, unless there
10 is created a duplication in numbering, reads as follows:

11 In administering a trust, the trustee may incur only costs that
12 are reasonable in relation to the trust property, the purposes of
13 the trust, and the skills of the trustee.

14 SECTION 54. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2206 of Title 60, unless there
16 is created a duplication in numbering, reads as follows:

17 A trustee who has special skills or expertise, or is named
18 trustee in reliance upon the trustee's representation that the
19 trustee has special skills or expertise, shall use those special
20 skills or expertise.

21 SECTION 55. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2207 of Title 60, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A. A trustee may delegate duties and powers that a prudent
2 trustee of comparable skills could properly delegate under the
3 circumstances. The trustee shall exercise reasonable care, skill,
4 and caution in:

5 1. Selecting an agent;

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

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

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

14 C. A trustee who complies with subsection A of this section is
15 not liable to the beneficiaries or to the trust for an action of the
16 agent to whom the function was delegated.

17 D. By accepting a delegation of powers or duties from the
18 trustee of a trust that is subject to the law of this state, an
19 agent submits to the jurisdiction of the courts of this state.

20 SECTION 56. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2208 of Title 60, unless there
22 is created a duplication in numbering, reads as follows:

23 A trustee shall take reasonable steps to take control of and
24 protect the trust property.

1 SECTION 57. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2209 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A trustee shall keep adequate records of the administration
5 of the trust.

6 B. A trustee shall keep trust property separate from the
7 trustee's own property.

8 C. Except as otherwise provided in subsection D of this
9 section, a trustee shall cause the trust property to be designated
10 so that the interest of the trust, to the extent feasible, appears
11 in records maintained by a party other than a trustee or
12 beneficiary.

13 D. If the trustee maintains records clearly indicating the
14 respective interests, a trustee may invest as a whole the property
15 of two or more separate trusts.

16 SECTION 58. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2210 of Title 60, unless there
18 is created a duplication in numbering, reads as follows:

19 A trustee shall take reasonable steps to enforce claims of the
20 trust and to defend claims against the trust.

21 SECTION 59. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2211 of Title 60, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A trustee shall take reasonable steps to compel a former trustee
2 or other person to deliver trust property to the trustee, and to
3 take reasonable steps to redress a breach of trust known to the
4 trustee to have been committed by a former trustee.

5 SECTION 60. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2212 of Title 60, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A trustee shall keep the qualified beneficiaries of the
9 trust reasonably informed about the administration of the trust and
10 of the material facts necessary for them to protect their interests.
11 Unless unreasonable under the circumstances, a trustee shall
12 promptly respond to a beneficiary's request for information related
13 to the administration of the trust.

14 B. A trustee:

15 1. Upon request of a qualified beneficiary, shall promptly
16 furnish to the qualified beneficiary a copy of the trust instrument;

17 2. Within sixty (60) days after accepting a trusteeship, shall
18 notify the qualified beneficiaries of the acceptance and of the
19 trustee's name, address, and telephone number;

20 3. Within sixty (60) days after the date the trustee acquires
21 knowledge of the creation of an irrevocable trust, or the date the
22 trustee acquires knowledge that a formerly revocable trust has
23 become irrevocable, whether by the death of the settlor or
24 otherwise, shall notify the qualified beneficiaries of the trust's

1 existence, of the identity of the settlor or settlors, of the right
2 to request a copy of the trust instrument, and of the right to a
3 trustee's report as provided in subsection C of this section; and

4 4. Shall notify the qualified beneficiaries in advance of any
5 change in the method or rate of the trustee's compensation.

6 C. A trustee shall send to the distributees or permissible
7 distributees of trust income or principal, and to other qualified
8 beneficiaries who request it, at least annually and at the
9 termination of the trust, a report of the trust property,
10 liabilities, receipts, and disbursements, including the source and
11 amount of the trustee's compensation, a listing of the trust assets
12 and, if feasible, their respective market values. Upon a vacancy in
13 a trusteeship, unless a co-trustee remains in office, a report must
14 be sent to the qualified beneficiaries by the former trustee. A
15 personal representative or guardian may send the qualified
16 beneficiaries a report on behalf of a deceased or incapacitated
17 trustee.

18 D. A beneficiary may waive the right to a trustee's report or
19 other information otherwise required to be furnished under this
20 section. A beneficiary, with respect to future reports and other
21 information, may withdraw a waiver previously given.

