

SENATE BILL 745

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MARYLAND TRUST CODE By: Senator Stone

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MSBA Estate and Trust Law Section
December 26, 2010

TITLE 14.5

MARYLAND TRUST CODE

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

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21 ~~TRUST; DISTRIBUTION OF TRUST PROPERTY~~

22 FOR the purpose of repealing and revising certain provisions of law relating to trusts;
23 providing that this Act may be cited as the Maryland Trust Act; providing for
24 the scope of this Act; providing for the construction of this Act; providing for the
25 designation of the principal place of administration for a trust; establishing a
26 standard for whether notice to a person under this Act must be accomplished
27 and how notice may be waived; authorizing certain nonjudicial settlement
28 agreements with respect to a trust matter; providing for the role of a court in
29 the administration of a trust; providing that a certain trustee and the
30 beneficiaries of a trust are subject to the jurisdiction of the courts of this State
31 under certain circumstances; establishing standards for judicial review of the
32 discretion of a trustee; providing for the consent of a person that may represent
33 and bind another person under this Act; providing that the holder of a certain
34 qualified power of appointment may represent and bind a certain person;
35 providing that a certain person may represent a certain other person with
36 respect to a particular question or dispute; establishing that certain persons
37 may be represented by another person having substantially identical interests,
38 in certain circumstances; authorizing a court to appoint a representative for a
39 certain interest in certain circumstances; providing methods and requirements
40 for creating a trust under this Act; establishing the method by which a trust for
41 care of an animal may be created; providing certain rules for a certain
42 noncharitable trust; providing for the modification or termination of a trust;
43 authorizing a court to reform the terms of a certain trust; authorizing a court to
44 modify the terms of a trust in a certain manner; authorizing a trustee to
45 combine or divide a certain trust; authorizing a court to authorize a creditor or
46 assignee of a beneficiary to reach a certain beneficiary's interest by attachment

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of certain distributions; establishing the rights of a certain beneficiary and a certain creditor to a trust interest that is subject to a discretionary distribution provision; providing that certain actions may not be taken with respect to a beneficial interest that is subject to a support provision; providing for the treatment of a spendthrift provision in a trust; authorizing a court to authorize a creditor or assignee of the beneficiary to attach certain distributions in certain circumstances; providing for circumstances to create a certain general power of appointment or a power of withdrawal; establishing rules for the claim of a certain creditor; establishing that trust property is not subject to certain personal obligations of the trustee; prohibiting a creditor from taking certain actions to compel a certain distribution; providing for the transfer to trust of property held by tenants by the entirety; establishing the capacity of a settlor of a revocable trust to take certain actions; providing the manner by which the settlor may revoke or amend a revocable trust; establishing the rights of certain beneficiaries; establishing when a person must commence a judicial proceeding to contest the validity of a certain trust; establishing the method by which a person designated as trustee accepts or rejects the trusteeship; requiring a trustee to give a certain bond under certain circumstances; authorizing cotrustees who are unable to reach an unanimous decision to act by majority decision in certain circumstances; providing for circumstances in which a vacancy occurs in a cotrusteeship; authorizing a trustee to resign in certain circumstances; providing grounds for the removal of a trustee; establishing the duties and power of a trustee who has resigned or been removed; providing that certain trustees are entitled to certain commissions and certain reimbursements; authorizing certain persons to exercise certain trust and fiduciary powers; prohibiting a certain person from serving as a trustee in certain circumstances; requiring a certain trustee to perform certain duties; authorizing a trustee to delegate certain duties and powers in certain circumstances; authorizing a certain trustee to follow a certain direction of the settlor; establishing that certain persons shall be considered advisers and fiduciaries in certain circumstances; requiring a certain trustee to act in accordance with the directions of a certain adviser in certain circumstances; providing that a certain trustee does not have certain liabilities and duties; providing that a certain adviser has the power to perform certain actions; requiring a trustee to take certain steps to take control of and protect the trust property, with a certain exception; requiring the trustee to do certain record keeping and to keep certain property in a certain manner; requiring a trustee to take certain steps in certain circumstances; requiring the trustee to respond promptly to a certain request for information; requiring a trustee to send a certain report to certain persons; prohibiting a trustee from exercising certain powers; authorizing a trustee to exercise certain powers in certain circumstances; providing for damages for which a certain trustee is or is not liable; authorizing a court to award costs and expenses in a certain judicial proceeding; prohibiting a beneficiary from commencing a certain proceeding; providing that a certain trustee is not liable to a certain beneficiary; providing that a certain trustee is not liable for a certain loss; providing that a certain term of a trust is unenforceable in certain circumstances; providing for the effect of an exculpatory term in a trust; providing for the liability of a trustee for

1 breach of trust in certain circumstances; establishing limitations of personal
2 liability of the trustee in certain circumstances; establishing limitations on the
3 liability of a certain trustee; providing for the liability of a certain person that
4 assists or deals with a trustee in certain circumstances; authorizing a trustee to
5 furnish a certification of trust in certain circumstances; providing that the
6 provisions of this Act relating to the use of electronic records and signatures
7 conform to a certain federal statute; providing for the severability of provisions
8 in this Act if held invalid; providing for the application of this Act to certain
9 trusts and judicial proceedings; defining certain terms; and generally relating to
10 trusts.

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41 ~~TRUSTEE~~
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44 ~~SECTION 14.5 817. DISTRIBUTION UPON TERMINATION~~
45 BY repealing

Article – Estates and TrustsSection 14–101 through 14–113 and the subtitle “Subtitle 1. General Provisions”Annotated Code of Maryland(2001 Replacement Volume and 2010 Supplement)**SUBTITLE 9****[RESERVED]**BY repealing and reenacting, with amendments,Article – Estates and TrustsSection 11–102(b)(12)Annotated Code of Maryland(2001 Replacement Volume and 2010 Supplement)**SUBTITLE 10****~~LIABILITY OF TRUSTEES AND RIGHTS
OF PERSONS DEALING WITH TRUSTEE~~**~~SECTION 14.5–1001. REMEDIES FOR BREACH OF TRUST~~~~SECTION 14.5–1002. DAMAGES FOR BREACH OF TRUST~~~~SECTION 14.5–1003. DAMAGES IN ABSENCE OF BREACH~~~~SECTION 14.5–1004. ATTORNEY’S FEES AND COSTS~~~~SECTION 14.5–1005. LIMITATION OF ACTION AGAINST TRUSTEE~~~~SECTION 14.5–1006. RELIANCE ON TRUST INSTRUMENT~~~~SECTION 14.5–1007. EVENT AFFECTING ADMINISTRATION OR DISTRIBUTION~~~~SECTION 14.5–1008. EXCULPATION OF TRUSTEE~~~~SECTION 14.5–1009. BENEFICIARY’S CONSENT, RELEASE, OR RATIFICATION~~~~SECTION 14.5–1010. LIMITATION ON PERSONAL LIABILITY OF TRUSTEE~~~~SECTION 14.5–1011. INTEREST AS GENERAL PARTNER~~~~SECTION 14.5–1012. PROTECTION OF PERSON DEALING WITH TRUSTEE~~~~SECTION 14.5–1013. CERTIFICATION OF TRUST~~BY adding toArticle – Estates and TrustsSection 14.5–101 through 14.5–1003 to be under the new title “Title 14.5. Maryland Trust Act”Annotated Code of Maryland(2001 Replacement Volume and 2010 Supplement)**SUBTITLE 11****MISCELLANEOUS PROVISIONS**~~SECTION 14.5–1101. ELECTRONIC RECORDS AND SIGNATURES~~~~SECTION 14.5–1102. SEVERABILITY CLAUSE~~~~SECTION 14.5–1103. APPLICATION TO EXISTING RELATIONSHIPS~~**TITLE 14.5**BY repealing and reenacting, with amendments,Article – Financial InstitutionsSection 3–506(b)Annotated Code of Maryland

1 (2003 Replacement Volume and 2010 Supplement)

2 **MARYLAND TRUST CODE** SECTION 1. BE IT ENACTED BY THE GENERAL
3 ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

4 Article – Estates and Trusts

5 [Subtitle 1. General Provisions.]

6 [14-101.

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

10 [14-102.

11 _____ In the absence of express language to the contrary, the rules contained in
12 §§ 1-202, 1-203, 1-204, 1-205, 1-206, 1-207, 1-208, 1-209, and 1-210.1 of this
13 article shall be applied in construing the terms of an inter vivos trust. Whenever any
14 of those statutory sections refer to a “will,” “estate,” or similar terms relevant
15 primarily to wills and estates or the takers under them, the terms shall be modified to
16 mean “trust instrument,” “trust,” or similar terms to reflect the application of the
17 principles of those sections to inter vivos trusts.]

18 [14-103.

19 _____ (a) (1) A testamentary trustee and trustee of any other trust whose duties
20 comprise the collection and distribution of income from property held under a trust
21 agreement or the preservation and distribution of the property are entitled to
22 commissions provided for in this section for their services in administering the trusts.
23 The amount and source of payment of commissions are subject to the provisions of any
24 valid agreement. Any court having jurisdiction over the administration of the trust
25 may increase or diminish commissions for sufficient cause or may allow special
26 commissions or compensation for services of an unusual nature.

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

30 _____ (i) Filed a schedule of the increased rates of commissions with
31 an appropriate agency; and

32 _____ (ii) Given notice of the scheduled rates or revisions to the
33 ascertained beneficiaries of the affected trust.

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

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

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

8 (2) 6 1/2 percent upon the first \$10,000 of all other income collected in
9 each year, 5 percent upon the next \$10,000, 4 percent upon the next \$10,000, and 3
10 percent upon any remainder.

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

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

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

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

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

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

22 If a trust terminates, with respect to all or any part of the corpus held in trust
23 in the course of any year, the commission for that year shall be reduced or prorated
24 according to the part of the year elapsed and the amount of corpus as to which the
25 trust terminates, and be chargeable, for such part of a year (and with respect to any
26 such part of the corpus) at such termination of the trust, upon the then value of the
27 corpus.

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

34 (e) Upon the final distribution of any trust estate, or portion of it, an
35 allowance is payable commensurate with the labor and responsibility involved in
36 making the distribution, including the making of any division, the ascertainment of

1 the parties entitled, the ascertainment and payment of taxes, and any necessary
2 transfer of assets. The allowance is subject to revision or determination by any circuit
3 court having jurisdiction. In the absence of special circumstances the allowance shall
4 be equal to one half of one percent upon the fair value of the corpus distributed.

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

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

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

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

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

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

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

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

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

31 (4) Whenever a trustee files a schedule of increased rates under this
32 subsection, the trustee shall give notice to the ascertained beneficiaries of each
33 affected trust. The notice required under this paragraph shall be delivered to the
34 beneficiaries personally or sent to the beneficiaries at their last known address by
35 registered or certified mail, postage prepaid, return receipt requested. Any beneficiary
36 of a trust who objects to the schedule of rates to be charged to that trust, after
37 notifying the trustee of the objection, may petition the appropriate circuit court to

1 review the reasonableness of the rates to be charged. The notice required by this
2 paragraph shall include a clear statement of the rights and procedures available to
3 beneficiaries under this subsection. If the court finds that the rates in the schedule are
4 unreasonable for the current fiscal year of the particular trust, the trustee's
5 commissions for that trust for that fiscal year shall be limited to the rates charged that
6 trust during the previous fiscal year.

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

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

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

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

22 [14-104.

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

30 [14-105.

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

36 [14-106.

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

1 (1) Possessory or not; and

2 (2) Subject to divestment or not.

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

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

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

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

10 (i) On terms and conditions as the court considers appropriate;
11 and

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

14 1. The accomplishment of trust purposes; or

15 2. The interests of the beneficiaries.

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

18 (i) Trustee;

19 (ii) Personal representative;

20 (iii) Beneficiary; or

21 (iv) Party in interest.

22 (c) This section applies to trusts:

23 (1) Whenever created;

24 (2) Whether inter vivos or testamentary;

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

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

1 (5) Regardless of where created or administered.

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

5 [14-107.

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

7 (2) (i) "Beneficiary" means an ascertainable person who has a
8 present or future interest in a trust estate.

9 (ii) "Beneficiary" includes:

10 1. If the beneficiary is a minor, the beneficiary's natural
11 or legal guardian; or

12 2. If the beneficiary is a disabled person, as defined in §
13 13-101 of this article, any person acting on behalf of the beneficiary under a
14 guardianship, conservatorship, or committee.

15 (3) "Corporate fiduciary" has the meaning stated in § 15-1A-01 of this
16 article.

17 (4) "Life expectancy" means the life expectancy published in the life
18 tables issued by the U.S. Department of Health and Human Services from time to
19 time.

20 (5) "Net annual income" means the gross income of a trust estate
21 during a fiscal year minus trust commissions and expenses attributable to income for
22 that fiscal year.

23 (b) Subject to the provisions of this section, a corporate fiduciary acting as a
24 trustee may terminate a trust without an order of court if the fair market value of the
25 trust as of the trust's last anniversary date is \$100,000 or less.

26 (c) (1) A corporate fiduciary trustee proposing to terminate a trust under
27 this section shall send notice of the proposed termination to each cotrustee and each
28 beneficiary of the trust at the cotrustee's or beneficiary's last known address. The
29 notice shall be:

30 (i) Personally delivered; or

31 (ii) Mailed by certified mail, postage prepaid, return receipt
32 requested.

1 (2) The notice required under paragraph (1) of this subsection shall
2 contain:

3 (i) The name of the trust;

4 (ii) The name of the person who created the trust;

5 (iii) The date on which the trust was established;

6 (iv) The name and address of the corporate fiduciary trustee
7 seeking to terminate the trust;

8 (v) The name of any cotrustee;

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

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

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

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

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

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

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

28 (2) If a beneficiary or cotrustee delivers a timely written objection in
29 accordance with the provisions of subsection (d) of this section, the trust shall not be
30 terminated unless the objection is withdrawn in writing by the objecting party within
31 90 days after receipt of the notice by the objecting party.

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

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

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

11 (iii) The amount of the trust estate remaining after distribution
12 to beneficiaries having a present interest in the trust estate shall be distributed to any
13 beneficiaries having a future interest in the trust estate in whatever proportions are
14 provided for under the terms of the governing instrument under which the trust was
15 created.

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

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

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

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

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

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

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

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

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

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

7 [14-108.

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

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

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

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

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

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

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

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

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

32 [14-109.

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

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

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

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

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

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

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

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

30 (d) This section does not apply if:

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

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

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

1 (i) Each trustee then serving; and

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

7 (2) Subject to the provisions of subsection (d) of this section, this
8 section applies to:

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

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

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

19 [14-110.

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

22 (1) An individual;

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

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

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

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

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

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

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

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

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

(iii) A resident agent; and

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

[14-111.

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

(2) “Beneficiary” includes:

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

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

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

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

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

1 [14-112.

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

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

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

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

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

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

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

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

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

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

24 [14-113.

25 (a) In this section, "proceeds" means:

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

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

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

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

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

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

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

17 (1) The husband and wife remain married;

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (i) The person to whom the financial statement is delivered by
19 the trustee;

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

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

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

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

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

32 11-102.

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

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

TITLE 14.5. MARYLAND TRUST ACT.

SUBTITLE 1. IN GENERAL.

SUBTITLE 1

GENERAL PROVISIONS AND DEFINITIONS

14.5-101.

~~SECTION 14.5-101. SHORT TITLE.~~ THIS TITLE MAY BE CITED AS THE MARYLAND TRUST ~~Code~~ACT.

14.5-102.

~~SECTION 14.5-102. SCOPE.~~ THIS TITLE APPLIES TO EXPRESS ~~trusts,~~ CHARITABLE OR NONCHARITABLE, TRUSTS AND TRUSTS CREATED ~~pursuant to~~IN ACCORDANCE WITH A STATUTE (INCLUDING THE MARYLAND DISCRETIONARY TRUST ACT, UNLESS OTHERWISE PROVIDED ~~therein~~BY THE TRUST), JUDGMENT, OR DECREE THAT REQUIRES THE TRUST TO BE ADMINISTERED IN THE MANNER OF AN EXPRESS TRUST.

~~SECTION 14.5-103. DEFINITIONS.~~

(A) IN THIS TITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(4B) "ACTION," WITH RESPECT TO AN ACT OF A TRUSTEE, INCLUDES A FAILURE TO ACT.

(2C) "ASCERTAINABLE STANDARD" MEANS A STANDARD RELATING TO AN INDIVIDUAL'S HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE WITHIN THE MEANING OF ~~Section~~§ 2041(B)(1)(A) OR § 2514(C)(1) OF THE INTERNAL REVENUE CODE OF 1986, AS IN EFFECT ON OCTOBER 1, 2011.

(3D) "BENEFICIARY" MEANS A PERSON THAT HAS A PRESENT OR FUTURE BENEFICIAL INTEREST IN A TRUST, VESTED OR CONTINGENT.

1 (4E) “CHARITABLE TRUST” MEANS A TRUST, OR PORTION OF A TRUST,
2 CREATED FOR A CHARITABLE PURPOSE DESCRIBED IN ~~Section~~ § 14—301(B) OF
3 THIS ARTICLE.

4 (5) ~~A “discretionary~~ F “DISCRETIONARY DISTRIBUTION PROVISION”
5 MEANS A PROVISION IN A TRUST THAT PROVIDES THAT THE TRUSTEE HAS
6 DISCRETION, OR WORDS OF SIMILAR IMPORT, TO DETERMINE ONE OR MORE OF
7 THE FOLLOWING:

8 (a) ~~whether~~ 1 WHETHER TO DISTRIBUTE TO OR FOR THE BENEFIT OF
9 AN INDIVIDUAL OR A CLASS OF BENEFICIARIES THE INCOME OR PRINCIPAL OR
10 BOTH OF THE TRUST;

11 (b) ~~the~~ 2 THE AMOUNT, IF ANY, OF THE INCOME OR PRINCIPAL
12 OR BOTH OF THE TRUST TO DISTRIBUTE TO OR FOR THE BENEFIT OF AN
13 INDIVIDUAL OR A CLASS OF BENEFICIARIES;

14 (c) ~~who~~ 3 WHO, IF ANY, AMONG A CLASS OF BENEFICIARIES WILL
15 RECEIVE INCOME OR PRINCIPAL OR BOTH OF THE TRUST;

16 (d) ~~whether~~ 4 WHETHER THE DISTRIBUTION OF TRUST ASSETS
17 IS FROM INCOME OR PRINCIPAL OR BOTH OF THE TRUST; OR

18 (e) ~~when~~ 5 (I) WHEN TO PAY INCOME OR PRINCIPAL, EXCEPT
19 THAT A POWER TO DETERMINE WHEN TO DISTRIBUTE INCOME OR PRINCIPAL
20 WITHIN OR WITH RESPECT TO A CALENDAR OR TAXABLE YEAR OF THE TRUST IS
21 NOT A DISCRETIONARY DISTRIBUTION PROVISION IF THE DISTRIBUTION MUST
22 BE MADE.

23 (II) A PROVISION IS A DISCRETIONARY DISTRIBUTION
24 PROVISION REGARDLESS OF WHETHER THE TRUST INSTRUMENT PROVIDES ONE
25 OR MORE STANDARDS OR OTHER GUIDANCE FOR THE EXERCISE OF THE ~~trustee’s~~
26 DISCRETION OF THE TRUSTEE, AND REGARDLESS OF WHETHER THE TRUST
27 CONTAINS A SPENDTHRIFT PROVISION.

28 (6G) (1) “ENVIRONMENTAL LAW” MEANS A FEDERAL, ~~state~~ STATE, OR
29 LOCAL LAW, RULE, REGULATION, OR ORDINANCE THAT RELATES TO THE
30 PROTECTION OF THE ENVIRONMENT.

31 (2) “ENVIRONMENTAL LAW” INCLUDES TITLE 16 OF THE
32 ~~Environmental~~ ENVIRONMENT ARTICLE.

1 (7H) “GENERAL POWER OF APPOINTMENT” MEANS A POWER OF
2 APPOINTMENT THAT:

3 (a) ~~by its~~ 1) BY THE TERMS OF THE TRUST SPECIFICALLY
4 AUTHORIZES THE HOLDER TO DIRECT TRUST PROPERTY TO THE HOLDER, THE
5 holder’s ESTATE OF THE HOLDER, OR THE holder’s CREDITORS OF THE HOLDER;

6 (b~~2~~) ~~is~~ IS HELD IN A CAPACITY OTHER THAN AS A TRUSTEE;

7 (c~~3~~) ~~is~~ IS NOT LIMITED BY ~~any~~ AN ASCERTAINABLE STANDARD; AND

8 (d~~4~~) ~~is~~ IS EXERCISABLE BY THE HOLDER OR HOLDERS WITHOUT THE
9 CONSENT OF ~~any other~~ ANOTHER PERSON.

10 (8I) (1) “GUARDIAN OF THE PERSON” MEANS A PERSON APPOINTED BY
11 THE COURT OR, IN THE CASE OF A MINOR WITH NO LIVING PARENT, BY THE
12 PROBATED WILL OF A PARENT OF THE MINOR, TO MAKE DECISIONS REGARDING
13 THE SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF A MINOR OR
14 ADULT INDIVIDUAL. ~~The term~~

15 (2) “GUARDIAN OF THE PERSON” DOES NOT INCLUDE A
16 GUARDIAN AD LITEM.

17 (9J) “GUARDIAN OF THE PROPERTY” MEANS A PERSON APPOINTED BY
18 THE COURT TO ADMINISTER THE ESTATE OF A MINOR OR ADULT INDIVIDUAL.

19 (40K) “INTERESTS OF THE BENEFICIARIES” MEANS THE BENEFICIAL
20 INTERESTS PROVIDED IN THE TERMS OF THE TRUST.

21 (44L) “JURISDICTION;”, WITH RESPECT TO A GEOGRAPHIC AREA,
22 INCLUDES A ~~State~~ STATE OR COUNTRY.

23 ~~(12 A “mandatory~~ (M) (1) “MANDATORY DISTRIBUTION PROVISION” MEANS
24 A DISTRIBUTION OF INCOME OR PRINCIPAL THAT THE TRUSTEE IS REQUIRED TO
25 MAKE TO A BENEFICIARY UNDER THE TERMS OF THE TRUST, INCLUDING A
26 DISTRIBUTION upon ON TERMINATION OF THE TRUST. ~~The term~~

27 (2) “MANDATORY DISTRIBUTION PROVISION” DOES NOT INCLUDE
28 A DISTRIBUTION SUBJECT TO THE EXERCISE OF THE trustee’s DISCRETION OF THE
29 TRUSTEE EVEN IF :

30 (1) ~~the~~ THE DISCRETION IS EXPRESSED IN THE FORM OF A
31 STANDARD OF DISTRIBUTION; OR

1 (II)—the THE TERMS OF THE TRUST AUTHORIZING A
2 DISTRIBUTION COUPLE LANGUAGE OF DISCRETION WITH LANGUAGE OF
3 DIRECTION.

4 (~~13N~~) “PERSON” MEANS AN INDIVIDUAL, A CORPORATION, A BUSINESS
5 TRUST, AN ESTATE, A TRUST, A PARTNERSHIP, A LIMITED LIABILITY COMPANY,
6 AN ASSOCIATION, A JOINT VENTURE, A GOVERNMENT~~;~~, A GOVERNMENTAL
7 SUBDIVISION, AN AGENCY, OR AN INSTRUMENTALITY~~;~~, A PUBLIC CORPORATION,
8 OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

9 (~~14Q~~) “POWER OF APPOINTMENT” MEANS THE AUTHORITY TO DESIGNATE
10 THE RECIPIENT OR RECIPIENTS OF BENEFICIAL INTERESTS IN PROPERTY.

11 (~~15P~~) “POWER OF WITHDRAWAL” MEANS A PRESENTLY EXERCISABLE
12 POWER TO WITHDRAW TRUST PROPERTY FROM A TRUST FOR THE USE OR
13 BENEFIT OF THE POWER HOLDER, OTHER THAN A POWER:

14 (~~a—exercisable1~~) EXERCISABLE BY A TRUSTEE AND LIMITED BY AN
15 ASCERTAINABLE STANDARD;

16 (~~b—exercisable2~~) EXERCISABLE BY ANOTHER PERSON ONLY ~~upon~~ON
17 CONSENT OF THE TRUSTEE OR A PERSON HOLDING AN ADVERSE INTEREST; OR

18 (~~c—exercisable3~~) EXERCISABLE ONLY WITH RESPECT TO TRUST
19 PROPERTY HAVING A VALUE THAT IS LESS THAN OR EQUAL TO THE GREATEST
20 OF:

21 (I)—the THE AMOUNT SPECIFIED IN ~~section~~§ 2041(B)(2) OR §
22 2514(E) OF THE INTERNAL REVENUE CODE OF 1986, ~~or~~AS AMENDED;

23 (II)—the THE AMOUNT SPECIFIED IN ~~section~~§ 2503(B) OF THE
24 INTERNAL REVENUE CODE OF ~~1986~~1986, AS AMENDED, IF THE DONOR OF THE
25 PROPERTY SUBJECT TO THE ~~beneficiary’s~~POWER OF WITHDRAWAL OF THE
26 BENEFICIARY IS UNMARRIED AT THE TIME OF THE TRANSFER OF THE
27 PROPERTY TO THE TRUST~~;~~OR

28 (III)—~~twice~~ TWICE THE AMOUNT SPECIFIED IN ~~section~~§ 2503(B)
29 OF THE INTERNAL REVENUE CODE OF ~~1986~~1986, AS AMENDED, IF THE DONOR
30 OF THE PROPERTY SUBJECT TO THE ~~beneficiary’s~~POWER OF WITHDRAWAL OF THE
31 BENEFICIARY IS MARRIED AT THE TIME OF THE TRANSFER OF THE PROPERTY
32 TO THE TRUST.

1 (46Q) "PROPERTY" MEANS ANYTHING THAT MAY BE THE SUBJECT OF
 2 OWNERSHIP, WHETHER REAL OR PERSONAL, LEGAL OR EQUITABLE, OR ~~any~~AN
 3 INTEREST ~~therein~~IN THE THING.

4 (47R) (1) "QUALIFIED BENEFICIARY" MEANS A BENEFICIARY WHO, ON THE
 5 DATE THE ~~beneficiary's~~QUALIFICATION OF THE BENEFICIARY IS DETERMINED:

6 (A)~~is~~ IS A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF
 7 TRUST INCOME OR PRINCIPAL;

8 (B)~~would~~ II) WOULD BE A DISTRIBUTE OR PERMISSIBLE
 9 DISTRIBUTE OF TRUST INCOME OR PRINCIPAL IF THE INTERESTS OF THE
 10 DISTRIBUTEES DESCRIBED IN ~~subparagraph (A)~~ITEM (I) OF THIS PARAGRAPH
 11 TERMINATED ON THAT DATE WITHOUT CAUSING THE TRUST TO TERMINATE; OR

12 (C)~~would~~ III) WOULD BE A DISTRIBUTE OR PERMISSIBLE
 13 DISTRIBUTE OF TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON
 14 THAT DATE.

15 (2) "QUALIFIED BENEFICIARY" DOES NOT INCLUDE ~~appointees~~AN
 16 APPOINTEE UNDER THE WILL OF A LIVING PERSON, ~~nor does it include~~ OR THE
 17 ~~objects~~OBJECT OF AN UNEXERCISED INTER VIVOS POWER OF APPOINTMENT.

18 (48S) "REVOCABLE,"₂ AS APPLIED TO A TRUST, MEANS REVOCABLE BY
 19 THE SETTLOR WITHOUT THE CONSENT OF THE TRUSTEE OR A PERSON HOLDING
 20 AN ADVERSE INTEREST. ~~The fact that the settlor becomes incapacitated does not convert a~~
 21 ~~revocable trust into an irrevocable trust.~~

22 (49T) "SETTLOR" MEANS A PERSON, INCLUDING A TESTATOR, WHO
 23 CREATES, OR CONTRIBUTES PROPERTY TO, A TRUST. ~~If more than one person creates~~
 24 ~~or contributes property to a trust, each person is a settlor of the portion of the trust property~~
 25 ~~attributable to that person's contribution except to the extent another person has the power to revoke~~
 26 ~~or withdraw that portion.~~

27 (20U) "SPENDTHRIFT PROVISION" MEANS A TERM OF A TRUST WHICH
 28 RESTRAINS BOTH VOLUNTARY AND INVOLUNTARY TRANSFER OF THE INTEREST
 29 OF A BENEFICIARY'S ~~interest~~ OR WHICH RESTRAINS INVOLUNTARY TRANSFER OF
 30 THE INTEREST OF A BENEFICIARY'S ~~interest~~ AND PERMITS VOLUNTARY TRANSFER
 31 OF THE INTEREST OF A BENEFICIARY'S ~~interest~~ ONLY WITH THE CONSENT OF A
 32 PERSON WHO IS NOT A BENEFICIARY.

33 (24V) (1) "STATE" MEANS A ~~State~~STATE OF THE UNITED STATES, THE
 34 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS,

1 OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION
2 OF THE UNITED STATES. ~~The term~~

3 (2) "STATE" INCLUDES AN INDIAN TRIBE OR BAND RECOGNIZED
4 BY FEDERAL LAW OR FORMALLY ACKNOWLEDGED BY A StateSTATE.

5 ~~(22) A "supportW) (1) "SUPPORT PROVISION" MEANS A MANDATORY~~
6 ~~DISTRIBUTION PROVISION IN A TRUST THAT PROVIDES THAT THE TRUSTEE~~
7 ~~SHALL DISTRIBUTE INCOME OR PRINCIPAL OR BOTH FOR THE HEALTH,~~
8 ~~EDUCATION, MAINTENANCE, OR SUPPORT OF A BENEFICIARY, OR LANGUAGE OF~~
9 ~~SIMILAR IMPORT. A provision in a trust that provides a trustee has discretion whether to~~
10 ~~distribute income or principal or both for these purposes or to select from among a class of~~
11 ~~beneficiaries to receive distributions pursuant to the trust provision is not a mandatory support~~
12 ~~provision, and is instead a discretionary distribution provision.~~

13 ~~(23X) "TERMS OF A TRUST" MEANS THE MANIFESTATION OF THE settlor's~~
14 ~~INTENT OF THE SETTLOR REGARDING a trust'sTHE PROVISIONS OF A TRUST AS~~
15 ~~EXPRESSED IN THE TRUST INSTRUMENT OR AS MAY BE ESTABLISHED BY OTHER~~
16 ~~EVIDENCE THAT WOULD BE ADMISSIBLE IN A JUDICIAL PROCEEDING.~~

17 ~~(24Y) "TRUST INSTRUMENT" MEANS AN INSTRUMENT EXECUTED BY THE~~
18 ~~SETTLOR THAT CONTAINS TERMS OF THE TRUST, INCLUDING anyAMENDMENTS~~
19 ~~theretoTO THE TRUST.~~

20 ~~(25Z) "TRUSTEE" INCLUDES AN ORIGINAL, ADDITIONAL, AND SUCCESSOR~~
21 ~~TRUSTEE, AND A COTRUSTEE.~~

22 ~~SECTION 14.5-104. KNOWLEDGE.~~

23 ~~(A) THE FACT THAT THE SETTLOR BECOMES INCAPACITATED DOES NOT~~
24 ~~CONVERT A REVOCABLE TRUST INTO AN IRREVOCABLE TRUST.~~

25 ~~(B) IF MORE THAN ONE PERSON CREATES OR CONTRIBUTES PROPERTY~~
26 ~~TO A TRUST, EACH PERSON IS A SETTLOR OF THE PORTION OF THE TRUST~~
27 ~~PROPERTY ATTRIBUTABLE TO THE CONTRIBUTION OF THAT PERSON EXCEPT TO~~
28 ~~THE EXTENT ANOTHER PERSON HAS THE POWER TO REVOKE OR WITHDRAW~~
29 ~~THAT PORTION.~~

30 ~~(C) A PROVISION IN A TRUST THAT PROVIDES THAT A TRUSTEE HAS~~
31 ~~DISCRETION WHETHER TO DISTRIBUTE INCOME OR PRINCIPAL OR BOTH FOR~~
32 ~~THESE PURPOSES OR TO SELECT FROM AMONG A CLASS OF BENEFICIARIES TO~~
33 ~~RECEIVE DISTRIBUTIONS PURSUANT TO THE TRUST PROVISION IS NOT A~~

1 MANDATORY SUPPORT PROVISION AND IS INSTEAD A DISCRETIONARY
 2 DISTRIBUTION PROVISION.

3 14.5-105.

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

6 (1) ~~has~~ HAS ACTUAL KNOWLEDGE OF ~~THE~~ FACT;

7 (2) ~~has~~ HAS RECEIVED A NOTICE OR NOTIFICATION OF ~~THE~~
 8 FACT; OR

9 (3) ~~from~~ FROM ALL THE FACTS AND CIRCUMSTANCES KNOWN
 10 TO THE PERSON AT THE TIME IN QUESTION, HAS REASON TO KNOW ~~THE~~ FACT.

11 (B) (1) AN ORGANIZATION THAT CONDUCTS ACTIVITIES THROUGH
 12 EMPLOYEES HAS NOTICE OR KNOWLEDGE OF A FACT INVOLVING A TRUST ONLY
 13 FROM THE TIME THE INFORMATION WAS RECEIVED BY AN EMPLOYEE HAVING
 14 RESPONSIBILITY TO ACT FOR THE TRUST; OR WOULD HAVE BEEN BROUGHT TO
 15 THE ~~employee's~~ ATTENTION OF THE EMPLOYEE IF THE ORGANIZATION HAD
 16 EXERCISED REASONABLE DILIGENCE.

17 (2) AN ORGANIZATION EXERCISES REASONABLE DILIGENCE ~~if~~
 18 UNDER THIS SUBSECTION IF THE ORGANIZATION MAINTAINS REASONABLE
 19 ROUTINES FOR COMMUNICATING SIGNIFICANT INFORMATION TO THE
 20 EMPLOYEE HAVING RESPONSIBILITY TO ACT FOR THE TRUST AND THERE IS
 21 REASONABLE COMPLIANCE WITH THE ROUTINES.

22 (3) REASONABLE DILIGENCE DOES NOT REQUIRE AN EMPLOYEE
 23 OF THE ORGANIZATION TO COMMUNICATE INFORMATION UNLESS THE
 24 COMMUNICATION IS PART OF THE ~~individual's~~ REGULAR DUTIES OF THE
 25 EMPLOYEE OR THE ~~individual~~ EMPLOYEE KNOWS A MATTER INVOLVING THE
 26 TRUST WOULD BE MATERIALLY AFFECTED BY THE INFORMATION.

27 14.5-106.

28 ~~SECTION 14.5-105. DEFAULT AND MANDATORY RULES.~~ THE TERMS OF A
 29 TRUST PREVAIL OVER ~~any~~ A PROVISION OF THIS TITLE, EXCEPT:

30 (1) ~~the~~ THE REQUIREMENTS FOR CREATING A TRUST;

1 (2)-the THE DUTY OF A TRUSTEE TO ACT IN GOOD FAITH AND
2 IN ACCORDANCE WITH THE TERMS AND PURPOSES OF THE TRUST AND THE
3 INTERESTS OF THE BENEFICIARIES;

4 (3)-the THE REQUIREMENT THAT A TRUST AND itsTHE TERMS
5 OF THE TRUST BE FOR THE BENEFIT OF itsTHE BENEFICIARIES OF THE TRUST,
6 AND THAT THE TRUST HAVE A PURPOSE THAT IS LAWFUL AND POSSIBLE TO
7 ACHIEVE;

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

11 (5)-the THE RIGHTS OF CERTAIN CREDITORS AND ASSIGNEES TO
12 REACH A TRUST AS PROVIDED IN SUBTITLE 5 OF THIS TITLE;

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

16 (7)-the THE POWER OF THE COURT UNDER Section§ 14.5-
17 708(A) OF THIS TITLE TO INCREASE OR DECREASE a-trustee'sTHE COMMISSIONS
18 OF A TRUSTEE;

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

23 (9)-the THE EFFECT OF AN EXCULPATORY TERM UNDER Section§
24 14.5-1008-908 OF THIS TITLE;

25 (10)-the THE RIGHTS UNDER Sections§§ 14.5-1010-910
26 THROUGH 14.5-1013-913 OF THIS TITLE OF A PERSON OTHER THAN A TRUSTEE
27 OR BENEFICIARY;

28 (11)-periods PERIODS OF LIMITATION FOR COMMENCING A
29 JUDICIAL PROCEEDING; AND

30 (12)-the THE POWER OF THE COURT TO TAKE suchAN ACTION
31 AND EXERCISE such-JURISDICTION AS MAY BE NECESSARY IN THE INTERESTS OF
32 JUSTICE.

1 **14.5-107.**2 ~~—SECTION 14.5-106. COMMON LAW OF TRUSTS; PRINCIPLES OF EQUITY.~~3 THE COMMON LAW OF TRUSTS AND PRINCIPLES OF EQUITY SUPPLEMENT
4 THIS TITLE, EXCEPT TO THE EXTENT MODIFIED BY THIS TITLE OR ANOTHER
5 STATUTE OF THIS STATE.6 **14.5-108.**7 ~~—SECTION 14.5-107. GOVERNING LAW.~~ THE MEANING AND EFFECT OF THE
8 TERMS OF A TRUST ARE DETERMINED BY:9 (1) ~~the~~ THE LAW OF THE JURISDICTION DESIGNATED IN THE
10 TERMS UNLESS THE DESIGNATION OF THE LAW OF THAT JURISDICTION's law IS
11 CONTRARY TO A STRONG PUBLIC POLICY OF THE JURISDICTION HAVING THE
12 MOST SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE; OR13 (2) ~~in~~ IN THE ABSENCE OF A CONTROLLING DESIGNATION IN
14 THE TERMS OF THE TRUST, THE LAW OF THE JURISDICTION HAVING THE MOST
15 SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE.16 ~~—SECTION 14.5-108. PRINCIPAL PLACE OF ADMINISTRATION.~~17 **14.5-109.**18 (A) WITHOUT PRECLUDING OTHER MEANS FOR ESTABLISHING A
19 SUFFICIENT CONNECTION WITH THE DESIGNATED JURISDICTION, TERMS OF A
20 TRUST DESIGNATING THE PRINCIPAL PLACE OF ADMINISTRATION ARE VALID
21 AND CONTROLLING IF:22 ~~_____ (1) a trustee's _____~~ (1) THE PRINCIPAL PLACE OF BUSINESS OF A
23 TRUSTEE IS LOCATED IN OR A TRUSTEE IS A RESIDENT OF THE DESIGNATED
24 JURISDICTION; OR25 (2) ~~all~~ ALL OR PART OF THE ADMINISTRATION OF THE TRUST
26 OCCURS IN THE DESIGNATED JURISDICTION.27 (B) WITHOUT PRECLUDING THE RIGHT OF THE COURT TO ORDER,
28 APPROVE, OR DISAPPROVE A TRANSFER, THE TRUSTEE MAY TRANSFER THE
29 ~~trust's~~ PRINCIPAL PLACE OF ADMINISTRATION OF THE TRUST TO ANOTHER
30 ~~State~~ STATE OR TO A JURISDICTION OUTSIDE OF THE UNITED STATES.31 (C) IN CONNECTION WITH A TRANSFER OF THE ~~trust's~~ PRINCIPAL
32 PLACE OF ADMINISTRATION OF A TRUST, THE TRUSTEE MAY TRANSFER SOME

1 OR ALL OF THE TRUST PROPERTY TO A SUCCESSOR TRUSTEE DESIGNATED IN
2 THE TERMS OF THE TRUST OR APPOINTED pursuant to Section 14.5-704. ~~SECTION~~
3 ~~14.5-109. METHODS AND WAIVER OF NOTICE.~~ IN ACCORDANCE WITH § 14.5-704
4 OF THIS TITLE.

5 14.5-110.

6 (A) (1) NOTICE TO A PERSON UNDER THIS TITLE OR THE SENDING
7 OF A DOCUMENT TO A PERSON UNDER THIS TITLE ~~must~~ SHALL BE ACCOMPLISHED
8 IN A MANNER REASONABLY SUITABLE UNDER THE CIRCUMSTANCES AND LIKELY
9 TO RESULT IN RECEIPT OF THE NOTICE OR DOCUMENT.