22 E. Paragraphs 2 and 3 of subsection B of this section do not
23 apply to a trustee who accepts a trusteeship before the effective
24 date of this act, to an irrevocable trust created before the

1 effective date of this act, or to a revocable trust that becomes
2 irrevocable before the effective date of this act.

3 SECTION 61. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2213 of Title 60, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Notwithstanding the breadth of discretion granted to a
7 trustee in the terms of the trust, including the use of such terms
8 as "absolute", "sole", or "uncontrolled", the trustee shall exercise
9 a discretionary power in good faith and in accordance with the terms
10 and purposes of the trust and the interests of the beneficiaries.

11 B. Subject to subsection D of this section, and unless the
12 terms of the trust expressly indicate that a rule in this subsection
13 does not apply:

14 1. A person other than a settlor who is a beneficiary and
15 trustee of a trust that confers on the trustee a power to make
16 discretionary distributions to or for the trustee's personal benefit
17 may exercise the power only in accordance with an ascertainable
18 standard; and

19 2. A trustee may not exercise a power to make discretionary
20 distributions to satisfy a legal obligation of support that the
21 trustee personally owes another person.

22 C. A power whose exercise is limited or prohibited by
23 subsection B of this section may be exercised by a majority of the
24 remaining trustees whose exercise of the power is not so limited or

1 prohibited. If the power of all trustees is so limited or
2 prohibited, the court may appoint a special fiduciary with authority
3 to exercise the power.

4 D. Subsection B of this section does not apply to:

5 1. A power held by the settlor's spouse who is the trustee of a
6 trust for which a marital deduction, as defined in Section
7 2056(b) (5) or 2523(e) of the Internal Revenue Code of 1986, as in
8 effect on the effective date of this act, or as later amended, was
9 previously allowed;

10 2. Any trust during any period that the trust may be revoked or
11 amended by its settlor; or

12 3. A trust if contributions to the trust qualify for the annual
13 exclusion under Section 2503(c) of the Internal Revenue Code of
14 1986, as in effect on the effective date of this act, or as later
15 amended.

16 SECTION 62. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2214 of Title 60, unless there
18 is created a duplication in numbering, reads as follows:

19 A. A trustee, without authorization by the court, may exercise:

20 1. Powers conferred by the terms of the trust; and

21 2. Except as limited by the terms of the trust:

22 a. all powers over the trust property which an unmarried
23 competent owner has over individually owned property,
24

1 b. any other powers appropriate to achieve the proper
2 investment, management, and distribution of the trust
3 property, and

4 c. any other powers conferred by this act.

5 B. The exercise of a power is subject to the fiduciary duties
6 prescribed by this article.

7 SECTION 63. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2215 of Title 60, unless there
9 is created a duplication in numbering, reads as follows:

10 Without limiting the authority conferred by Section 62 of this
11 act, a trustee may:

12 1. Collect trust property and accept or reject additions to the
13 trust property from a settlor or any other person;

14 2. Acquire or sell property, for cash or on credit, at public
15 or private sale;

16 3. Exchange, partition, or otherwise change the character of
17 trust property;

18 4. Deposit trust money in an account in a regulated financial-
19 service institution;

20 5. Borrow money, with or without security, and mortgage or
21 pledge trust property for a period within or extending beyond the
22 duration of the trust;

23 6. With respect to an interest in a proprietorship,
24 partnership, limited liability company, business trust, corporation,

1 or other form of business or enterprise, continue the business or
2 other enterprise and take any action that may be taken by
3 shareholders, members, or property owners, including merging,
4 dissolving, or otherwise changing the form of business organization
5 or contributing additional capital;

6 7. With respect to stocks or other securities, exercise the
7 rights of an absolute owner, including the right to:

8 a. vote, or give proxies to vote, with or without power
9 of substitution, or enter into or continue a voting
10 trust agreement,

11 b. hold a security in the name of a nominee or in other
12 form without disclosure of the trust so that title may
13 pass by delivery,

14 c. pay calls, assessments, and other sums chargeable or
15 accruing against the securities, and sell or exercise
16 stock subscription or conversion rights, and

17 d. deposit the securities with a depository or other
18 regulated financial-service institution;

19 8. With respect to an interest in real property, construct, or
20 make ordinary or extraordinary repairs to, alterations to, or
21 improvements in, buildings or other structures, demolish
22 improvements, raze existing or erect new party walls or buildings,
23 subdivide or develop land, dedicate land to public use or grant

24

1 public or private easements, and make or vacate plats and adjust
2 boundaries;