10 (2) PERMISSIBLE METHODS OF NOTICE TO A PERSON OR FOR
11 SENDING A DOCUMENT TO A PERSON UNDER THIS TITLE INCLUDE FIRST-CLASS
12 MAIL, PERSONAL DELIVERY, DELIVERY TO THE ~~person's~~ LAST KNOWN PLACE OF
13 RESIDENCE OR PLACE OF BUSINESS OF THE PERSON, OR A PROPERLY DIRECTED
14 ELECTRONIC MESSAGE.

15 (B) NOTICE OTHERWISE REQUIRED UNDER THIS TITLE OR A
16 DOCUMENT OTHERWISE REQUIRED TO BE SENT UNDER THIS TITLE NEED NOT
17 BE PROVIDED TO A PERSON WHOSE IDENTITY OR LOCATION IS UNKNOWN TO
18 AND NOT REASONABLY ASCERTAINABLE BY THE TRUSTEE.

19 (C) NOTICE UNDER THIS TITLE OR THE SENDING OF A DOCUMENT
20 UNDER THIS TITLE MAY BE WAIVED BY THE PERSON TO BE NOTIFIED OR SENT
21 THE DOCUMENT.

22 (D) NOTICE OF A JUDICIAL PROCEEDING ~~must~~ UNDER THIS TITLE
23 SHALL BE GIVEN AS PROVIDED IN THE APPLICABLE RULES OF CIVIL
24 PROCEDURE.

25 ~~SECTION 14.5-110. OTHERS TREATED AS QUALIFIED BENEFICIARIES.~~

26 14.5-111.

27 (A) A CHARITABLE ORGANIZATION EXPRESSLY DESIGNATED TO
28 RECEIVE DISTRIBUTIONS UNDER THE TERMS OF A CHARITABLE TRUST HAS THE
29 RIGHTS OF A QUALIFIED BENEFICIARY UNDER THIS TITLE IF THE CHARITABLE
30 ORGANIZATION, ON THE DATE THE ~~charitable organization's~~ QUALIFICATION OF THE
31 CHARITABLE ORGANIZATION IS BEING DETERMINED:

32 ~~(A (1) is~~ IS A DISTRIBUTEE OR PERMISSIBLE DISTRIBUTEE OF TRUST
33 INCOME OR PRINCIPAL;

1 ~~_____ (B) would~~ (2) WOULD BE A DISTRIBUTEE OR PERMISSIBLE
 2 DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL ~~upon~~ON THE TERMINATION OF
 3 THE INTERESTS OF OTHER DISTRIBUTEES OR PERMISSIBLE DISTRIBUTEES
 4 THEN RECEIVING OR ELIGIBLE TO RECEIVE DISTRIBUTIONS; OR

5 ~~_____ (C) would~~ (3) WOULD BE A DISTRIBUTEE OR PERMISSIBLE
 6 DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON
 7 THAT DATE.

8 (B) A PERSON APPOINTED TO ENFORCE A TRUST CREATED FOR
 9 THE CARE OF AN ANIMAL AS PROVIDED IN § 14.5-407 OF THIS TITLE OR
 10 ANOTHER NONCHARITABLE PURPOSE AS PROVIDED IN ~~Section § 14.5-407 or 14.5-~~
 11 408 OF THIS TITLE HAS THE RIGHTS OF A QUALIFIED BENEFICIARY UNDER THIS
 12 TITLE.

13 (C) ~~THE attorney general of this STATE'S~~ ATTORNEY GENERAL HAS
 14 THE RIGHTS OF A QUALIFIED BENEFICIARY WITH RESPECT TO A CHARITABLE
 15 TRUST HAVING ~~its~~THE PRINCIPAL PLACE OF ADMINISTRATION OF THE
 16 CHARITABLE TRUST IN THIS STATE.

17 ~~SECTION 14.5-111. NONJUDICIAL SETTLEMENT AGREEMENTS.~~

18 14.5-112.

19 ~~_____ (a) For purposes of~~ (A) IN THIS SECTION, "INTERESTED PERSONS" MEANS
 20 PERSONS WHOSE CONSENT WOULD BE REQUIRED IN ORDER TO ACHIEVE A
 21 BINDING SETTLEMENT WERE THE SETTLEMENT TO BE APPROVED BY THE
 22 COURT.

23 (B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF
 24 THIS SECTION, INTERESTED PERSONS MAY ENTER INTO A BINDING
 25 NONJUDICIAL SETTLEMENT AGREEMENT WITH RESPECT TO ~~any~~A MATTER
 26 INVOLVING A TRUST.

27 (C) A NONJUDICIAL SETTLEMENT AGREEMENT IS VALID ONLY TO
 28 THE EXTENT ~~if~~THE SETTLEMENT DOES NOT VIOLATE A MATERIAL PURPOSE OF
 29 THE TRUST AND INCLUDES TERMS AND CONDITIONS THAT COULD BE PROPERLY
 30 APPROVED BY THE COURT UNDER THIS TITLE OR OTHER APPLICABLE LAW.

31 (D) MATTERS THAT MAY BE RESOLVED BY A NONJUDICIAL
 32 SETTLEMENT AGREEMENT ~~INCLUDE but are not limited to:~~

33 (1) ~~the~~ THE INTERPRETATION OR CONSTRUCTION OF THE
 34 TERMS OF THE TRUST;

1 (2) ~~the~~ THE APPROVAL OF A trustee's REPORT OR ACCOUNTING
2 OF A TRUSTEE;

3 ~~(3) direction~~ (3) DIRECTION TO A TRUSTEE TO REFRAIN
4 FROM PERFORMING A PARTICULAR ACT OR THE GRANT TO A TRUSTEE OF any
5 NECESSARY OR DESIRABLE POWER;

6 (4) ~~the~~ THE RESIGNATION OR APPOINTMENT OF A TRUSTEE
7 AND THE DETERMINATION OF a trustee's THE COMPENSATION OF A TRUSTEE;

8 ~~(5) transfer~~ (5) TRANSFER OF a trust's THE PRINCIPAL PLACE OF
9 ADMINISTRATION OF A TRUST; AND

10 ~~(6) liability~~ (6) LIABILITY OF A TRUSTEE FOR AN ACTION
11 RELATING TO THE TRUST.

12 (E) ~~Any~~ AN INTERESTED PERSON MAY REQUEST THE COURT TO;
13 approve

14 (1) APPROVE A NONJUDICIAL SETTLEMENT AGREEMENT, ~~to~~
15 determine;

16 (2) DETERMINE WHETHER THE REPRESENTATION AS PROVIDED
17 IN SUBTITLE 3 OF THIS TITLE WAS ADEQUATE; ~~to determine~~

18 (3) DETERMINE WHETHER THE AGREEMENT CONTAINS TERMS
19 AND CONDITIONS THE COURT COULD HAVE PROPERLY APPROVED.

20 14.5-113.

21 ~~SECTION 14.5-112. APPLICABILITY OF CERTAIN PROVISIONS OF ESTATES OF~~
22 ~~DECEDENTS LAW TO TRUSTS.~~ (A) IN THE ABSENCE OF EXPRESS
23 LANGUAGE TO THE CONTRARY, THE RULES CONTAINED IN §§ 1-202, 1-203, 1-204, 1-
24 205, 1-206, 1-207, 1-208, 1-209, and 1-210. TITLE 1, SUBTITLE 2 OF THIS ARTICLE
25 SHALL BE APPLIED IN CONSTRUING THE TERMS OF AN INTER VIVOS TRUST.
26 Whenever any of those statutory sections refer to a "

27 (B) WHENEVER A PROVISION IN TITLE 1, SUBTITLE 2 OF THIS ARTICLE
28 REFERS TO A "WILL," "ESTATE," OR A SIMILAR terms TERM RELEVANT
29 PRIMARILY TO WILLS AND ESTATES OR the takers A TAKER UNDER them A WILL OR
30 AN ESTATE, THE terms TERM SHALL BE MODIFIED TO MEAN "TRUST
31 INSTRUMENT," "TRUST," OR A SIMILAR terms TERM TO REFLECT THE

1 APPLICATION OF THE PRINCIPLES OF ~~those sections to~~ TITLE 1, SUBTITLE 2 OF
 2 THIS ARTICLE TO AN INTER VIVOS trusts TRUST.

3 **SUBTITLE 2**
 4 **JUDICIAL PROCEEDINGS**
 5 **SUBTITLE 2. JUDICIAL PROCEEDINGS.**

6 ~~SECTION 14.5-201. ROLE OF COURT IN ADMINISTRATION OF TRUST. 201.~~

7 (A) THE COURT MAY INTERVENE IN THE ADMINISTRATION OF A
 8 TRUST TO THE EXTENT ~~its~~ THE JURISDICTION OF THE COURT IS INVOKED BY AN
 9 INTERESTED PERSON OR AS PROVIDED BY LAW.

10 (B) A TRUST IS NOT SUBJECT TO CONTINUING JUDICIAL
 11 SUPERVISION UNLESS ORDERED BY THE COURT.

12 (C) A JUDICIAL PROCEEDING INVOLVING A TRUST MAY RELATE
 13 TO ~~any~~ A MATTER INVOLVING THE trust's ADMINISTRATION OF THE TRUST,
 14 INCLUDING A REQUEST FOR INSTRUCTIONS AND AN ACTION TO DECLARE
 15 RIGHTS.

16 (D) (1) A COURT HAVING EQUITY JURISDICTION HAS GENERAL
 17 SUPERINTENDING POWER WITH RESPECT TO TRUSTS.

18 (2) THE PROVISIONS OF TITLES 1 THROUGH 13 OF THIS ARTICLE
 19 DO NOT AFFECT OR SUPERSEDE ~~this~~ THE POWER DESCRIBED IN PARAGRAPH (1)
 20 OF THIS SUBSECTION.

21 ~~SECTION 14.5-202. JURISDICTION OVER TRUSTEE AND BENEFICIARY. 202.~~

22 (A) BY ACCEPTING THE TRUSTEESHIP OF A TRUST HAVING ~~its~~ THE
 23 PRINCIPAL PLACE OF ADMINISTRATION FOR THE TRUST IN this THE STATE OR BY
 24 MOVING THE PRINCIPAL PLACE OF ADMINISTRATION TO ~~this~~ THE STATE, THE
 25 TRUSTEE SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURTS OF
 26 ~~this~~ THE STATE REGARDING ~~any~~ A MATTER INVOLVING THE TRUST.

27 (B) (1) WITH RESPECT TO ~~their~~ THE INTERESTS in the trust, the OF
 28 BENEFICIARIES OF THE TRUST, A BENEFICIARY OF A TRUST HAVING its THE
 29 PRINCIPAL PLACE OF ADMINISTRATION OF THE TRUST IN this THE STATE ~~are~~ IS
 30 SUBJECT TO THE JURISDICTION OF THE COURTS OF ~~this~~ THE STATE REGARDING
 31 ~~any~~ A MATTER INVOLVING THE TRUST.

32 (2) BY ACCEPTING A DISTRIBUTION FROM ~~such~~ A TRUST
 33 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE RECIPIENT SUBMITS

1 PERSONALLY TO THE JURISDICTION OF THE COURTS OF ~~this~~THE STATE
2 REGARDING ~~any~~A MATTER INVOLVING THE TRUST.

3 (C) THIS SECTION DOES NOT PRECLUDE OTHER METHODS OF
4 OBTAINING JURISDICTION OVER A TRUSTEE, A BENEFICIARY, OR ANY OTHER
5 PERSON RECEIVING PROPERTY FROM THE TRUST.

6 ~~SECTION 14.5-203. JUDICIAL REVIEW OF TRUST PROVISIONS.~~

7 (A) (1) A DISCRETIONARY POWER CONFERRED ~~upon~~ON THE TRUSTEE TO
8 DETERMINE THE BENEFITS OF A BENEFICIARY IS SUBJECT TO JUDICIAL
9 CONTROL ONLY TO PREVENT MISINTERPRETATION OR ABUSE OF THE
10 DISCRETION OF THE TRUSTEE.

11 (2) THE BENEFITS TO WHICH A BENEFICIARY OF A
12 DISCRETIONARY DISTRIBUTION PROVISION IS ENTITLED, AND WHAT MAY
13 CONSTITUTE AN ABUSE OF DISCRETION BY THE TRUSTEE, DEPEND ON THE
14 TERMS OF THE DISCRETION, INCLUDING THE PROPER CONSTRUCTION OF ~~any~~
15 ACCOMPANYING STANDARDS, AND ON THE SETTLOR’S PURPOSES IN GRANTING
16 THE DISCRETIONARY POWER AND IN CREATING THE TRUST.

17 (3) NOTWITHSTANDING THE BREADTH OF DISCRETION GRANTED
18 TO A TRUSTEE ~~in~~BY THE TERMS OF ~~the~~A TRUST, INCLUDING THE USE OF ~~such~~THE
19 TERMS ~~as~~ “ABSOLUTE”, “SOLE”, OR “UNCONTROLLED”, A TRUSTEE ABUSES THE
20 ~~trustee’s~~ DISCRETION OF THE TRUSTEE IN EXERCISING OR FAILING TO EXERCISE
21 A DISCRETIONARY POWER IF THE TRUSTEE:

22 (1) ~~acts~~I ACTS DISHONESTLY;

23 (2) ~~acts~~II ACTS WITH AN IMPROPER MOTIVE, EVEN THOUGH
24 NOT A DISHONEST MOTIVE;

25 (3) ~~if the trustee fails~~III FAILS TO EXERCISE THE ~~trustee’s~~
26 JUDGMENT OF THE TRUSTEE IN ACCORDANCE WITH THE TERMS AND PURPOSES
27 OF THE TRUST; OR

28 (4) ~~if the trustee acts~~IV ACTS BEYOND THE BOUNDS OF
29 REASONABLE JUDGMENT.

30 (B) A COURT MAY REVIEW AN ACTION BY A TRUSTEE ~~action~~UNDER A
31 SUPPORT PROVISION OR A MANDATORY DISTRIBUTION PROVISION; IN THE
32 TRUST IF THE TRUSTEE ACTED DISHONESTLY, ACTED WITH AN IMPROPER

1 MOTIVE, FAILED TO USE THE ~~trustee's~~ JUDGMENT OF THE TRUSTEE, OR ACTED
2 UNREASONABLY.

3 **SUBTITLE 3**
4 **REPRESENTATION**

5 **SUBTITLE 3. REPRESENTATION.**

6 ~~SECTION 14.5-301. REPRESENTATION: BASIC EFFECT.~~

7 (A) EXCEPT AS REQUIRED BY THE APPLICABLE RULES OF CIVIL
8 PROCEDURE IN A JUDICIAL PROCEEDING, NOTICE TO A PERSON WHO MAY
9 REPRESENT AND BIND ANOTHER PERSON UNDER THIS SUBTITLE HAS THE SAME
10 EFFECT AS IF NOTICE WERE GIVEN DIRECTLY TO THE OTHER PERSON UNLESS
11 THE PERSON REPRESENTED OBJECTS TO THE REPRESENTATION BY NOTIFYING
12 THE TRUSTEE AND THE REPRESENTATIVE BEFORE THE NOTICE WOULD
13 OTHERWISE HAVE BECOME EFFECTIVE.

14 (B) THE CONSENT OF A PERSON WHO MAY REPRESENT AND BIND
15 ANOTHER PERSON UNDER THIS SUBTITLE IS BINDING ON THE PERSON
16 REPRESENTED UNLESS THE PERSON REPRESENTED OBJECTS TO THE
17 REPRESENTATION BY NOTIFYING THE TRUSTEE AND THE REPRESENTATIVE
18 BEFORE THE NOTICE WOULD OTHERWISE HAVE BECOME EFFECTIVE.

19 (C) EXCEPT AS OTHERWISE PROVIDED IN ~~Section~~ § 14.5-602, 602
20 OF THIS TITLE, A PERSON WHO UNDER THIS SUBTITLE MAY REPRESENT A
21 SETTLOR WHO LACKS CAPACITY MAY RECEIVE NOTICE AND GIVE A BINDING
22 CONSENT ON ~~the settlor's~~ BEHALF OF THE SETTLOR.

23 ~~SECTION 14.5-302. REPRESENTATION BY POWER HOLDERS. 302.~~

24 (A) THE HOLDER OF A QUALIFIED POWER OF APPOINTMENT MAY
25 REPRESENT AND BIND PERSONS WHOSE INTERESTS AS PERMISSIBLE
26 APPOINTEES OR TAKERS IN DEFAULT ARE SUBJECT TO THE POWER.

27 (B) A QUALIFIED POWER OF APPOINTMENT IS :

28 (1) ~~a~~ A GENERAL POWER OF APPOINTMENT; OR

29 (2) ~~a~~ A POWER OF APPOINTMENT EXERCISABLE IN FAVOR OF ALL
30 PERSONS OTHER THAN THE POWER HOLDER, THE ESTATE OF THE POWER
31 HOLDER's estate, THE power holder's CREDITORS OF THE POWER HOLDER, AND THE
32 CREDITORS OF THE ESTATE OF THE POWER HOLDER's estate.

33 ~~SECTION 14.5-303. REPRESENTATION BY FIDUCIARIES AND PARENTS. 303.~~

1 TO THE EXTENT THERE IS NO CONFLICT OF INTEREST BETWEEN THE
2 REPRESENTATIVE AND THE PERSON REPRESENTED OR AMONG THOSE BEING
3 REPRESENTED WITH RESPECT TO A PARTICULAR QUESTION OR DISPUTE:

4 (1) A ~~a~~—GUARDIAN OF THE PROPERTY MAY REPRESENT AND
5 BIND THE MINOR OR DISABLED PERSON;

6 (2) ~~a~~ A GUARDIAN OF THE PERSON MAY REPRESENT AND BIND
7 THE MINOR OR DISABLED PERSON IF A GUARDIAN OF THE PROPERTY HAS NOT
8 BEEN APPOINTED;

9 (3) ~~an~~ AN AGENT HAVING SPECIFIC AUTHORITY TO ACT WITH
10 RESPECT TO TRUST MATTERS MAY REPRESENT AND BIND THE PRINCIPAL;

11 (4) ~~a~~ A TRUSTEE OF A TRUST THAT IS A BENEFICIARY OF
12 ANOTHER TRUST MAY REPRESENT AND BIND THE BENEFICIARIES OF THE
13 TRUST;

14 (5) ~~a~~ A PERSONAL REPRESENTATIVE OF THE ESTATE OF A
15 DECEDENT's ~~estate~~ THAT IS A BENEFICIARY OF A TRUST MAY REPRESENT AND
16 BIND INTERESTED PERSONS IN THE ESTATE; ~~and~~

17 (6) ~~a~~ A PARENT MAY REPRESENT AND BIND THE ~~parent's~~ MINOR,
18 UNBORN, OR UNKNOWN CHILD OF THE PARENT IF A GUARDIAN OF THE
19 PROPERTY OR GUARDIAN OF THE PERSON FOR THE CHILD HAS NOT BEEN
20 APPOINTED; AND

21 (7) ~~if~~ IF A MINOR, UNBORN OR UNKNOWN PERSON IS NOT
22 OTHERWISE REPRESENTED UNDER THIS SECTION, A GRANDPARENT OR MORE
23 REMOTE ~~ancestor~~ RELATIVE MAY REPRESENT AND BIND THAT MINOR, UNBORN, OR
24 UNKNOWN PERSON.

25 ~~SECTION 14.5-304. REPRESENTATION BY PERSON HAVING SUBSTANTIALLY~~
26 ~~IDENTICAL INTEREST. —304.~~

27 UNLESS OTHERWISE REPRESENTED, A MINOR, AN INCAPACITATED, OR AN
28 UNBORN INDIVIDUAL, OR A PERSON WHOSE IDENTITY OR LOCATION IS
29 UNKNOWN AND NOT REASONABLY ASCERTAINABLE, MAY BE REPRESENTED BY
30 AND BOUND BY ANOTHER HAVING A SUBSTANTIALLY IDENTICAL INTEREST WITH
31 RESPECT TO THE PARTICULAR QUESTION OR DISPUTE UNDER THIS TITLE, BUT
32 ONLY TO THE EXTENT THAT THERE IS NO CONFLICT OF INTEREST BETWEEN THE

1 REPRESENTATIVE AND THE PERSON REPRESENTED WITH RESPECT TO THE
2 PARTICULAR QUESTION OR DISPUTE.

3 ~~SECTION 14.5-305. APPOINTMENT OF REPRESENTATIVE.~~

4 (A) (1) IF THE COURT DETERMINES THAT AN INTEREST IS NOT
5 REPRESENTED UNDER THIS SUBTITLE, OR THAT THE OTHERWISE AVAILABLE
6 REPRESENTATION MIGHT BE INADEQUATE, THE COURT MAY APPOINT A
7 REPRESENTATIVE TO RECEIVE NOTICE, GIVE CONSENT, AND OTHERWISE
8 REPRESENT, BIND, AND ACT ON BEHALF OF A MINOR, INCAPACITATED, OR
9 UNBORN INDIVIDUAL, OR A PERSON WHOSE IDENTITY OR LOCATION IS
10 UNKNOWN.

11 (2) A REPRESENTATIVE MAY BE APPOINTED TO REPRESENT
12 SEVERAL PERSONS OR INTERESTS UNDER THIS TITLE.

13 (B) A REPRESENTATIVE MAY ACT ON BEHALF OF THE INDIVIDUAL
14 REPRESENTED WITH RESPECT TO ~~any~~ A MATTER ARISING UNDER THIS TITLE,
15 WHETHER OR NOT A JUDICIAL PROCEEDING CONCERNING THE TRUST IS
16 PENDING.

17 (C) IN MAKING DECISIONS, ~~a~~ AS A REPRESENTATIVE OF AN
18 INDIVIDUAL, THE REPRESENTATIVE MAY CONSIDER THE GENERAL BENEFIT
19 ACCRUING TO THE LIVING MEMBERS OF THE individual's FAMILY OF THE
20 INDIVIDUAL.

21 SUBTITLE 4

22 CREATION, VALIDITY, MODIFICATION, 23 AND TERMINATION OF TRUST

24 SUBTITLE 4. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF 25 TRUST.

26 ~~SECTION 14.5-401. METHODS OF CREATING TRUST.~~

27 A TRUST MAY BE CREATED BY:

28 ~~(1) transfer~~ (1) TRANSFER OF PROPERTY TO ANOTHER PERSON
29 AS TRUSTEE DURING THE ~~settlor's~~ SETTLOR'S LIFETIME OF THE SETTLOR OR BY WILL OR
30 OTHER DISPOSITION TAKING EFFECT ~~upon~~ ON THE ~~settlor's~~ DEATH OF THE
31 SETTLOR;

32 ~~(2) declaration~~ (2) DECLARATION BY THE OWNER OF PROPERTY
33 THAT THE OWNER HOLDS IDENTIFIABLE PROPERTY AS TRUSTEE; OR

1 ~~_____ (3) exercise _____~~ **(3) EXERCISE OF A POWER OF APPOINTMENT IN**
2 **FAVOR OF A TRUSTEE.**

3 ~~—SECTION 14.5—402. REQUIREMENTS FOR CREATION.~~

4 (A) A TRUST IS CREATED ONLY IF:

5 (1) ~~the~~ THE SETTLOR HAS CAPACITY TO CREATE A TRUST;

6 (2) ~~the~~ THE SETTLOR INDICATES AN INTENTION TO CREATE
7 THE TRUST;

8 (3) ~~the~~ THE TRUST HAS A DEFINITE BENEFICIARY OR IS:

9 ~~_____ (A) (I) a~~ A CHARITABLE TRUST;

10 ~~_____ (B) (II) a~~ A TRUST FOR THE CARE OF AN ANIMAL, AS PROVIDED IN
11 Section § 14.5—407 OF THIS SUBTITLE; OR

12 ~~_____ (C) (III) a~~ A TRUST FOR A NONCHARITABLE PURPOSE, AS PROVIDED
13 IN Section § 14.5—408 OF THIS SUBTITLE; AND

14 (4) ~~the~~ THE TRUSTEE HAS DUTIES TO PERFORM.

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

18 (C) (1) A POWER IN A TRUSTEE OR IN ~~any other~~ ANOTHER PERSON
19 UNDER THE TERMS OF THE TRUST TO SELECT A BENEFICIARY FROM AN
20 INDEFINITE CLASS IS VALID.

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

26 ~~—SECTION 14.5-403. TRUSTS CREATED IN OTHER JURISDICTIONS.—403.~~

27 A TRUST NOT CREATED BY WILL IS VALIDLY CREATED IF ~~its~~ THE CREATION
28 OF THE TRUST COMPLIES WITH ~~the~~:

1 (1) THE LAW OF THE JURISDICTION IN WHICH THE TRUST
2 INSTRUMENT WAS EXECUTED; ~~OR the~~

3 (2) THE LAW OF THE JURISDICTION IN WHICH, AT THE TIME OF
4 CREATION:

5 ~~— (1) the~~ (I) THE SETTLOR WAS DOMICILED OR WAS A
6 NATIONAL;

7 ~~— (2) (II) a~~ A TRUSTEE OF THE TRUST WAS DOMICILED OR HAD A PLACE OF
8 BUSINESS; OR

9 ~~— (3) any~~ (III) ANY TRUST PROPERTY WAS LOCATED.

10 ~~— SECTION 14.5—404. TRUST PURPOSES.~~

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

13 (B) A TRUST AND ~~its~~ THE TERMS ~~must~~ OF THE TRUST SHALL BE FOR THE
14 BENEFIT OF ~~its~~ THE BENEFICIARIES OF THE TRUST.

15 ~~— SECTION 14.5-405. CREATION OF TRUST INDUCED BY FRAUD, DURESS, OR~~
16 ~~UNDUE INFLUENCE.—405.~~

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

19 ~~— SECTION 14.5—406. EVIDENCE OF ORAL TRUST.~~

20 EXCEPT AS ~~required by a statute other than this title~~ OTHERWISE PROVIDED BY
21 LAW, A TRUST NEED NOT BE EVIDENCED BY A TRUST INSTRUMENT, BUT THE
22 CREATION OF AN ORAL TRUST AND ~~its~~ THE TERMS OF THE ORAL TRUST MAY BE
23 ESTABLISHED ONLY BY CLEAR AND CONVINCING EVIDENCE.

24 ~~— SECTION 14.5—407. TRUST FOR CARE OF ANIMAL.~~

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

27 ~~— (b) Termination.—~~ (B) A TRUST AUTHORIZED BY THIS SECTION TERMINATES:

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

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

7 ~~————(c) Enforcement.—~~

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

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

15 ~~————(d) Property.—~~

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

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

23 (I) TO THE SETTLOR, IF LIVING; OR

24 (II) IF THE SETTLOR IS DECEASED, TO THE SUCCESSORS IN
25 INTEREST OF THE SETTLOR.

26 ~~—SECTION 14.5-408. NONCHARITABLE TRUST WITHOUT ASCERTAINABLE~~
27 ~~BENEFICIARY. 408.~~

28 EXCEPT AS OTHERWISE PROVIDED IN ~~Section~~§ 14.5-407 OF THIS
29 SUBTITLE OR BY ANOTHER STATUTE, THE FOLLOWING RULES APPLY:

30 (1) (I) A TRUST MAY BE CREATED FOR A NONCHARITABLE
31 PURPOSE WITHOUT A DEFINITE OR DEFINITELY ASCERTAINABLE BENEFICIARY
32 OR FOR A NONCHARITABLE BUT OTHERWISE VALID PURPOSE TO BE SELECTED
33 BY THE TRUSTEE. ~~The~~; OR

1 (II) A TRUST DESCRIBED IN SUBPARAGRAPH (I) OF THIS
 2 PARAGRAPH MAY NOT BE ENFORCED FOR MORE THAN 21 YEARS UNLESS THE
 3 SETTLOR ELECTS OTHERWISE;

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

7 (3) (I) PROPERTY OF A TRUST AUTHORIZED BY THIS SECTION
 8 MAY BE APPLIED ONLY TO itsTHE INTENDED USE OF THE TRUST, EXCEPT TO THE
 9 EXTENT THAT THE COURT DETERMINES THAT THE VALUE OF THE TRUST
 10 PROPERTY EXCEEDS THE AMOUNT REQUIRED FOR THE INTENDED USE-;OR

11 (II) EXCEPT AS OTHERWISE PROVIDED IN THE TERMS OF
 12 theA TRUST DESCRIBED IN ITEM (I) OF THIS ITEM, PROPERTY NOT REQUIRED
 13 FOR THE INTENDED USE mustSHALL BE DISTRIBUTED TO THE SETTLOR, IF THEN
 14 LIVING, otherwiseOR TO THE-settlor's SUCCESSORS IN INTEREST TO THE TRUSTEE,
 15 IF THE SETTLOR IS NOT THEN LIVING.

16 ~~SECTION 14.5-409. MODIFICATION OR TERMINATION OF TRUST;~~
 17 ~~PROCEEDINGS FOR APPROVAL OR DISAPPROVAL. 409.~~

18 (A) IN ADDITION TO THE METHODS OF TERMINATION
 19 PRESCRIBED BY ~~Sections§§ 14.5-410 THROUGH 14.5-412, 412~~ OF THIS
 20 SUBTITLE, A TRUST TERMINATES TO THE EXTENT THE TRUST IS REVOKED OR
 21 EXPIRES pursuant to itsIN ACCORDANCE WITH THE TERMS OF THE TRUST, OR THE
 22 PURPOSES OF THE TRUST HAVE BECOME UNLAWFUL OR IMPOSSIBLE TO
 23 ACHIEVE.

24 (B) (1) A PROCEEDING TO APPROVE OR DISAPPROVE A PROPOSED
 25 MODIFICATION OR TERMINATION UNDER ~~Sections§§ 14.5-410 THROUGH 14.5-~~
 26 ~~414, or trust-414~~ OF THIS SUBTITLE, OR COMBINATION OR DIVISION OF A TRUST
 27 UNDER Section§ 14.5-415, 415 OF THIS SUBTITLE, MAY BE COMMENCED BY A
 28 TRUSTEE OR BENEFICIARY.

29 (2) THE SETTLOR OF A CHARITABLE TRUST MAY MAINTAIN A
 30 PROCEEDING TO MODIFY THE TRUST UNDER Section-14-302. § 14.5-302 OF THIS
 31 TITLE.

32 ~~SECTION~~

33 ~~14.5-410. MODIFICATION OR TERMINATION OF NONCHARITABLE~~
 34 ~~IRREVOCABLE TRUST BY CONSENT. 410.~~

1 (A) (1) A NONCHARITABLE IRREVOCABLE TRUST MAY BE
2 TERMINATED ~~upon~~ON CONSENT OF THE TRUSTEE AND ALL OF THE
3 BENEFICIARIES IF THE COURT CONCLUDES THAT CONTINUANCE OF THE TRUST
4 IS NOT NECESSARY TO ACHIEVE ANY MATERIAL PURPOSE OF THE TRUST.

5 (2) A NONCHARITABLE IRREVOCABLE TRUST MAY BE MODIFIED
6 ~~upon~~ON CONSENT OF THE TRUSTEE AND ALL OF THE BENEFICIARIES IF THE
7 COURT CONCLUDES THAT MODIFICATION IS NOT INCONSISTENT WITH A
8 MATERIAL PURPOSE OF THE TRUST.

9 (B) THE EXISTENCE OF A SPENDTHRIFT PROVISION OR SIMILAR
10 PROTECTIVE LANGUAGE IN THE TERMS OF THE TRUST ~~shall~~DOES NOT PREVENT A
11 TERMINATION OF A TRUST UNDER SUBSECTION (A) OF THIS SECTION.

12 (C) ~~Upon~~ON TERMINATION OF A TRUST UNDER SUBSECTION (A) OF
13 THIS SECTION, THE TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY AS
14 AGREED BY THE BENEFICIARIES.

15 (D) IF NOT ALL OF THE PARTIES CONSENT TO A PROPOSED
16 MODIFICATION OR TERMINATION OF THE TRUST UNDER SUBSECTION (A) OF
17 THIS SECTION, THE MODIFICATION OR TERMINATION MAY BE APPROVED BY THE
18 COURT IF THE COURT IS SATISFIED THAT:

19 (1) ~~if~~IF ALL OF THE PARTIES HAD CONSENTED, THE TRUST
20 COULD HAVE BEEN MODIFIED OR TERMINATED UNDER THIS SECTION; AND

21 (2) ~~the~~THE INTERESTS OF A PARTY WHO DOES NOT CONSENT
22 WILL BE ADEQUATELY PROTECTED.

23 ~~SECTION 14.5-411. MODIFICATION OR TERMINATION BECAUSE OF~~
24 ~~UNANTICIPATED CIRCUMSTANCES OR INABILITY TO ADMINISTER TRUST~~
25 ~~EFFECTIVELY. 411.~~

26 (A) (1) THE COURT MAY MODIFY THE ADMINISTRATIVE OR
27 DISPOSITIVE TERMS OF A TRUST OR TERMINATE THE TRUST IF, BECAUSE OF
28 CIRCUMSTANCES NOT ANTICIPATED BY THE SETTLOR, MODIFICATION OR
29 TERMINATION WILL FURTHER THE PURPOSES OF THE TRUST.

30 (2) TO THE EXTENT PRACTICABLE, THE MODIFICATION
31 ~~must~~DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE IN
32 ACCORDANCE WITH THE ~~settlor's~~PROBABLE INTENTION OF THE SETTLOR.

1 (B) THE COURT MAY MODIFY THE ADMINISTRATIVE TERMS OF A
 2 TRUST IF CONTINUATION OF THE TRUST ON ITS EXISTING TERMS WOULD BE
 3 IMPRACTICABLE OR WASTEFUL OR IMPAIR THE ~~trust's~~ ADMINISTRATION OF THE
 4 TRUST.

5 (C) ~~Upon~~ ON TERMINATION OF A TRUST UNDER SUBSECTION (A) OF
 6 THIS SECTION, THE TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY IN A
 7 MANNER CONSISTENT WITH THE PURPOSES OF THE TRUST AS ORDERED BY THE
 8 COURT.

9 ~~SECTION 14.5 412. TERMINATION OF CERTAIN TRUSTS WITHOUT AN ORDER~~
 10 ~~OF COURT. 412.~~

11 (A) ~~Definitions.~~ (1) IN THIS SECTION THE FOLLOWING WORDS HAVE
 12 THE MEANINGS INDICATED.

13 (2) ~~"~~ "LIFE EXPECTANCY" MEANS THE LIFE EXPECTANCY
 14 PUBLISHED FROM TIME TO TIME IN THE LIFE TABLES ISSUED BY THE U.S.
 15 DEPARTMENT OF HEALTH AND HUMAN SERVICES ~~from time to time.~~

16 (3) ~~"~~ "NET ANNUAL INCOME" MEANS THE GROSS INCOME OF A
 17 TRUST ESTATE DURING A FISCAL YEAR MINUS TRUST COMMISSIONS AND
 18 EXPENSES ATTRIBUTABLE TO INCOME FOR THAT FISCAL YEAR.

19 (B) ~~In general.~~ SUBJECT TO THE PROVISIONS OF THIS SECTION, A
 20 TRUSTEE MAY TERMINATE A TRUST WITHOUT AN ORDER OF COURT IF THE FAIR
 21 MARKET VALUE OF THE TRUST AS OF THE ~~trust's~~ LAST ANNIVERSARY DATE OF
 22 THE TRUST IS \$100,000 OR LESS.

23 (C) ~~Notice.~~ (1) (I) A TRUSTEE PROPOSING TO TERMINATE A TRUST
 24 UNDER THIS SECTION SHALL SEND NOTICE OF THE PROPOSED TERMINATION TO
 25 EACH COTRUSTEE AND EACH QUALIFIED BENEFICIARY OF THE TRUST AT THE
 26 ~~cotrustee's or qualified beneficiary's~~ LAST KNOWN ADDRESS OF THE COTRUSTEE OR
 27 QUALIFIED BENEFICIARY.

28 (II) THE NOTICE DESCRIBED IN SUBPARAGRAPH (I) OF THIS
 29 PARAGRAPH SHALL BE:

30 ~~(i)~~ 1. PERSONALLY DELIVERED; OR

31 ~~(ii)~~ 2. MAILED BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT
 32 REQUESTED.

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

3 **(I) THE NAME OF THE TRUST;**

4 **(II) THE NAME OF THE PERSON WHO CREATED THE TRUST;**

5 **(III) THE DATE ON WHICH THE TRUST WAS ESTABLISHED;**

6 **(IV) THE NAME AND ADDRESS OF THE TRUSTEE SEEKING TO**
7 **TERMINATE THE TRUST;**

8 **(V) THE NAME OF ANY COTRUSTEE;**

9 **(VI) A STATEMENT THAT THE EFFECTIVE DATE OF THE**
10 **TERMINATION SHALL BE AT LEAST 90 DAYS AFTER THE DATE ON WHICH NOTICE**
11 **UNDER PARAGRAPH (1) OF THIS SUBSECTION HAS BEEN RECEIVED BY EACH**
12 **COTRUSTEE AND EACH QUALIFIED BENEFICIARY;**

13 **(VII) A STATEMENT OF THE REASONS FOR TERMINATION OF**
14 **THE TRUST;**

15 **(VIII) THE APPROXIMATE AMOUNT AND THE MANNER OF**
16 **CALCULATION OF EACH DISTRIBUTION OF THE TRUST ESTATE; AND**

17 **(IX) A STATEMENT OF THE RIGHT TO OBJECT AND THE**
18 **PROCEDURES TO FOLLOW UNDER SUBSECTION (D) OF THIS SECTION.**

19 **(D)—Objections.— (1) A PERSON ENTITLED TO NOTICE UNDER**
20 **SUBSECTION (C) OF THIS SECTION WHO OBJECTS TO THE TERMINATION OF A**
21 **TRUST SHALL SEND WRITTEN OBJECTION TO THE TERMINATION.**

22 **(2) THE WRITTEN OBJECTION DESCRIBED IN PARAGRAPH (1) OF**
23 **THIS SUBSECTION SHALL BE PERSONALLY DELIVERED OR MAILED BY**
24 **CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, WITHIN 60**
25 **DAYS AFTER THE DATE ON WHICH NOTICE THAT IS SENT UNDER SUBSECTION**
26 **(C)(1) OF THIS SECTION IS RECEIVED BY THE OBJECTING PARTY, TO THE**
27 **TRUSTEE PROPOSING TO TERMINATE THE TRUST AT THE ADDRESS IN THE**
28 **NOTICE.**

29 **(E)—Termination of trust.—(1)—(1) IF NO QUALIFIED BENEFICIARY OR**
30 **COTRUSTEE DELIVERS A TIMELY OBJECTION IN ACCORDANCE WITH THE**

1 PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE TRUST SHALL BE
 2 TERMINATED AND THE TRUST ESTATE SHALL BE DISTRIBUTED IN ACCORDANCE
 3 WITH THE PROVISIONS OF SUBSECTION (F) OF THIS SECTION.

4 (2) IF A QUALIFIED BENEFICIARY OR COTRUSTEE DELIVERS A
 5 TIMELY WRITTEN OBJECTION IN ACCORDANCE WITH THE PROVISIONS OF
 6 SUBSECTION (D) OF THIS SECTION, THE TRUST ~~shall not be terminated unless the~~
 7 ~~objection is withdrawn in writing by the objecting party within 90 days after receipt of the notice by~~
 8 ~~the objecting party.~~ MAY NOT BE TERMINATED UNLESS THE OBJECTION IS
 9 WITHDRAWN IN WRITING BY THE OBJECTING PARTY WITHIN 90 DAYS AFTER
 10 RECEIPT OF THE NOTICE BY THE OBJECTING PARTY.

11 ~~(f) Distribution of trust estate.~~

12 (F) (1) A TRUST ESTATE THAT IS TERMINATED UNDER THIS SECTION
 13 SHALL BE DISTRIBUTED IN ANY MANNER UNANIMOUSLY AGREED ~~upon~~ON BY ALL
 14 QUALIFIED BENEFICIARIES.