3 9. Enter into a lease for any purpose as lessor or lessee,
4 including a lease or other arrangement for exploration and removal
5 of natural resources, with or without the option to purchase or
6 renew, for a period within or extending beyond the duration of the
7 trust;

8 10. Grant an option involving a sale, lease, or other
9 disposition of trust property or acquire an option for the
10 acquisition of property, including an option exercisable beyond the
11 duration of the trust, and exercise an option so acquired;

12 11. Insure the property of the trust against damage or loss and
13 insure the trustee, the trustee's agents, and beneficiaries against
14 liability arising from the administration of the trust;

15 12. Abandon or decline to administer property of no value or of
16 insufficient value to justify its collection or continued
17 administration;

18 13. With respect to possible liability for violation of
19 environmental law:

20 a. inspect or investigate property the trustee holds or
21 has been asked to hold, or property owned or operated
22 by an organization in which the trustee holds or has
23 been asked to hold an interest, for the purpose of
24

1 determining the application of environmental law with
2 respect to the property,

3 b. take action to prevent, abate, or otherwise remedy any
4 actual or potential violation of any environmental law
5 affecting property held directly or indirectly by the
6 trustee, whether taken before or after the assertion
7 of a claim or the initiation of governmental
8 enforcement,

9 c. decline to accept property into trust or disclaim any
10 power with respect to property that is or may be
11 burdened with liability for violation of environmental
12 law,

13 d. compromise claims against the trust which may be
14 asserted for an alleged violation of environmental
15 law, and

16 e. pay the expense of any inspection, review, abatement,
17 or remedial action to comply with environmental law;

18 14. Pay or contest any claim, settle a claim by or against the
19 trust, and release, in whole or in part, a claim belonging to the
20 trust;

21 15. Pay taxes, assessments, compensation of the trustee and of
22 employees and agents of the trust, and other expenses incurred in
23 the administration of the trust;

1 16. Exercise elections with respect to federal, state, and
2 local taxes;

3 17. Select a mode of payment under any employee benefit or
4 retirement plan, annuity, or life insurance payable to the trustee,
5 exercise rights thereunder, including exercise of the right to
6 indemnification for expenses and against liabilities, and take
7 appropriate action to collect the proceeds;

8 18. Make loans out of trust property, including loans to a
9 beneficiary on terms and conditions the trustee considers to be fair
10 and reasonable under the circumstances, and the trustee has a lien
11 on future distributions for repayment of those loans;

12 19. Pledge trust property to guarantee loans made by others to
13 the beneficiary;

14 20. Appoint a trustee to act in another jurisdiction with
15 respect to trust property located in the other jurisdiction, confer
16 upon the appointed trustee all of the powers and duties of the
17 appointing trustee, require that the appointed trustee furnish
18 security, and remove any trustee so appointed;

19 21. Pay an amount distributable to a beneficiary who is under a
20 legal disability or who the trustee reasonably believes is
21 incapacitated, by paying it directly to the beneficiary or applying
22 it for the beneficiary's benefit, or by:

23 a. paying it to the beneficiary's guardian of the
24 property or, if the beneficiary does not have a

1 guardian of the property, the beneficiary's guardian
2 of the person,

3 b. paying it to the beneficiary's custodian under the
4 Oklahoma Uniform Transfers to Minors Act, and, for
5 that purpose, creating a custodianship,

6 c. if the trustee does not know of a guardian of the
7 property, guardian of the person, or custodian, paying
8 it to an adult relative or other person having legal
9 or physical care or custody of the beneficiary, to be
10 expended on the beneficiary's behalf, or

11 d. managing it as a separate fund on the beneficiary's
12 behalf, subject to the beneficiary's continuing right
13 to withdraw the distribution;

14 22. On distribution of trust property or the division or
15 termination of a trust, make distributions in divided or undivided
16 interests, allocate particular assets in proportionate or
17 disproportionate shares, value the trust property for those
18 purposes, and adjust for resulting differences in valuation;

19 23. Resolve a dispute concerning the interpretation of the
20 trust or its administration by mediation, arbitration, or other
21 procedure for alternative dispute resolution;

22 24. Prosecute or defend an action, claim, or judicial
23 proceeding in any jurisdiction to protect trust property and the
24 trustee in the performance of the trustee's duties;

1 25. Sign and deliver contracts and other instruments that are
2 useful to achieve or facilitate the exercise of the trustee's
3 powers; and

4 26. On termination of the trust, exercise the powers
5 appropriate to wind up the administration of the trust and
6 distribute the trust property to the persons entitled to it.

7 SECTION 64. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2216 of Title 60, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Upon termination or partial termination of a trust, the
11 trustee may send to the beneficiaries a proposal for distribution.
12 The right of any beneficiary to object to the proposed distribution
13 terminates if the beneficiary does not notify the trustee of an
14 objection within thirty (30) days after the proposal was sent but
15 only if the proposal informed the beneficiary of the right to object
16 and of the time allowed for objection.

17 B. Upon the occurrence of an event terminating or partially
18 terminating a trust, the trustee shall proceed reasonably to
19 distribute the trust property to the persons entitled to it, subject
20 to the right of the trustee to retain a reasonable reserve for the
21 payment of debts, expenses, and taxes.

22 C. A release by a beneficiary of a trustee from liability for
23 breach of trust is invalid to the extent:

24 1. It was induced by improper conduct of the trustee; or

1 2. The beneficiary, at the time of the release, did not know of
2 the beneficiary's rights or of the material facts relating to the
3 breach.

4 SECTION 65. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2301 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 Except as otherwise provided in subsections A and B of Section
8 175.57 of Title 60 of the Oklahoma Statutes, if more than one
9 trustee is liable to the beneficiaries for a breach of trust, a
10 trustee is entitled to contribution from the other trustee or
11 trustees. A trustee is not entitled to contribution if the trustee
12 was substantially more at fault than another trustee or if the
13 trustee committed the breach of trust in bad faith or with reckless
14 indifference to the purposes of the trust or the interests of the
15 beneficiaries. A trustee who received a benefit from the breach of
16 trust is not entitled to contribution from another trustee to the
17 extent of the benefit received.

18 SECTION 66. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2302 of Title 60, unless there
20 is created a duplication in numbering, reads as follows:

21 A. A trustee is accountable to an affected beneficiary for any
22 profit made by the trustee arising from the administration of the
23 trust, even absent a breach of trust.

24

1 B. Absent a breach of trust, a trustee is not liable to a
2 beneficiary for a loss or depreciation in the value of trust
3 property or for not having made a profit.

4 SECTION 67. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2303 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 A trustee who acts in reasonable reliance on the terms of the
8 trust as expressed in the trust instrument is not liable to a
9 beneficiary for a breach of trust to the extent the breach resulted
10 from the reliance.

11 SECTION 68. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2304 of Title 60, unless there
13 is created a duplication in numbering, reads as follows:

14 If the happening of an event, including marriage, divorce,
15 performance of educational requirements, or death, affects the
16 administration or distribution of a trust, a trustee who has
17 exercised reasonable care to ascertain the happening of the event is
18 not liable for a loss resulting from the trustee's lack of
19 knowledge.

20 SECTION 69. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2305 of Title 60, unless there
22 is created a duplication in numbering, reads as follows:

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24

1 A. The limitations on personal liability of a trustee as set
2 forth in subsection H of Section 175.57 of Title 60 of the Oklahoma
3 Statutes and in subsection H of Section 42 of this act shall apply.

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

10 SECTION 70. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2306 of Title 60, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Except as otherwise provided in subsection C of this section
14 or unless personal liability is imposed in the contract, a trustee
15 who holds an interest as a general partner in a general or limited
16 partnership is not personally liable on a contract entered into by
17 the partnership after the trust's acquisition of the interest if the
18 fiduciary capacity was disclosed in the contract or in a statement
19 previously filed pursuant to the Oklahoma Revised Uniform
20 Partnership Act or Oklahoma Uniform Limited Partnership Act of 2010.

21 B. Except as otherwise provided in subsection C of this
22 section, a trustee who holds an interest as a general partner is not
23 personally liable for torts committed by the partnership or for
24

1 obligations arising from ownership or control of the interest unless
2 the trustee is personally at fault.

3 C. The immunity provided by this section does not apply if an
4 interest in the partnership is held by the trustee in a capacity
5 other than that of trustee or is held by the trustee's spouse or one
6 or more of the trustee's descendants, siblings, or parents, or the
7 spouse of any of them.

8 D. Except as otherwise provided by Oklahoma law, if the trustee
9 of a revocable trust holds an interest as a general partner, the
10 settlor is personally liable for contracts and other obligations of
11 the partnership as if the settlor were a general partner.