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

18 (II) A QUALIFIED BENEFICIARY WHO HAS A PRESENT
 19 INTEREST IN THE TRUST ESTATE SHALL RECEIVE AN AMOUNT EQUAL TO THE
 20 PRESENT VALUE OF AN ANNUITY EQUAL TO THE ~~qualified beneficiary's~~
 21 PROPORTIONATE SHARE OF THE AVERAGE NET ANNUAL INCOME OF THE TRUST
 22 OF THE QUALIFIED BENEFICIARY AS OF ~~the~~THE LAST 3 ANNIVERSARY DATES OF
 23 THE TRUST FOR A TERM EQUAL TO THE LIFE EXPECTANCY OF THE QUALIFIED
 24 BENEFICIARY, AT THE INTEREST RATE FOR VALUING VESTED BENEFITS
 25 PROVIDED BY THE PENSION BENEFIT GUARANTEE CORPORATION FOR THE
 26 MONTH IMMEDIATELY PRECEDING THE DATE ~~of~~ON WHICH THE NOTICE UNDER
 27 SUBSECTION (C)(1) OF THIS SECTION IS SENT.

28 (III) THE AMOUNT OF THE TRUST ESTATE REMAINING AFTER
 29 DISTRIBUTION TO QUALIFIED BENEFICIARIES HAVING A PRESENT INTEREST IN
 30 THE TRUST ESTATE SHALL BE DISTRIBUTED TO ~~any~~QUALIFIED BENEFICIARIES
 31 HAVING A FUTURE INTEREST IN THE TRUST ESTATE IN WHATEVER
 32 PROPORTIONS ARE PROVIDED FOR UNDER THE TERMS OF THE GOVERNING
 33 INSTRUMENT UNDER WHICH THE TRUST WAS CREATED.

34 ~~(g) Effect of "spendthrift" language.~~ (G) THE EXISTENCE OF SPENDTHRIFT OR
 35 SIMILAR PROTECTIVE LANGUAGE IN THE GOVERNING INSTRUMENT UNDER
 36 WHICH THE TRUST WAS CREATED MAY NOT PREVENT TERMINATION UNDER THIS
 37 SECTION.

1 (H) ~~Expenses.~~ ALL EXPENSES INCURRED BY THE TRUSTEE INCIDENT
2 TO THE TERMINATION OF A TRUST UNDER THIS SECTION SHALL BE ~~borne~~ PAID BY
3 THE TRUST ESTATE.

4 (I) ~~Distribution to minor.~~ A DISTRIBUTION TO A MINOR QUALIFIED
5 BENEFICIARY SHALL BE MADE TO THE ~~minor's~~ CUSTODIAN OF THE MINOR UNDER
6 THE MARYLAND UNIFORM GIFTS TO MINORS ACT OR THE MARYLAND
7 UNIFORM TRANSFERS TO MINORS ACT.

8 ~~(j) Construction of section.~~ (J) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT
9 THE RIGHT OF ~~any~~ A TRUSTEE TO TERMINATE A TRUST IN ACCORDANCE WITH
10 APPLICABLE PROVISIONS OF THE GOVERNING INSTRUMENT UNDER WHICH THE
11 TRUST WAS CREATED.

12 (K) ~~Termination permitted.~~ A TRUST MAY BE TERMINATED UNDER THIS
13 SECTION IF:

14 (1) THE TRUSTEE HAS DETERMINED THAT TERMINATION OF THE
15 TRUST IS IN THE BEST INTERESTS OF THE QUALIFIED BENEFICIARIES; AND

16 (2) THE GOVERNING INSTRUMENT DOES NOT EXPRESSLY
17 PROHIBIT TERMINATION OF THE TRUST REGARDLESS OF ~~its~~ THE SIZE OF THE
18 TRUST.

19 ~~(l) Conditions preventing terminations.~~ (L) A TRUST MAY NOT BE TERMINATED UNDER
20 THIS SECTION IF:

21 (1) THE PROVISIONS OF THE GOVERNING INSTRUMENT MAKE
22 THE TRUST ELIGIBLE TO QUALIFY FOR THE MARITAL DEDUCTION FOR UNITED
23 STATES ESTATE TAX OR FOR UNITED STATES GIFT TAX PURPOSES UNDER THE
24 INTERNAL REVENUE CODE OF 1986, AS AMENDED, UNLESS ALL QUALIFIED
25 BENEFICIARIES AGREE THAT ALL OF THE TRUST ESTATE SHALL BE
26 DISTRIBUTED TO THE SPOUSE OF THE CREATOR OF THE TRUST; OR

27 (2) THE PROVISIONS OF THE GOVERNING INSTRUMENT MAKE
28 THE TRUST QUALIFY, IN WHOLE OR IN PART, FOR A CHARITABLE DEDUCTION
29 FOR UNITED STATES ESTATE TAX, UNITED STATES GIFT TAX, OR UNITED
30 STATES INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE OF
31 1986, AS AMENDED, UNLESS ALL QUALIFIED BENEFICIARIES AGREE THAT ALL
32 OF THE TRUST ESTATE SHALL BE DISTRIBUTED TO ONE OR MORE QUALIFIED
33 BENEFICIARIES THAT QUALIFY FOR THE CHARITABLE DEDUCTION UNDER THE
34 INTERNAL REVENUE CODE OF 1986, AS AMENDED.

1 ~~SECTION 14.5-413. REFORMATION TO CORRECT MISTAKES.~~

2 THE COURT MAY REFORM THE TERMS OF A TRUST, EVEN IF
 3 UNAMBIGUOUS, TO CONFORM THE TERMS TO THE ~~settlor's~~ INTENTION OF THE
 4 SETTLOR IF IT IS PROVED BY CLEAR AND CONVINCING EVIDENCE THAT BOTH
 5 THE ~~settlor's~~ INTENT OF THE SETTLOR AND THE TERMS OF THE TRUST WERE
 6 AFFECTED BY A MISTAKE OF FACT OR LAW, WHETHER IN EXPRESSION OR
 7 INDUCEMENT.

8 ~~SECTION 14.5-414. MODIFICATION TO ACHIEVE SETTLOR'S TAX~~
 9 ~~OBJECTIVES. 414.~~

10 (A) TO ACHIEVE THE ~~settlor's~~ TAX OBJECTIVES OF THE SETTLOR, THE
 11 COURT MAY MODIFY THE TERMS OF A TRUST IN A MANNER THAT IS NOT
 12 CONTRARY TO THE ~~settlor's~~ PROBABLE INTENTION OF THE SETTLOR.

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

15 ~~SECTION 14.5-415. COMBINATION AND DIVISION OF TRUSTS. 415.~~

16 AFTER NOTICE TO THE QUALIFIED BENEFICIARIES, A TRUSTEE MAY
 17 COMBINE TWO OR MORE TRUSTS INTO A SINGLE TRUST, OR DIVIDE A TRUST
 18 INTO TWO OR MORE SEPARATE TRUSTS, IF THE RESULT ~~has~~:

19 (1) HAS SUBSTANTIALLY SIMILAR ~~dispositive provisions~~ (, EVEN
 20 THOUGH NOT IDENTICAL), DISPOSITIVE PROVISIONS FOR THE BENEFIT AT THAT
 21 TIME OF THE SAME QUALIFIED BENEFICIARIES, ~~(EVEN THOUGH THE IDENTITY~~
 22 OF THE BENEFICIARIES WHO ARE NOT QUALIFIED BENEFICIARIES IS NOT
 23 IDENTICAL); ~~OR does~~

24 (2) DOES NOT ADVERSELY AFFECT ACHIEVEMENT OF THE
 25 PURPOSES OF THE TRUST.

26 **SUBTITLE 5**

27 **CREDITOR'S CLAIMS; SPENDTHRIFT AND**
 28 **DISCRETIONARY TRUSTS**

29 SUBTITLE 5. CREDITOR'S CLAIMS, SPENDTHRIFT AND DISCRETIONARY
 30 TRUSTS.

31 ~~SECTION 14.5-501. RIGHTS OF BENEFICIARY'S CREDITOR OR ASSIGNEE.~~
 32 501.

1 (A) A COURT MAY AUTHORIZE A CREDITOR OR AN ASSIGNEE OF A
2 BENEFICIARY TO REACH THE INTEREST OF THE BENEFICIARY's interest BY
3 ATTACHMENT OF PRESENT OR FUTURE DISTRIBUTIONS TO OR FOR THE
4 BENEFIT OF THE BENEFICIARY OR BY OTHER MEANS IF THAT ~~beneficiary's~~
5 INTEREST IS NOT SUBJECT TO A DISCRETIONARY DISTRIBUTION PROVISION, A
6 SUPPORT TRUST PROVISION, OR A SPENDTHRIFT PROVISION.

7 (B) THE COURT MAY LIMIT THE AMOUNT, TIMING, OR OTHER
8 TERMS AND CONDITIONS OF AN AWARD UNDER THIS SECTION TO ~~such~~ RELIEF AS
9 IS APPROPRIATE UNDER THE CIRCUMSTANCES CONSIDERING, AMONG OTHER
10 FACTORS:

11 (1) ~~the~~ THE SUPPORT NEEDS OF THE BENEFICIARY, THE
12 SPOUSE OF THE BENEFICIARY's spouse, THE ~~beneficiary's~~ FORMER SPOUSE, ~~and~~ OF
13 THE BENEFICIARY's, AND THE DEPENDENT CHILDREN OF THE BENEFICIARY;

14 (2) ~~with~~ WITH RESPECT TO A BENEFICIARY WHO IS THE
15 RECIPIENT OF PUBLIC BENEFITS, THE SUPPLEMENTAL NEEDS OF THE
16 BENEFICIARY IF THE TRUST WAS NOT INTENDED TO PROVIDE FOR THE
17 ~~beneficiary's~~ BASIC SUPPORT OF THE BENEFICIARY; AND

18 (3) ~~the~~ THE AMOUNT OF THE CLAIM OF THE CREDITOR OR
19 ASSIGNEE AND THE LIKELY PROCEEDS THAT A SALE WOULD PRODUCE AS
20 COMPARED TO THE POTENTIAL VALUE OF THE INTEREST TO THE BENEFICIARY.

21 ~~SECTION 14.5-502. DISCRETIONARY DISTRIBUTION PROVISION. 502.~~

22 (A) (1) A BENEFICIARY OF A DISCRETIONARY DISTRIBUTION
23 PROVISION HAS NO PROPERTY RIGHT IN A TRUST INTEREST THAT IS SUBJECT
24 TO A DISCRETIONARY DISTRIBUTION PROVISION.

25 (2) A BENEFICIAL INTEREST THAT IS SUBJECT TO A
26 DISCRETIONARY DISTRIBUTION PROVISION MAY NOT BE JUDICIALLY
27 FORECLOSED, ATTACHED BY A CREDITOR, OR TRANSFERRED BY THE
28 BENEFICIARY.

29 (B) (1) THE CREDITOR OF THE BENEFICIARY OF A DISCRETIONARY
30 DISTRIBUTION PROVISION CREATED BY SOMEONE OTHER THAN THAT
31 BENEFICIARY HAS NO ENFORCEABLE RIGHT TO ~~any amount of~~ TRUST INCOME OR
32 PRINCIPAL THAT MAY BE DISTRIBUTED ONLY IN THE EXERCISE OF THE ~~trustee's~~
33 DISCRETION; ~~and trust~~ OF THE TRUSTEE.

1 (2) TRUST PROPERTY THAT IS SUBJECT TO A DISCRETIONARY
2 DISTRIBUTION PROVISION IS NOT SUBJECT TO THE ENFORCEMENT OF A
3 JUDGMENT UNTIL INCOME OR PRINCIPAL OR BOTH IS DISTRIBUTED DIRECTLY
4 TO THE BENEFICIARY.

5 (C) A CREDITOR OF A BENEFICIARY MAY NOT COMPEL A
6 DISTRIBUTION THAT IS SUBJECT TO DISCRETIONARY DISTRIBUTION PROVISION
7 CREATED BY SOMEONE OTHER THAN THAT BENEFICIARY.

8 (D) A TRUST MAY CONTAIN A DISCRETIONARY DISTRIBUTION
9 PROVISION WITH RESPECT TO ONE OR MORE BUT LESS THAN ALL
10 BENEFICIARIES.

11 (E) IF A BENEFICIARY OF A DISCRETIONARY DISTRIBUTION
12 PROVISION HAS A POWER OF WITHDRAWAL CREATED BY SOMEONE OTHER THAN
13 THAT BENEFICIARY:

14 (1)—~~during~~ DURING THE PERIOD THE POWER MAY BE
15 EXERCISED, THE PORTION OF THE TRUST THE BENEFICIARY MAY WITHDRAW
16 SHALL NOT BE DEEMED TO BE SUBJECT TO THE DISCRETIONARY DISTRIBUTION
17 PROVISION WITH RESPECT TO THAT BENEFICIARY;

18 ~~_____ (2) during the period the power may be exercised, the portion of the trust the~~
19 ~~beneficiary may not withdraw shall be deemed to be subject to the discretionary distribution~~
20 ~~provision with respect to that beneficiary, and~~

21 ~~_____ (3) during periods in which the beneficiary does not have a power of~~
22 ~~withdrawal, the beneficiary's trust interest shall be deemed to be subject to the discretionary~~
23 ~~distribution provision with respect to that beneficiary.~~

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

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

32 (F) IF A BENEFICIARY AND ONE OR MORE OTHERS HAVE MADE
33 CONTRIBUTIONS TO A TRUST SUBJECT TO A DISCRETIONARY DISTRIBUTION
34 PROVISION, THE PORTION OF THE TRUST ATTRIBUTABLE TO THE ~~beneficiary's~~
35 CONTRIBUTIONS OF THE BENEFICIARY SHALL NOT BE DEEMED TO BE SUBJECT
36 TO THAT DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT
37 BENEFICIARY, BUT THE PORTION OF THE TRUST ATTRIBUTABLE TO THE
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1 CONTRIBUTIONS OF OTHERS SHALL BE DEEMED TO BE SUBJECT TO THE
2 DISCRETIONARY DISTRIBUTION PROVISION WITH RESPECT TO THAT
3 BENEFICIARY.

4 (G) THE INTEREST OF A BENEFICIARY WHO IS BLIND OR
5 DISABLED AS DEFINED IN 42 U.S.C. Sec. § 1382C(A)(3) ~~or its successor,~~ MAY BE
6 SUBJECT TO A DISCRETIONARY DISTRIBUTION PROVISION NOTWITHSTANDING;

7 (1) ~~—precatory~~ PRECATORY LANGUAGE IN THE TRUST
8 INSTRUMENT REGARDING ~~its~~ THE INTENDED PURPOSE OF THE TRUST OF
9 PROVIDING SUPPLEMENTAL GOODS AND SERVICES TO OR FOR THE BENEFIT OF
10 THE BENEFICIARY, AND NOT TO SUPPLANT BENEFITS FROM PUBLIC ASSISTANCE
11 PROGRAMS; AND

12 (2) ~~a~~ A PROHIBITION AGAINST PROVIDING FOOD, CLOTHING,
13 AND SHELTER TO THE BENEFICIARY.

14 ~~SECTION 14.5--503. TRUST FOR SUPPORT.~~

15 (A) EXCEPT AS PROVIDED IN Section §§ 14.5--505 AND Section 14.5-
16 506(B), OF THIS SUBTITLE;

17 (1) ~~a~~ A BENEFICIAL INTEREST THAT IS SUBJECT TO A
18 SUPPORT PROVISION MAY NOT BE JUDICIALLY FORECLOSED, ATTACHED BY A
19 CREDITOR, OR TRANSFERRED BY THE BENEFICIARY; AND

20 ~~_____ (2) trust property that is subject to a support provision is not subject to the~~
21 ~~enforcement of a judgment until income or principal or both is distributed directly to the~~
22 ~~beneficiary.~~

23 ~~(b) The use, occupancy, and enjoyment of a single parcel of residential real property~~
24 ~~(as designated by the trustee) and tangible personal property by a beneficiary whose interest~~ 2)

25 TRUST PROPERTY THAT IS SUBJECT TO A SUPPORT PROVISION ~~may not be~~
26 ~~transferred by the beneficiary of such use, occupancy or enjoyment; and such use, occupancy, and~~
27 ~~enjoyment are~~ IS NOT SUBJECT TO THE ENFORCEMENT OF any A JUDGMENT
28 ~~against~~ UNTIL INCOME OR PRINCIPAL OR BOTH IS DISTRIBUTED DIRECTLY TO THE
29 BENEFICIARY.

30 ~~SECTION~~

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

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

~~14.5—504. SPENDTHRIFT PROVISION.~~

(A) A SPENDTHRIFT PROVISION IS VALID AND ENFORCEABLE.

(B) A PROVISION OF A TRUST PROVIDING THAT THE INTEREST OF A BENEFICIARY IS HELD SUBJECT TO A “SPENDTHRIFT TRUST;”² OR WORDS OF SIMILAR IMPORT, RESTRAINS BOTH VOLUNTARY AND INVOLUNTARY TRANSFER OF THE BENEFICIARY’S INTEREST.

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

(D) (1) A BENEFICIARY MAY NOT TRANSFER AN INTEREST IN A TRUST IN VIOLATION OF A VALID SPENDTHRIFT PROVISION AND, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A CREDITOR OR ASSIGNEE OF THE BENEFICIARY MAY NOT REACH THE INTEREST OR A DISTRIBUTION BY THE TRUSTEE BEFORE its THE RECEIPT BY THE BENEFICIARY. ~~Any OF THE INTEREST OR DISTRIBUTION.~~

~~(2) AN ATTEMPT BY A BENEFICIARY TO TRANSFER AN INTEREST IN A TRUST IN VIOLATION OF A VALID spendthrift provision shall be void and of no effect.~~

~~(e) The use, occupancy, and enjoyment of a single parcel of residential real property (as designated by the trustee) and tangible personal property by a beneficiary whose interest is subject to a spendthrift provision may not be transferred; and such use, occupancy, and enjoyment are not subject to the enforcement of any judgment against the beneficiary.~~ SPENDTHRIFT PROVISION SHALL BE VOID AND OF NO EFFECT.

~~SECTION~~

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

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

~~14.5-505. EXCEPTIONS TO SUPPORT AND SPENDTHRIFT PROVISIONS.—505.~~

1 (A) IN THIS SECTION, "CHILD" INCLUDES ANY PERSON FOR WHOM
2 AN ORDER OR JUDGMENT FOR CHILD SUPPORT HAS BEEN ENTERED IN THIS OR
3 ANOTHER ~~State~~STATE.

4 (B) SUBJECT TO THE PROVISIONS OF ~~Section~~§ 14.5-502, -502 OF
5 THIS SUBTITLE, THE INTEREST OF A BENEFICIARY THAT IS SUBJECT TO EITHER
6 A SPENDTHRIFT PROVISION OR A SUPPORT PROVISION OR BOTH CAN BE
7 REACHED IN SATISFACTION OF AN ENFORCEABLE CLAIM AGAINST THE
8 BENEFICIARY BY ~~any of~~ THE FOLLOWING:

9 (1) ~~a beneficiary's~~ A CHILD, SPOUSE, OR FORMER SPOUSE OF
10 THE BENEFICIARY WHO HAS A JUDGMENT OR COURT ORDER AGAINST THE
11 BENEFICIARY FOR SUPPORT OR MAINTENANCE;

12 ~~_____ (2) a judgment creditor who has provided services for the protection of a~~
13 ~~beneficiary's interest in the trust; or~~

14 ~~_____ (3) a claim of this State or the United States to the extent a statute of this~~
15 ~~State or federal law so provides.~~

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

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

20 (C) (1) A CLAIMANT DESCRIBED IN SUBSECTION (B) OF THIS SECTION
21 MAY OBTAIN FROM A COURT AN ORDER ATTACHING PRESENT OR FUTURE
22 DISTRIBUTIONS TO OR FOR THE BENEFIT OF THE BENEFICIARY; ~~but the~~

23 (2) THE COURT MAY ONLY ORDER THE TRUSTEE TO SATISFY ALL
24 OR PART OF THE JUDGMENT OUT OF PAYMENTS OF INCOME OR PRINCIPAL AS
25 THEY BECOME DUE.

26 (3) THE COURT MAY LIMIT THE AWARD TO SUCH RELIEF AS IS
27 APPROPRIATE UNDER THE CIRCUMSTANCES, CONSIDERING AMONG ANY OTHER
28 FACTORS DETERMINED APPROPRIATE BY THE COURT: ~~the~~

29 (I) THE SUPPORT NEEDS OF THE BENEFICIARY'S SPOUSE,
30 FORMER SPOUSE, AND DEPENDENT CHILDREN, ~~the~~;

31 (II) THE SUPPORT NEEDS OF THE BENEFICIARY; ~~or, with~~

1 (III) WITH RESPECT TO A BENEFICIARY WHO IS THE
 2 RECIPIENT OF PUBLIC BENEFITS, THE SUPPLEMENTAL NEEDS OF THE
 3 BENEFICIARY IF THE TRUST WAS NOT INTENDED TO PROVIDE FOR THE
 4 beneficiary's BASIC SUPPORT OF THE BENEFICIARY.

5 ~~SECTION 14.5-506. MANDATORY DISTRIBUTION PROVISION.~~

6 (A) TO THE EXTENT THAT THE INTEREST OF A BENEFICIARY
 7 SUBJECT TO A MANDATORY DISTRIBUTION PROVISION, OTHER THAN A SUPPORT
 8 PROVISION, DOES NOT CONTAIN A SPENDTHRIFT PROVISION, THE COURT MAY
 9 AUTHORIZE A CREDITOR OR ASSIGNEE OF THE BENEFICIARY TO ATTACH
 10 PRESENT OR FUTURE MANDATORY DISTRIBUTIONS TO OR FOR THE BENEFIT OF
 11 THE BENEFICIARY, OR TO REACH THE BENEFICIARY'S INTEREST BY OTHER
 12 MEANS, AS PROVIDED IN Section 14.5-501. (b) Whether or not a trust contains a
 13 spendthrift provision or a support provision, a creditor or assignee of a beneficiary may reach a
 14 mandatory distribution if the trustee has not made the distribution to the beneficiary within a
 15 reasonable time after the designated distribution date § 14.5-501 OF THIS SUBTITLE.

16 ~~SECTION~~

17 (B) A CREDITOR OR ASSIGNEE OF A BENEFICIARY MAY REACH A
 18 MANDATORY DISTRIBUTION OF A TRUST IF THE TRUSTEE HAS NOT MADE THE
 19 DISTRIBUTION TO THE BENEFICIARY WITHIN A REASONABLE TIME AFTER THE
 20 DESIGNATED DISTRIBUTION DATE, WHETHER OR NOT THE TRUST CONTAINS A
 21 SPENDTHRIFT PROVISION OR A SUPPORT PROVISION.

22 ~~14.5-507. POWERS OF APPOINTMENT CREATED BY A THIRD PARTY. 507.~~

23 (A) (1) A POWER OF APPOINTMENT HELD BY A PERSON OTHER
 24 THAN THE SETTLOR OF THE TRUST IS NOT A PROPERTY INTEREST; and neither that.

25 (2) THE POWER OF APPOINTMENT ~~nor any~~ DESCRIBED IN
 26 PARAGRAPH (1) OF THIS SUBSECTION AND PROPERTY SUBJECT TO THAT POWER
 27 OF APPOINTMENT MAY NOT BE JUDICIALLY FORECLOSED OR ATTACHED BY A
 28 CREDITOR OF THE HOLDER OF THE POWER.

29 (B) NONE OF THE FOLLOWING SHALL BE SUFFICIENT TO CREATE
 30 A GENERAL POWER OF APPOINTMENT OR A POWER OF WITHDRAWAL WITH
 31 RESPECT TO A BENEFICIARY OR SETTLOR:

32 (1) ~~the~~ THE BENEFICIARY SERVING AS A TRUSTEE OR ~~co-trustee~~
 33 as described in subsection (b) COTRUSTEE;

34 (2) ~~the~~ THE SETTLOR OR THE BENEFICIARY HOLDING AN
 35 UNRESTRICTED POWER TO REMOVE OR REPLACE A TRUSTEE;

1 (3) ~~the~~ THE SETTLOR OR THE BENEFICIARY OF A TRUST
2 SERVING AS A TRUST ADMINISTRATOR, A PARTNER OF A PARTNERSHIP, A
3 MANAGER OF A LIMITED LIABILITY COMPANY, AN OFFICER OF A CORPORATION,
4 OR ~~any other~~ ANOTHER MANAGERIAL FUNCTION OF ~~any other~~ ANOTHER TYPE OF
5 ENTITY IF PART OR ALL OF THE TRUST PROPERTY CONSISTS OF AN INTEREST IN
6 THE ENTITY;

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

9 (5) ~~THE settlor's or beneficiary's~~ AGENT, ACCOUNTANT,
10 ATTORNEY, FINANCIAL ~~advisor~~ ADVISER, OR FRIEND OF THE SETTLOR OR
11 BENEFICIARY SERVING AS TRUSTEE OF THE TRUST;

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

14 (7) A POWER OF APPOINTMENT HELD BY THE SETTLOR
15 OTHER THAN THE ~~settlor's~~ RESERVED POWER OF THE SETTLOR TO WITHDRAW
16 TRUST PROPERTY FOR THE BENEFIT OF THE SETTLOR, THE ~~settlor's~~ CREDITORS
17 OF THE SETTLOR, THE ~~settlor's~~ ESTATE OF THE SETTLOR, OR THE CREDITORS OF
18 THE ESTATE OF THE SETTLOR's estate;

19 (8) A POWER TO SUBSTITUTE PROPERTY OF EQUIVALENT
20 VALUE FOR TRUST PROPERTY AS DEFINED IN ~~Internal Revenue Code of 1986 section~~ §
21 675(4)(C) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; OR

22 (9) A POWER TO BORROW TRUST PROPERTY FOR LESS
23 THAN ADEQUATE INTEREST OR WITHOUT SECURITY AS DEFINED IN § 675(2) OF
24 THE INTERNAL REVENUE CODE OF 1986-section 675(2) 1986, AS AMENDED.
25 SECTION

26 ~~14.5-508. CREDITOR'S CLAIM AGAINST SETTLOR OR HOLDER OF POWER OF~~
27 ~~WITHDRAWAL. -508.~~

28 (A) THE FOLLOWING RULES APPLY, WHETHER OR NOT THE TERMS OF A
29 TRUST CONTAIN A SPENDTHRIFT PROVISION:

30 ~~(a) Whether or not the terms of a trust contain a spendthrift provision, the following~~
31 ~~rules apply:~~ (1) DURING THE LIFETIME OF THE SETTLOR, THE
32 PROPERTY OF A REVOCABLE TRUST IS SUBJECT TO CLAIMS OF THE settlor's
33 CREDITORS OF THE SETTLOR;

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

3 ~~(A) the~~(I) THE CLAIM OF THE CREDITOR OR
4 ASSIGNEE; AND

5 ~~(B) the~~(II) THE MAXIMUM AMOUNT THAT CAN BE
6 DISTRIBUTED TO OR FOR THE ~~settlor's~~BENEFIT OF THE SETTLOR;

7 (3) IF A TRUST HAS MORE THAN ONE SETTLOR, THE
8 AMOUNT THE CREDITOR OR ASSIGNEE OF A PARTICULAR SETTLOR MAY REACH
9 MAY NOT EXCEED THE ~~settlor's~~INTEREST OF THE SETTLOR IN THE PORTION OF
10 THE TRUST ATTRIBUTABLE TO ~~that settlor's~~THE CONTRIBUTION OF THAT
11 SETTLOR;

12 (4) WITH RESPECT TO A TRUST DESCRIBED IN 42 U.S.C.
13 ~~section~~§ 1396P(D)(4)(A) OR (C), THE COURT MAY LIMIT THE AWARD OF a
14 ~~settlor's~~THE CREDITOR OF A SETTLOR UNDER subsections ITEMS (1) AND (2) OF THIS
15 SUBSECTION TO THE RELIEF THAT IS APPROPRIATE UNDER THE
16 CIRCUMSTANCES, CONSIDERING AMONG ~~any~~OTHER FACTORS DETERMINED
17 APPROPRIATE BY THE COURT, THE SUPPLEMENTAL NEEDS OF THE
18 BENEFICIARY;OR

19 ~~(5) After~~(5) (I) EXCEPT AS PROVIDED IN THIS ITEM, AFTER THE
20 DEATH OF A SETTLOR, AND SUBJECT TO THE RIGHT OF THE SETTLOR's right TO
21 DIRECT THE SOURCE FROM WHICH LIABILITIES WILL BE PAID, THE PROPERTY
22 OF A TRUST THAT WAS REVOCABLE AT THE DEATH OF THE SETTLOR's ~~death~~ IS
23 SUBJECT TO CLAIMS OF THE ~~settlor's~~ creditors. ~~Notwithstanding the provisions of this~~
24 ~~subsection, however, if~~CREDITORS OF THE SETTLOR; OR

25 (II) IF A CLAIM IS OR WOULD BE BARRED AGAINST THE
26 ~~settlor's~~PROBATE ESTATE OF THE SETTLOR UNDER Section§ 8—103 OF THIS ~~Estates~~
27 ~~and Trusts Article~~ARTICLE, THAT CLAIM IS BARRED AGAINST THE TRUSTEE AND
28 THE PROPERTY OF THE REVOCABLE TRUST.

29 ~~(B) An~~ IF ALL OF THE FOLLOWING APPLY, AN INDIVIDUAL WHO
30 CREATES A TRUST ~~shall~~MAY NOT BE CONSIDERED A SETTLOR WITH REGARD TO
31 ~~THE individual's~~ RETAINED BENEFICIAL INTEREST OF THE INDIVIDUAL IN THE
32 TRUST ~~if all of the following apply:~~

33 (1) THE INDIVIDUAL CREATES, OR HAS CREATED, THE
34 TRUST FOR THE BENEFIT OF THE ~~individual's~~ SPOUSE OF THE INDIVIDUAL;

1 (2) THE TRUST IS TREATED AS QUALIFIED TERMINABLE
2 INTEREST PROPERTY UNDER ~~section~~§ 2523(F) OF THE INTERNAL REVENUE
3 CODE OF ~~1986~~1986, AS AMENDED; AND

4 (3) ~~THE individual's~~ RETAINED BENEFICIAL INTEREST OF
5 THE INDIVIDUAL IN THE TRUST INCOME, TRUST PRINCIPAL, OR BOTH, FOLLOWS
6 THE TERMINATION OF ~~THE spouse's~~ PRIOR BENEFICIAL INTEREST OF THE
7 SPOUSE OF THE INDIVIDUAL IN THE TRUST.

8 ~~(C)~~ (1) DURING THE PERIOD THE POWER OF WITHDRAWAL MAY BE
9 EXERCISED, THE HOLDER OF A POWER OF WITHDRAWAL SHALL BE TREATED IN
10 THE SAME MANNER AS THE SETTLOR OF A REVOCABLE TRUST TO THE EXTENT
11 OF THE PROPERTY SUBJECT TO THAT POWER.

12 ~~(e) During the period the power of withdrawal may be exercised, the holder of a~~
13 ~~power of withdrawal shall be treated in the same manner as the settlor of a revocable trust to the~~
14 ~~extent of the property subject to that power.~~ 2) AFTER THE LAPSE, WAIVER, OR
15 RELEASE OF ~~a~~THE POWER OF WITHDRAWAL DESCRIBED IN PARAGRAPH (1) OF
16 THIS SUBSECTION, THE FORMER POWER HOLDER SHALL NO LONGER BE
17 CONSIDERED A SETTLOR OF THE TRUST.

18 14.5-509.

19 ~~SECTION 14.5-509. PERSONAL OBLIGATIONS OF TRUSTEE.~~ TRUST
20 PROPERTY IS NOT SUBJECT TO PERSONAL OBLIGATIONS OF THE TRUSTEE OF
21 THE TRUST, EVEN IF THE TRUSTEE BECOMES INSOLVENT OR BANKRUPT.

22 ~~SECTION 14.5-510. BENEFICIARY TRUSTEE INTERESTS.~~

23 (A) A CREDITOR MAY NOT ATTACH, EXERCISE, REACH, OR OTHERWISE
24 COMPEL DISTRIBUTION OF THE BENEFICIAL INTEREST OF A BENEFICIARY WHO
25 IS A TRUSTEE OR THE SOLE TRUSTEE OF THE TRUST, BUT WHO IS NOT A
26 SETTLOR OF THE TRUST, EXCEPT TO THE EXTENT THAT THE INTEREST WOULD
27 BE SUBJECT TO THE CLAIM OF THE CREDITOR's ~~claim~~ WERE THE BENEFICIARY
28 NOT ACTING AS ~~co-trustee~~ COTRUSTEE OR SOLE TRUSTEE OF THE TRUST.

29 (B) A CREDITOR MAY NOT ATTACH, EXERCISE, REACH, OR OTHERWISE
30 COMPEL DISTRIBUTION OF THE BENEFICIAL INTEREST OF A BENEFICIARY OR
31 ANY OTHER PERSON WHO HOLDS AN UNCONDITIONAL OR CONDITIONAL POWER
32 TO REMOVE A TRUSTEE, TO REPLACE A TRUSTEE, OR TO REMOVE AND REPLACE
33 A TRUSTEE, EXCEPT TO THE EXTENT THAT THE INTEREST WOULD BE SUBJECT
34 TO THE CLAIM OF THE CREDITOR's ~~claim~~ IF THE BENEFICIARY OR OTHER

1 PERSON DID NOT HAVE ~~such~~THE POWER TO REMOVE, REPLACE, OR REMOVE AND
2 REPLACE A TRUSTEE.

3 ~~SECTION 14.5-511. TRANSFER TO TRUST OF PROPERTY HELD BY~~
4 ~~TENANTS BY THE ENTIRETY. 511.~~

5 (A) ~~"Proceeds" defined.~~ IN THIS SECTION, "PROCEEDS" MEANS:

6 (1) PROPERTY ACQUIRED BY THE TRUSTEE ~~upon~~ON THE SALE,
7 LEASE, LICENSE, EXCHANGE, OR OTHER DISPOSITION OF PROPERTY
8 ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE OR TRUSTEES;

9 (2) PROPERTY COLLECTED BY THE TRUSTEE ON, OR
10 DISTRIBUTED ON ACCOUNT OF, PROPERTY ORIGINALLY CONVEYED BY A
11 HUSBAND AND WIFE TO A TRUSTEE OR TRUSTEES;

12 (3) RIGHTS ARISING OUT OF PROPERTY ORIGINALLY CONVEYED
13 BY A HUSBAND AND WIFE TO A TRUSTEE;

14 (4) CLAIMS ARISING OUT OF THE LOSS, NONCONFORMITY, OR
15 INTERFERENCE WITH THE USE OF, DEFECTS OR INFRINGEMENT OF RIGHTS IN,
16 OR DAMAGE TO, PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO
17 A TRUSTEE;

18 (5) INSURANCE PAYABLE BY REASON OF THE LOSS OR
19 NONCONFORMITY OF, DEFECTS OR INFRINGEMENT OF RIGHTS IN, OR DAMAGE
20 TO, PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO A TRUSTEE;
21 OR

22 (6) PROPERTY HELD BY THE TRUSTEE THAT IS OTHERWISE
23 TRACEABLE TO PROPERTY ORIGINALLY CONVEYED BY A HUSBAND AND WIFE TO
24 A TRUSTEE OR THE PROPERTY PROCEEDS DESCRIBED IN ITEMS (1) THROUGH
25 (5) OF THIS SUBSECTION.

26 ~~(b) Immunity from claims of separate creditors.~~ Any property (B) PROPERTY OF A
27 HUSBAND AND WIFE THAT WAS HELD BY THEM AS TENANTS BY THE ENTIRETY
28 AND SUBSEQUENTLY CONVEYED TO THE TRUSTEE OR TRUSTEES OF ONE OR
29 MORE TRUSTS, AND THE PROCEEDS OF THAT PROPERTY, SHALL HAVE THE SAME
30 IMMUNITY FROM THE CLAIMS OF ~~their~~THE SEPARATE CREDITORS OF THE
31 HUSBAND AND WIFE AS WOULD EXIST IF THE HUSBAND AND WIFE HAD
32 CONTINUED TO HOLD THE PROPERTY OR its proceedsTHE PROCEEDS FROM THE
33 PROPERTY AS TENANTS BY THE ENTIRETY, AS LONG AS:

34 (1) THE HUSBAND AND WIFE REMAIN MARRIED;

1 (2) THE PROPERTY OR ~~its~~THE PROCEEDS ~~continues~~FROM THE
2 PROPERTY CONTINUE TO BE HELD IN TRUST BY THE TRUSTEE OR TRUSTEES OR
3 ~~their~~THE SUCCESSORS IN TRUST ~~OF THE TRUSTEE OR TRUSTEES;~~

4 (3) BOTH THE HUSBAND AND ~~the~~ WIFE ARE BENEFICIARIES OF
5 THE TRUST OR TRUSTS; AND

6 (4) ~~the~~ THE TRUST INSTRUMENT, DEED, OR OTHER INSTRUMENT OF
7 CONVEYANCE PROVIDES THAT THIS SECTION SHALL APPLY TO THE PROPERTY
8 OR ~~its~~THE PROCEEDS FROM THE PROPERTY.

9 (C) ~~Death of spouse.~~ (1) AFTER THE DEATH OF THE FIRST OF THE
10 HUSBAND AND WIFE TO DIE, ALL PROPERTY HELD IN TRUST THAT WAS IMMUNE
11 FROM THE CLAIMS OF THEIR SEPARATE CREDITORS UNDER SUBSECTION (B) OF
12 THIS SECTION IMMEDIATELY PRIOR TO THE DEATH OF THE INDIVIDUAL'S ~~death~~
13 SHALL CONTINUE TO HAVE THE SAME IMMUNITY FROM THE CLAIMS OF THE
14 SEPARATE CREDITORS OF THE DECEDENT'S ~~separate creditors~~ AS WOULD HAVE
15 EXISTED IF THE HUSBAND AND WIFE HAD CONTINUED TO HOLD THE PROPERTY
16 CONVEYED IN TRUST, OR ~~its~~THE PROCEEDS FROM THE PROPERTY, AS TENANTS
17 BY THE ENTIRETY.

18 (2) TO THE EXTENT THAT THE SURVIVING SPOUSE REMAINS A
19 BENEFICIARY OF THE TRUST, THE PROPERTY THAT WAS IMMUNE FROM THE
20 CLAIMS OF THE SEPARATE CREDITORS OF THE DECEDENT UNDER PARAGRAPH
21 (1) OF THIS SUBSECTION SHALL BE SUBJECT TO THE CLAIMS OF THE SEPARATE
22 CREDITORS OF THE SURVIVING SPOUSE.

23 (D) ~~Waiver.~~ THE IMMUNITY FROM THE CLAIMS OF SEPARATE CREDITORS
24 UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION MAY BE WAIVED, AS TO
25 ~~any~~EACH SPECIFIC CREDITOR OR anyALL SEPARATE CREDITORS OF A HUSBAND
26 AND WIFE OR SPECIFICALLY DESCRIBED TRUST PROPERTY, ~~including without~~
27 ~~limitation, all separate creditors of a husband and wife~~ OR ALL FORMER TENANCY BY THE
28 ~~entirely~~ENTIRE PROPERTY CONVEYED TO THE TRUSTEE OR TRUSTEES, BY:

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

30 (2) THE WRITTEN CONSENT OF BOTH THE HUSBAND AND THE
31 WIFE.

32 (e) ~~Waiver—Failure to disclose identity of property.~~

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

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

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

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

16 (III) THE TERMS OF THE TRUST INSTRUMENT, INCLUDING
17 ~~any~~A SCHEDULE OR EXHIBIT ATTACHED TO THE TRUST INSTRUMENT, IF A COPY
18 OF THE TRUST INSTRUMENT IS PROVIDED WITH THE FINANCIAL STATEMENT.

19 (3) A WAIVER UNDER THIS SUBSECTION SHALL BE EFFECTIVE
20 ONLY AS TO:

21 (I) THE PERSON TO WHOM THE FINANCIAL STATEMENT IS
22 DELIVERED BY THE TRUSTEE;

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

26 (III) THE TRANSACTION FOR WHICH THE DISCLOSURE WAS
27 SOUGHT.