12 SECTION 71. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2307 of Title 60, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Instead of furnishing a copy of the trust instrument to a
16 person other than a beneficiary, and in lieu of or in addition to a
17 memorandum of trust under subsection A of Section 175.6 of Title 60
18 of the Oklahoma Statutes, the trustee may furnish to the person a
19 certification of trust containing the following information:

- 20 1. That the trust exists and the date the trust instrument was
21 executed;
- 22 2. The identity of the settlor;
- 23 3. The identity and address of the currently acting trustee;
- 24 4. The powers of the trustee;

1 5. The revocability or irrevocability of the trust and the
2 identity of any person holding a power to revoke the trust;

3 6. The authority of co-trustees to sign or otherwise
4 authenticate and whether all or less than all are required in order
5 to exercise powers of the trustee;

6 7. The trust's taxpayer identification number; and

7 8. The manner of taking title to trust property.

8 B. A certification of trust under this section may be signed or
9 otherwise authenticated by any trustee.

10 C. A certification of trust under this section must state that
11 the trust has not been revoked, modified, or amended in any manner
12 that would cause the representations contained in the certification
13 of trust to be incorrect.

14 D. A certification of trust under this section need not contain
15 the dispositive terms of a trust.

16 E. A recipient of a certification of trust under this section
17 may require the trustee to furnish copies of those excerpts from the
18 original trust instrument and later amendments which designate the
19 trustee and confer upon the trustee the power to act in the pending
20 transaction.

21 F. A person who acts in reliance upon a certification of trust
22 under this section without knowledge that the representations
23 contained therein are incorrect is not liable to any person for so
24 acting and may assume without inquiry the existence of the facts

1 contained in the certification. Knowledge of the terms of the trust
2 may not be inferred solely from the fact that a copy of all or part
3 of the trust instrument is held by the person relying upon the
4 certification.

5 G. A person who in good faith enters into a transaction in
6 reliance upon a certification of trust under this section may
7 enforce the transaction against the trust property as if the
8 representations contained in the certification were correct.

9 H. A person making a demand for the trust instrument in
10 addition to a certification of trust under this section, or excerpts
11 of the trust instrument, is liable for damages if the court
12 determines that the person did not act in good faith in demanding
13 the trust instrument.

14 I. This section does not limit the right of a person to obtain
15 a copy of the trust instrument in a judicial proceeding concerning
16 the trust.

17 SECTION 72. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2401 of Title 60, unless there
19 is created a duplication in numbering, reads as follows:

20 The provisions of this act governing the legal effect, validity,
21 or enforceability of electronic records or electronic signatures,
22 and of contracts formed or performed with the use of such records or
23 signatures, conform to the requirements of Section 102 of the
24 Electronic Signatures in Global and National Commerce Act (15

1 U.S.C., Section 7002) and supersede, modify, and limit the
2 requirements of the Electronic Signatures in Global and National
3 Commerce Act.

4 SECTION 73. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2402 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 If any provision of this act or its application to any person or
8 circumstances is held invalid, the invalidity does not affect other
9 provisions or applications of this act which can be given effect
10 without the invalid provision or application, and to this end the
11 provisions of this act are severable.

12 SECTION 74. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2403 of Title 60, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Except as otherwise provided in this act, on the effective
16 date of this act:

17 1. This act applies to all trusts created before, on, or after
18 its effective date;

19 2. This act applies to all judicial proceedings concerning
20 trusts commenced on or after its effective date;

21 3. This act applies to judicial proceedings concerning trusts
22 commenced before its effective date unless the court finds that
23 application of a particular provision of this act would
24 substantially interfere with the effective conduct of the judicial

1 proceedings or prejudice the rights of the parties, in which case
2 the particular provision of this act does not apply and the
3 superseded law applies;

4 4. Any rule of construction or presumption provided in this act
5 applies to trust instruments executed before the effective date of
6 the act unless there is a clear indication of a contrary intent in
7 the terms of the trust; and

8 5. An act enacted before the effective date of the act is not
9 affected by this act.

10 B. If a right is acquired, extinguished, or barred upon the
11 expiration of a prescribed period that has commenced to run under
12 any other statute before the effective date of the act, that statute
13 continues to apply to the right even if it has been repealed or
14 superseded.

15 C. The applicable provisions of the Oklahoma Trust Act shall
16 continue to apply, unless such provision is inconsistent with an
17 express provision of this act, and further, except as expressly
18 provided in this act.

19 SECTION 75. This act shall become effective November 1, 2025.
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1 Passed the House of Representatives the 3rd day of March, 2025.

2
3 _____
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ___ day of _____, 2025.

7
8 _____
9 Presiding Officer of the Senate