28 ~~(f) Burden of proof of immunity. In any~~ (F) IN A DISPUTE RELATING TO THE
29 IMMUNITY OF TRUST PROPERTY FROM THE CLAIMS OF A SEPARATE CREDITOR
30 OF A HUSBAND OR WIFE, THE TRUSTEE HAS THE BURDEN OF PROVING THE
31 IMMUNITY OF THE TRUST PROPERTY FROM THE CLAIMS OF THE CREDITOR'S
32 claims.

33 ~~(g) Effect of property once transferred to trustee.~~ (G) AFTER A CONVEYANCE TO A
34 TRUSTEE DESCRIBED IN SUBSECTION (B) OF THIS SECTION, THE PROPERTY

1 TRANSFERRED SHALL NO LONGER BE HELD BY THE HUSBAND AND WIFE AS
2 TENANTS BY THE ENTIRETY.

3 ~~(h) Existing State law not affected.~~ (H) THIS SECTION MAY NOT BE CONSTRUED TO
4 AFFECT EXISTING STATE LAW WITH RESPECT TO ~~tenancies~~ A TENANCY BY THE
5 ENTIRETY.

6 **SUBTITLE 6**
7 **REVOCABLE TRUSTS**
8 **SUBTITLE 6. REVOCABLE TRUSTS.**

9 ~~SECTION 14.5-601. CAPACITY OF SETTLOR OF REVOCABLE TRUST. 601.~~

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

14 (B) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE
15 CREATION OF A REVOCABLE TRUST IF ~~such~~ THAT CREATION IS OTHERWISE
16 AUTHORIZED UNDER ~~Maryland~~ STATE LAW.

17 ~~SECTION 14.5-602. REVOCATION OR AMENDMENT OF REVOCABLE TRUST.~~

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

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

23 (B) IF A REVOCABLE TRUST IS CREATED OR FUNDED BY MORE
24 THAN ONE SETTLOR:

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

28 ~~(2) to~~ TO THE EXTENT THE TRUST CONSISTS OF PROPERTY
29 OTHER THAN COMMUNITY PROPERTY, EACH SETTLOR MAY REVOKE OR AMEND
30 THE TRUST WITH REGARD TO THE PORTION OF THE TRUST PROPERTY
31 ATTRIBUTABLE TO ~~that settlor's~~ THE CONTRIBUTION OF THAT SETTLOR; AND

1 (3)~~—upon~~ ON THE REVOCATION OR AMENDMENT OF THE TRUST
 2 BY FEWER THAN ALL OF THE SETTLORS, THE TRUSTEE SHALL PROMPTLY
 3 NOTIFY THE OTHER SETTLORS OF THE REVOCATION OR AMENDMENT.

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

5 (1)~~—by~~ BY SUBSTANTIALLY COMPLYING WITH A METHOD TO
 6 REVOKE OR AMEND THE TRUST PROVIDED IN THE TERMS OF THE TRUST; OR

7 (2)~~—if~~ IF THE TERMS OF THE TRUST DO NOT PROVIDE A
 8 METHOD TO REVOKE OR AMEND THE TRUST OR THE METHOD PROVIDED IN THE
 9 TERMS OF THE TRUST IS NOT EXPRESSLY MADE EXCLUSIVE, BY:

10 (I) A~~—a~~ LATER WILL OR CODICIL THAT EXPRESSLY
 11 REFERS TO THE TRUST OR SPECIFICALLY DEVISES PROPERTY THAT WOULD
 12 OTHERWISE HAVE PASSED ACCORDING TO THE TERMS OF THE TRUST; OR

13 ~~—————(B) any other~~ (II) ANOTHER METHOD MANIFESTING
 14 CLEAR AND CONVINCING EVIDENCE OF THE INTENT OF THE SETTLOR~~'s intent.~~

15 (D)~~—Upon~~ ON REVOCATION OF A REVOCABLE TRUST, THE TRUSTEE
 16 SHALL DELIVER THE TRUST PROPERTY AS THE SETTLOR DIRECTS.

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

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

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

34 ~~————SECTION 14.5—603. SETTLOR'S POWERS.~~

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

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

10 ~~SECTION 14.5-604. LIMITATION ON ACTION CONTESTING VALIDITY OF~~
11 ~~REVOCABLE TRUST; DISTRIBUTION OF TRUST PROPERTY. 604.~~

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

15 (1) ~~one~~ 1 YEAR AFTER THE DEATH OF THE SETTLOR's death;

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

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

33 (B) ~~Upon~~ (1) ON THE DEATH OF THE SETTLOR OF A TRUST
34 THAT WAS REVOCABLE AT THE DEATH OF THE SETTLOR's death, THE TRUSTEE

1 MAY PROCEED TO DISTRIBUTE THE TRUST PROPERTY IN ACCORDANCE WITH
2 THE TERMS OF THE TRUST.

3 (2) THE TRUSTEE IS NOT SUBJECT TO LIABILITY FOR ~~doing~~
4 ~~so~~PROCEEDING AS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION UNLESS:

5 ~~—(1) the~~ (I) THE TRUSTEE KNOWS OF A PENDING JUDICIAL
6 PROCEEDING CONTESTING THE VALIDITY OF THE TRUST; OR

7 ~~(2II)—a~~ A POTENTIAL CONTESTANT HAS NOTIFIED THE
8 TRUSTEE OF A POSSIBLE JUDICIAL PROCEEDING TO CONTEST THE TRUST AND A
9 JUDICIAL PROCEEDING IS COMMENCED WITHIN 60 DAYS AFTER THE
10 CONTESTANT SENT THE NOTIFICATION.

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

13 SUBTITLE 7

14 OFFICE OF TRUSTEE

15 SUBTITLE 7. OFFICE OF TRUSTEE.

16 ~~—SECTION 14.5—701. ACCEPTING OR DECLINING TRUSTEESHIP.~~

17 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF
18 THIS SECTION, A PERSON DESIGNATED AS TRUSTEE ACCEPTS THE
19 TRUSTEESHIP:

20 (1) ~~by~~ BY SUBSTANTIALLY COMPLYING WITH A METHOD OF
21 ACCEPTANCE PROVIDED IN THE TERMS OF THE TRUST; OR

22 (2) ~~if~~ IF THE TERMS OF THE TRUST DO NOT PROVIDE A
23 METHOD OF ACCEPTANCE OF THE TRUSTEESHIP OR THE METHOD PROVIDED IN
24 THE TERMS IS NOT EXPRESSLY MADE EXCLUSIVE, BY ACCEPTING DELIVERY OF
25 THE TRUST PROPERTY, EXERCISING POWERS OR PERFORMING DUTIES AS
26 TRUSTEE, OR OTHERWISE INDICATING ACCEPTANCE OF THE TRUSTEESHIP.

27 (B) (1) A PERSON DESIGNATED AS TRUSTEE WHO HAS NOT YET
28 ACCEPTED THE TRUSTEESHIP MAY REJECT THE TRUSTEESHIP.

29 (2) A DESIGNATED TRUSTEE WHO DOES NOT ACCEPT THE
30 TRUSTEESHIP WITHIN A REASONABLE TIME AFTER KNOWING OF THE
31 DESIGNATION IS DEEMED TO HAVE REJECTED THE TRUSTEESHIP.

1 (C) A PERSON DESIGNATED AS TRUSTEE, WITHOUT ACCEPTING
2 THE TRUSTEESHIP, MAY:

3 (1) ~~act~~ ACT TO PRESERVE THE TRUST PROPERTY IF, WITHIN A
4 REASONABLE TIME AFTER ACTING, THE PERSON SENDS A REJECTION OF THE
5 TRUSTEESHIP TO THE SETTLOR OR, IF THE SETTLOR IS DECEASED OR LACKS
6 CAPACITY, TO A QUALIFIED BENEFICIARY; AND

7 ~~inspect~~ (2) INSPECT OR INVESTIGATE TRUST PROPERTY TO
8 DETERMINE POTENTIAL LIABILITY UNDER ENVIRONMENTAL OR OTHER LAW OR
9 FOR ANY OTHER PURPOSE.

10 ~~SECTION 14.5-702. TRUSTEE'S BOND.~~

11 (A) A TRUSTEE SHALL GIVE BOND TO SECURE PERFORMANCE OF
12 THE ~~trustee's~~ DUTIES OF THE TRUSTEE ONLY IF THE COURT ~~finds~~

13 (1) FINDS THAT A BOND IS NEEDED TO PROTECT THE INTERESTS
14 OF THE BENEFICIARIES OR IS REQUIRED BY THE TERMS OF THE TRUST; ~~AND the~~
15 ~~court has~~

16 (2) HAS NOT DISPENSED WITH THE REQUIREMENT.

17 (B) (1) THE COURT MAY SPECIFY THE AMOUNT OF A BOND, its THE
18 LIABILITIES OF THE BOND, AND WHETHER SURETIES FOR THE BOND ARE
19 NECESSARY.

20 (2) THE COURT MAY MODIFY OR TERMINATE A BOND AT ANY
21 TIME.

22 (C) A NATIONAL BANKING ASSOCIATION AS DEFINED IN THE
23 FINANCIAL INSTITUTIONS ARTICLE OR A TRUST COMPANY QUALIFIED TO DO
24 TRUST BUSINESS IN ~~this~~ THE STATE NEED NOT GIVE BOND, EVEN IF REQUIRED BY
25 THE TERMS OF THE TRUST.

26 ~~SECTION 14.5-703. COTRUSTEES.~~

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

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

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

5 (C) A COTRUSTEE ~~must~~SHALL PARTICIPATE IN THE
6 PERFORMANCE OF ~~a trustee's~~THE FUNCTION OF A TRUSTEE UNLESS THE
7 COTRUSTEE IS UNAVAILABLE TO PERFORM THE FUNCTION BECAUSE OF
8 ABSENCE, ILLNESS, DISQUALIFICATION UNDER OTHER LAW, OR OTHER
9 TEMPORARY INCAPACITY OR THE COTRUSTEE HAS PROPERLY DELEGATED THE
10 PERFORMANCE OF THE FUNCTION TO ANOTHER TRUSTEE.

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

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

19 (2) UNLESS A DELEGATION OF AN INVESTMENT OR MANAGEMENT
20 FUNCTION WAS IRREVOCABLE, A TRUSTEE MAY REVOKE A DELEGATION
21 PREVIOUSLY MADE.

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

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

26 ~~prevent~~ (1) PREVENT A COTRUSTEE FROM COMMITTING A
27 SERIOUS BREACH OF TRUST; AND

28 ~~compel~~ (2) COMPEL A COTRUSTEE TO REDRESS A SERIOUS
29 BREACH OF TRUST.

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

1 (1) IF THE TERMS OF A TRUST PROVIDE FOR THE APPOINTMENT
2 OF MORE THAN ONE TRUSTEE BUT CONFER ~~upon~~ON ONE OR MORE OF THE
3 TRUSTEES, TO THE EXCLUSION OF THE OTHERS, THE POWER TO DIRECT OR
4 PREVENT CERTAIN ACTIONS OF THE TRUSTEES, ~~then:~~

5 (1) ~~the~~ THE EXCLUDED TRUSTEE SHALL ACT IN ACCORDANCE WITH
6 THE DIRECTION OF THE DIRECTING TRUSTEE AND ~~shall~~HIS NOT BE LIABLE FOR ANY
7 LOSS RESULTING DIRECTLY OR INDIRECTLY FROM ~~any such~~THE ACT, EXCEPT IN
8 THE CASE OF WILLFUL MISCONDUCT ON THE PART OF THE EXCLUDED TRUSTEE;
9 ~~and~~

10 (2) ~~the~~ THE EXCLUDED TRUSTEE SHALL HAVE NO DUTY TO:

11 (I) ~~monitor~~ MONITOR THE CONDUCT OF THE DIRECTING
12 TRUSTEE;

13 (II) ~~provide~~ PROVIDE ADVICE TO THE DIRECTING TRUSTEE; OR

14 (III) ~~communicate~~ COMMUNICATE WITH ~~or,~~ WARN, OR APPRISE
15 ~~any~~A BENEFICIARY OR THIRD PARTY CONCERNING INSTANCES IN WHICH THE
16 EXCLUDED TRUSTEE WOULD OR MIGHT HAVE EXERCISED THE DISCRETION OF
17 THE EXCLUDED TRUSTEE'S OWN DISCRETION IN A MANNER DIFFERENT FROM THE
18 MANNER DIRECTED BY THE DIRECTING TRUSTEE ~~;~~;

19 (3) ABSENT CLEAR AND CONVINCING EVIDENCE TO THE
20 CONTRARY, THE ACTIONS OF THE EXCLUDED TRUSTEE PERTAINING TO
21 MATTERS WITHIN THE SCOPE OF THE AUTHORITY OF THE DIRECTING TRUSTEE'S
22 authority (, SUCH AS CONFIRMING THAT THE DIRECTIONS OF THE DIRECTING
23 TRUSTEE'S DIRECTIONS HAVE BEEN CARRIED OUT AND RECORDING AND REPORTING
24 ACTIONS TAKEN AT THE DIRECTION OF THE DIRECTING TRUSTEE'S direction),
25 SHALL BE PRESUMED TO BE ADMINISTRATIVE ACTIONS TAKEN BY THE
26 EXCLUDED TRUSTEE SOLELY TO ALLOW THE EXCLUDED TRUSTEE TO PERFORM
27 THOSE DUTIES ASSIGNED TO THE EXCLUDED TRUSTEE BY THE TERMS OF THE
28 TRUST AND such THESE ADMINISTRATIVE ACTIONS shall MAY NOT BE DEEMED TO
29 CONSTITUTE AN UNDERTAKING BY THE EXCLUDED TRUSTEE TO MONITOR THE
30 DIRECTING TRUSTEE OR OTHERWISE PARTICIPATE IN ACTIONS WITHIN THE
31 SCOPE OF THE AUTHORITY OF THE DIRECTING TRUSTEE'S authority; AND

32 (34) ~~the~~ THE DIRECTING TRUSTEE SHALL BE LIABLE TO THE
33 BENEFICIARIES WITH RESPECT TO THE EXERCISE OF THE POWER AS IF THE
34 EXCLUDED TRUSTEE WERE NOT IN OFFICE, AND SHALL HAVE THE EXCLUSIVE

1 OBLIGATION TO ACCOUNT TO AND TO DEFEND ~~any~~AN ACTION BROUGHT BY THE
2 BENEFICIARIES WITH RESPECT TO THE EXERCISE OF THE POWER.

3 ~~SECTION 14.5-704. VACANCY IN TRUSTEESHIP; APPOINTMENT OF~~
4 ~~SUCCESSOR. 704.~~

5 (A) A VACANCY IN A TRUSTEESHIP OCCURS IF:

6 (1)~~-a~~ A PERSON DESIGNATED AS TRUSTEE REJECTS THE
7 TRUSTEESHIP;

8 (2)~~-a~~ A PERSON DESIGNATED AS TRUSTEE CANNOT BE
9 IDENTIFIED OR DOES NOT EXIST;

10 (3)~~-a~~ A TRUSTEE RESIGNS;

11 (4)~~-a~~ A TRUSTEE IS DISQUALIFIED OR REMOVED;

12 (5)~~-a~~ A TRUSTEE DIES;

13 (6)~~-a~~ A GUARDIAN OF THE PERSON OR GUARDIAN OF THE
14 PROPERTY IS APPOINTED FOR AN INDIVIDUAL SERVING AS TRUSTEE;

15 (7)~~-a~~ A TRUSTEE CANNOT BE LOCATED FOR 120 CONSECUTIVE DAYS;
16 OR

17 (8)~~-a~~ A TRUSTEE IS UNABLE TO HANDLE BUSINESS AFFAIRS AS
18 DETERMINED BY TWO ~~(2)~~-LICENSED PHYSICIANS.

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

21 ~~_____ (2) A VACANCY IN A TRUSTEESHIP must~~SHALL BE FILLED IF THE
22 TRUST HAS NO REMAINING TRUSTEE.

23 (C) A VACANCY IN A TRUSTEESHIP THAT IS REQUIRED TO BE
24 FILLED ~~must~~SHALL BE FILLED IN THE FOLLOWING ORDER OF PRIORITY:
25 ~~(1) BY A PERSON designated pursuant to:~~

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

28 ~~_____ (2) by a person appointed~~ (2) APPOINTED BY UNANIMOUS
29 AGREEMENT OF THE QUALIFIED BENEFICIARIES; OR

1 ~~_____ (3) by a person appointed _____~~ **(3) APPOINTED BY THE COURT.**

2 ~~_____ (d) Whether or not a vacancy in a trusteeship exists or is required to be filled, the~~ **(D)**
3 **THE COURT MAY APPOINT AN ADDITIONAL TRUSTEE OR SPECIAL**
4 **FIDUCIARY WHENEVER THE COURT CONSIDERS THE APPOINTMENT NECESSARY**
5 **FOR THE ADMINISTRATION OF THE TRUST, WHETHER OR NOT A VACANCY IN A**
6 **TRUSTEESHIP EXISTS OR IS REQUIRED TO BE FILLED.**

7 ~~—SECTION 14.5—705. RESIGNATION OF TRUSTEE.~~

8 (A) A TRUSTEE MAY RESIGN:

9 ~~(1) upon~~ **ON AT LEAST 30 DAYS' NOTICE TO the;**

10 ~~_____ (I) THE QUALIFIED BENEFICIARIES, the;~~

11 ~~_____ (II) THE SETTLOR, IF LIVING; AND all~~

12 ~~_____ (III) ALL COTRUSTEES OR, IF THERE IS NO COTRUSTEE, TO~~
13 **THE NEXT DESIGNATED SUCCESSOR TRUSTEE, IF ANY; OR**

14 ~~(2) with~~ **WITH THE APPROVAL OF THE COURT.**

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

18 ~~_____ (e) Any liability _____~~ **(C) LIABILITY OF A RESIGNING TRUSTEE OR OF any**
19 **sureties A SURETY ON THE BOND OF THE TRUSTEE'S bond FOR ACTS OR OMISSIONS**
20 **OF THE TRUSTEE IS NOT DISCHARGED OR AFFECTED BY THE trustee's**
21 **RESIGNATION OF THE TRUSTEE.**

22 ~~—SECTION 14.5—706. REMOVAL OF TRUSTEE.~~

23 **IN ADDITION TO THE GROUNDS AND PROCEDURES FOR REMOVAL OF A**
24 **FIDUCIARY SET FORTH IN Section § 15—112 OF THIS ARTICLE:**

25 ~~_____ (a)~~ **(1) THE SETTLOR, A COTRUSTEE, OR A BENEFICIARY MAY REQUEST**
26 **THE COURT TO REMOVE A TRUSTEE, OR A TRUSTEE MAY BE REMOVED BY THE**
27 **COURT ON its THE COURT'S OWN INITIATIVE;**

1 ~~_____~~(b) (2) THE COURT MAY REMOVE A TRUSTEE IF:

2 ~~_____~~(1) the ~~_____~~ (I) THE TRUSTEE HAS COMMITTED A SERIOUS
3 BREACH OF TRUST;

4 ~~_____~~(2) lack ~~_____~~ (II) LACK OF COOPERATION AMONG
5 COTRUSTEES SUBSTANTIALLY IMPAIRS THE ADMINISTRATION OF THE TRUST;
6 OR

7 ~~_____~~(3) because ~~_____~~ (III) BECAUSE OF UNFITNESS,
8 UNWILLINGNESS, OR PERSISTENT FAILURE OF THE TRUSTEE TO ADMINISTER
9 THE TRUST EFFECTIVELY, THE COURT DETERMINES THAT REMOVAL OF THE
10 TRUSTEE BEST SERVES THE INTERESTS OF THE BENEFICIARIES; AND

11 ~~_____~~(c) (3) PENDING A FINAL DECISION ON A REQUEST TO REMOVE A TRUSTEE,
12 OR IN LIEU OF OR IN ADDITION TO REMOVING A TRUSTEE, THE COURT MAY
13 ORDER ~~such~~ APPROPRIATE RELIEF UNDER Section § 14.5-1001-901(B) OF THIS
14 TITLE AS MAY BE NECESSARY TO PROTECT THE TRUST PROPERTY OR THE
15 INTERESTS OF THE BENEFICIARIES.

16 ~~—SECTION 14.5-707. DELIVERY OF PROPERTY BY FORMER TRUSTEE.—707.~~

17 (A) UNLESS A COTRUSTEE REMAINS IN OFFICE OR THE COURT
18 OTHERWISE ORDERS, AND UNTIL THE TRUST PROPERTY IS DELIVERED TO A
19 SUCCESSOR TRUSTEE OR OTHER PERSON ENTITLED TO ~~#~~THE TRUST PROPERTY,
20 A TRUSTEE WHO HAS RESIGNED OR BEEN REMOVED HAS THE DUTIES OF A
21 TRUSTEE AND THE POWERS NECESSARY TO PROTECT THE TRUST PROPERTY.

22 (B) A TRUSTEE WHO HAS RESIGNED OR HAS BEEN REMOVED
23 SHALL PROCEED EXPEDITIOUSLY TO DELIVER THE TRUST PROPERTY WITHIN
24 THE ~~trustee's~~ POSSESSION OF THE TRUSTEE TO THE COTRUSTEE, SUCCESSOR
25 TRUSTEE, OR OTHER PERSON ENTITLED TO ~~#~~THE TRUST PROPERTY.

26 ~~—SECTION 14.5-708. COMMISSIONS.~~

27 (A) ~~General rule.~~ ~~_____~~ (1) (I) A TESTAMENTARY TRUSTEE AND TRUSTEE
28 OF ANY OTHER TRUST WHOSE DUTIES COMPRISE THE COLLECTION AND
29 DISTRIBUTION OF INCOME FROM PROPERTY HELD UNDER A TRUST AGREEMENT
30 OR THE PRESERVATION AND DISTRIBUTION OF THE PROPERTY ARE ENTITLED
31 TO COMMISSIONS PROVIDED FOR IN THIS SECTION FOR ~~their~~ SERVICES IN
32 ADMINISTERING THE TRUSTS.

1 (II) THE AMOUNT AND SOURCE OF PAYMENT OF
2 COMMISSIONS ARE SUBJECT TO THE PROVISIONS OF ANY VALID AGREEMENT.
3 ~~Any~~

4 (III) A COURT HAVING JURISDICTION OVER THE
5 ADMINISTRATION OF THE TRUST MAY INCREASE OR DIMINISH COMMISSIONS
6 FOR SUFFICIENT CAUSE OR MAY ALLOW SPECIAL COMMISSIONS OR
7 COMPENSATION FOR SERVICES OF AN UNUSUAL NATURE.

8 (2) A SCHEDULE OF INCREASED RATES OF INCOME COMMISSIONS
9 AND CORPUS COMMISSIONS MAY BE CHARGED BY A TRUSTEE WHOSE ACTIVITIES
10 ARE SUBJECT TO STATE OR FEDERAL SUPERVISION OR WHO IS A MEMBER OF
11 THE MARYLAND BAR AND WHO HAS:

12 (I) FILED A SCHEDULE OF THE INCREASED RATES OF
13 COMMISSIONS WITH AN APPROPRIATE AGENCY; AND

14 (II) GIVEN NOTICE OF THE SCHEDULED RATES OR
15 REVISIONS TO THE ASCERTAINED BENEFICIARIES OF THE AFFECTED TRUST.
16

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

21 ~~(b) Income commissions. Accounting from July 1, 1981, whether or not the trust was in~~
22 ~~existence at that time, income commissions are:~~
23

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

26 ~~(1) 6 percent upon~~ 6% ON ALL INCOME FROM REAL ESTATE,
27 GROUND RENTS, AND MORTGAGES COLLECTED IN EACH YEAR; AND

28 ~~(2) 6 1/2 percent upon~~ (II) 1. 6.5% ON THE FIRST \$10,000 OF ALL
29 OTHER INCOME COLLECTED IN EACH YEAR, 5 percent upon the next \$10,000, 4 percent
30 upon the next \$10,000, and 3 percent upon any remainder.
31 ;

32 2. 5% ON THE NEXT \$10,000;

33 3. 4% ON THE NEXT \$10,000; AND

4. 3% ON ANY REMAINDER.

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

(II) INCOME COLLECTED INCLUDES anyA PORTION OF INCOME PAYABLE TO A TRUSTEE BUT WITHHELD BY THE PAYOR IN COMPLIANCE WITH any-REVENUE LAW.

~~(c) Corpus commissions.—Accounting from July 1, 1981, whether or not the trust was in existence at that time, commissions are payable at the end of each year upon~~ (C) (1) ACCOUNTING FROM JULY 1, 1981, REGARDLESS OF WHETHER THE TRUST WAS IN EXISTENCE AT THAT TIME, COMMISSIONS ARE PAYABLE AT THE END OF EACH YEAR ON THE FAIR VALUE OF THE CORPUS OR PRINCIPAL HELD IN TRUST AT THE END OF EACH YEAR AS FOLLOWS:

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

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

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

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

~~(3) Three twentieths of one percent~~ (III) .15% ON THE NEXT

\$500,000; AND

~~(4) One tenth of one percent upon~~ (IV) .1% ON ANY EXCESS.

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

(3) IF A TRUST TERMINATES, WITH RESPECT TO ALL OR any-PART OF THE CORPUS HELD IN TRUST IN THE COURSE OF anyA YEAR, THE COMMISSION FOR THAT YEAR SHALL BE REDUCED OR PRORATED ACCORDING TO THE PART OF THE YEAR ELAPSED AND THE AMOUNT OF CORPUS AS TO WHICH THE TRUST TERMINATES, AND BE CHARGEABLE, FOR such-part-of-a-year (and with respect to any such part of the corpus) at such THAT PART OF THE YEAR, AND WITH RESPECT TO THIS PART OF THE CORPUS, AT THE TERMINATION OF THE TRUST, uponON THE THEN VALUE OF THE CORPUS.

(D)—Sales.—(1) FOR SELLING REAL OR LEASEHOLD PROPERTY, A COMMISSION uponON THE PROCEEDS OF THE SALE IS PAYABLE AT THE RATE ALLOWED BY RULE OF COURT OR STATUTE TO TRUSTEES APPOINTED TO MAKE SALES UNDER DECREES OR ORDERS OF THE CIRCUIT COURT FOR THE COUNTY

1 WHERE THE REAL OR LEASEHOLD PROPERTY IS SITUATED, OR IF THE
2 PROPERTY IS LOCATED OUTSIDE MARYLAND, FOR SELLING SIMILAR PROPERTY
3 IN THE COUNTY WHERE THE TRUST IS BEING ADMINISTERED.

4 (2) THE COMMISSION DESCRIBED IN PARAGRAPH (1) OF THIS
5 SUBSECTION IS PAYABLE FROM THE PROCEEDS OF THE SALE WHEN
6 COLLECTED.

7 ~~(E) Final~~ (1) ON THE FINAL DISTRIBUTION. ~~Upon the final distribution OF~~
8 ~~anyA TRUST ESTATE, OR PORTION OF #A TRUST ESTATE,~~ AN ALLOWANCE IS
9 PAYABLE COMMENSURATE WITH THE LABOR AND RESPONSIBILITY INVOLVED IN
10 MAKING THE DISTRIBUTION, INCLUDING THE MAKING OF ~~anyA~~ DIVISION, THE
11 ASCERTAINMENT OF THE PARTIES ENTITLED TO THE DISTRIBUTION, THE
12 ASCERTAINMENT AND PAYMENT OF TAXES, AND ANY NECESSARY TRANSFER OF
13 ASSETS.

14 (2) THE ALLOWANCE DESCRIBED IN PARAGRAPH (1) OF THIS
15 SUBSECTION IS SUBJECT TO REVISION OR DETERMINATION BY anyA CIRCUIT
16 COURT HAVING JURISDICTION.

17 (3) IN THE ABSENCE OF SPECIAL CIRCUMSTANCES ~~the allowance,~~
18 THE ALLOWANCE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL
19 BE EQUAL TO one-half of one percent upon.005% OF THE FAIR VALUE OF THE CORPUS
20 THAT IS DISTRIBUTED.

21 ~~(F) Determination of~~ (1) IN DETERMINING WHAT IS ~~single trust.~~ ~~In determining~~
22 ~~what is~~ A SINGLE TRUST FOR THE APPLICATION OF THE RATES PROVIDED IN THIS
23 SECTION, ALL PROPERTY HELD UNDIVIDED UNDER THE TERMS OF THE WILL OR
24 OTHER INSTRUMENT CREATING THE TRUST SHALL BE CONSIDERED AS A SINGLE
25 TRUST.

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

30 ~~(G) Increased rates of income and corpus commissions — Trustees authorized to file~~
31 ~~schedule.~~ (1) INSTEAD OF THE RATES OF INCOME COMMISSIONS
32 AND CORPUS COMMISSIONS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS
33 SECTION, A TRUSTEE MAY CHARGE REASONABLE COMPENSATION CALCULATED
34 IN ACCORDANCE WITH A SCHEDULE OF RATES PREVIOUSLY FILED BY THE

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

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

6 (II) A MEMBER OF THE MARYLAND BAR ~~of this State.~~

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

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

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

14 (III) FOR A TRUSTEE ADMINISTERING AN ESTATE UNDER
15 THE JURISDICTION OF A COURT, ~~also~~IN ADDITION TO THE FILING DESCRIBED IN
16 ITEM (I) OR (II) OF THIS PARAGRAPH, WITH THE TRUST CLERK OF THE COURT.
17

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

23 (4) ~~Whenever a trustee files~~ (I) ON THE FILING BY A TRUSTEE OF A
24 SCHEDULE OF INCREASED RATES UNDER THIS SUBSECTION, THE TRUSTEE
25 SHALL GIVE NOTICE TO THE ASCERTAINED BENEFICIARIES OF EACH AFFECTED
26 TRUST.

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

32 (III) A BENEFICIARY OF A TRUST WHO OBJECTS TO THE
33 SCHEDULE OF RATES TO BE CHARGED TO THAT TRUST, AFTER NOTIFYING THE

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

3 ~~_____ (1) expenses _____~~ **(1) EXPENSES** THAT WERE PROPERLY
4 INCURRED IN THE ADMINISTRATION OF THE TRUST; AND

5 ~~(2) to~~ **TO** THE EXTENT NECESSARY TO PREVENT UNJUST
6 ENRICHMENT OF THE TRUST, EXPENSES THAT WERE NOT PROPERLY INCURRED
7 IN THE ADMINISTRATION OF THE TRUST.

8 (B) AN ADVANCE BY THE TRUSTEE OF MONEY FOR THE
9 PROTECTION OF THE TRUST GIVES RISE TO A LIEN AGAINST TRUST PROPERTY
10 TO SECURE REIMBURSEMENT WITH REASONABLE INTEREST.

11 ~~—SECTION 14.5-710. PERMISSIBLE HOLDERS OF TRUST OR FIDUCIARY~~
12 ~~POWERS.—710.~~

13 (A) ~~In general.~~ THE FOLLOWING PERSONS MAY EXERCISE TRUST
14 OR FIDUCIARY POWERS IN THIS STATE:

15 (1) AN INDIVIDUAL;

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

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

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

21 (4) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A BANK,
22 TRUST COMPANY, OR SAVINGS BANK, OTHER THAN ONE DESCRIBED IN ITEM (2)
23 OF THIS SUBSECTION, THAT IS:

24 (I) ORGANIZED UNDER THE LAWS OF ANOTHER STATE AND
25 AUTHORIZED TO EXERCISE TRUST OR FIDUCIARY POWERS IN THE STATE WHERE
26 ~~its~~ THE PRINCIPAL PLACE OF BUSINESS OF THE INSTITUTION IS LOCATED; OR

27 (II) ORGANIZED UNDER THE LAWS OF THE UNITED STATES
28 AND AUTHORIZED TO EXERCISE TRUST OR FIDUCIARY POWERS UNDER FEDERAL
29 LAW.

30 ~~(b) Bank, trust company, or savings bank.~~ ~~(1)~~ (B) (1) A BANK,
31 TRUST COMPANY, OR SAVINGS BANK DESCRIBED IN SUBSECTION (A) (4) OF THIS
32 SECTION MAY EXERCISE TRUST OR FIDUCIARY POWERS IN THIS STATE ONLY IF

1 THE LAWS OF THE STATE WHERE ITS PRINCIPAL PLACE OF BUSINESS IS
2 LOCATED AUTHORIZE A BANK, TRUST COMPANY, OR SAVINGS BANK FROM THIS
3 STATE TO EXERCISE TRUST OR FIDUCIARY POWERS IN THAT STATE.

4 (2) A BANK, TRUST COMPANY, OR SAVINGS BANK AUTHORIZED TO
5 EXERCISE TRUST POWERS UNDER SUBSECTION (A) (4) OF THIS SECTION SHALL
6 FILE WITH THE COMMISSIONER OF FINANCIAL REGULATION, ~~prior to~~BEFORE
7 EXERCISING TRUST POWERS IN THIS STATE, INFORMATION SUFFICIENT TO
8 IDENTIFY:

9 (I) THE CORRECT CORPORATE NAME OF THE BANK, TRUST
10 COMPANY, OR SAVINGS BANK;

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

13 (III) A RESIDENT AGENT; AND

14 (IV) ~~Any additional~~ ADDITIONAL INFORMATION CONSIDERED
15 NECESSARY BY THE COMMISSIONER FOR PROTECTION OF THE PUBLIC.

16 ~~SECTION 14.5-711. JUDGE, CLERK, OR REGISTER OF WILLS NOT TO SERVE AS~~
17 ~~TRUSTEE. —711.~~

18 A JUDGE OF ~~any~~A COURT ESTABLISHED UNDER THE LAWS OF THE STATE
19 OR THE UNITED STATES OR ~~any~~A CLERK OF COURT OR REGISTER OF WILLS,
20 UNLESS ~~he~~THE JUDGE IS THE SURVIVING SPOUSE OF THE GRANTOR OF THE
21 TRUST, OR IS RELATED TO THE GRANTOR WITHIN THE THIRD DEGREE, MAY NOT
22 SERVE AS A TRUSTEE OF ~~any~~AN INTER VIVOS OR TESTAMENTARY TRUST
23 CREATED BY AN INSTRUMENT AND EXECUTED IN ~~Maryland by the grantor or any~~THE
24 STATE BY THE GRANTOR OR A TRUSTEE, ADMINISTERED IN THE STATE OR
25 GOVERNED BY THE LAWS OF THE STATE, UNLESS ~~he~~THE JUDGE WAS ACTUALLY
26 SERVING AS A TRUSTEE OF THE TRUST ON DECEMBER 31, 1969.

27 **SUBTITLE 8**
28 **DUTIES AND POWERS OF TRUSTEE**
29 **SUBTITLE 8. DUTIES AND POWERS OF TRUSTEE.**

30 ~~SECTION 14.5-801. DUTY TO ADMINISTER TRUST.~~ Upon

31 ON ACCEPTANCE OF A TRUSTEESHIP, THE TRUSTEE SHALL ADMINISTER
32 THE TRUST IN GOOD FAITH, IN ACCORDANCE WITH ~~its~~THE TERMS AND PURPOSES

1 OF THE TRUST AND THE INTERESTS OF THE BENEFICIARIES, AND IN
2 ACCORDANCE WITH THIS TITLE.

3 ~~SECTION 14.5-802. DUTY OF LOYALTY.~~

4 (A) A TRUSTEE SHALL ADMINISTER THE TRUST SOLELY IN THE
5 INTERESTS OF THE BENEFICIARIES.

6 (B) SUBJECT TO THE RIGHTS OF PERSONS DEALING WITH OR
7 ASSISTING THE TRUSTEE AS PROVIDED IN ~~Section~~ § 14.5-1012, -912 OF THIS TITLE,
8 A SALE, AN ENCUMBRANCE, OR ANY OTHER TRANSACTION INVOLVING THE
9 INVESTMENT OR MANAGEMENT OF TRUST PROPERTY ENTERED INTO BY THE
10 TRUSTEE FOR THE trustee's own PERSONAL ACCOUNT OF THE TRUSTEE OR WHICH
11 IS OTHERWISE AFFECTED BY A CONFLICT BETWEEN THE trustee's FIDUCIARY AND
12 PERSONAL INTERESTS OF THE TRUSTEE IS VOIDABLE BY A BENEFICIARY
13 AFFECTED BY THE TRANSACTION UNLESS:

14 (1) ~~the~~ THE TRANSACTION WAS AUTHORIZED BY THE TERMS OF
15 THE TRUST;

16 (2) ~~the~~ THE TRANSACTION WAS APPROVED BY THE COURT;

17 (3) ~~the~~ THE BENEFICIARY DID NOT COMMENCE A JUDICIAL
18 PROCEEDING WITHIN THE TIME ALLOWED BY ~~Section~~ § 14.5-1005-905 OF THIS
19 TITLE;

20 (4) ~~the~~ THE BENEFICIARY CONSENTED TO THE trustee's
21 CONDUCT OF THE TRUSTEE, RATIFIED THE TRANSACTION, OR RELEASED THE
22 TRUSTEE IN COMPLIANCE WITH ~~Section~~ § 14.5-1009-909 OF THIS TITLE; OR

23 (5) ~~the~~ THE TRANSACTION INVOLVES A CONTRACT ENTERED
24 INTO OR CLAIM ACQUIRED BY THE TRUSTEE BEFORE THE PERSON BECAME OR
25 CONTEMPLATED BECOMING TRUSTEE.

26 (C) A SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING
27 THE INVESTMENT OR MANAGEMENT OF TRUST PROPERTY IS PRESUMED TO BE
28 AFFECTED BY A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF
29 ~~#~~THE TRANSACTION IS ENTERED INTO BY THE TRUSTEE WITH:

30 ~~the trustee's~~ (1) THE SPOUSE OF THE TRUSTEE;

31 ~~the trustee's~~ (2) THE DESCENDANTS, SIBLINGS, PARENTS; OF
32 THE TRUSTEE OR their THE SPOUSES OF THE DESCENDANTS, SIBLINGS, PARENTS
33 OF THE TRUSTEE;

1 (3) ~~an~~ AN AGENT OR ATTORNEY OF THE TRUSTEE; OR

2 (4) ~~a~~ A CORPORATION OR ANY OTHER PERSON OR
3 ENTERPRISE ~~in which the trustee,~~ OR A PERSON THAT OWNS A SIGNIFICANT
4 INTEREST IN THE TRUSTEE, IN WHICH THE TRUSTEE HAS AN INTEREST THAT
5 MIGHT AFFECT THE trustee's BEST JUDGMENT OF THE TRUSTEE.

6 (D) A TRANSACTION THAT DOES NOT ~~concerning~~ CONCERN TRUST
7 PROPERTY IN WHICH THE TRUSTEE ENGAGES IN ~~the trustee's~~ AN INDIVIDUAL
8 CAPACITY INVOLVES A CONFLICT BETWEEN PERSONAL AND FIDUCIARY
9 INTERESTS IF THE TRANSACTION CONCERNS AN OPPORTUNITY PROPERLY
10 BELONGING TO THE TRUST.

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

14 (2) IF THE TRUST IS THE SOLE OWNER OF A CORPORATION OR
15 OTHER FORM OF ENTERPRISE, THE TRUSTEE SHALL ELECT OR APPOINT
16 DIRECTORS OR OTHER MANAGERS WHO WILL MANAGE THE CORPORATION OR
17 ENTERPRISE IN THE BEST INTERESTS OF THE BENEFICIARIES.

18 (F) THIS SECTION DOES NOT PRECLUDE THE FOLLOWING
19 TRANSACTIONS, IF FAIR TO THE BENEFICIARIES:

20 (1) ~~an~~ AN AGREEMENT BETWEEN A TRUSTEE AND A
21 BENEFICIARY RELATING TO THE APPOINTMENT OR COMPENSATION OF THE
22 TRUSTEE;

23 ~~payment~~ (2) PAYMENT OF REASONABLE COMPENSATION
24 TO THE TRUSTEE;

25 (3) ~~a~~ A TRANSACTION BETWEEN A TRUST AND ANOTHER
26 TRUST, DECEDENT'S ESTATE, OR GUARDIANSHIP ESTATE OF WHICH THE
27 TRUSTEE IS A FIDUCIARY OR IN WHICH A BENEFICIARY HAS AN INTEREST; OR

28 (4) ~~an~~ AN ADVANCE BY THE TRUSTEE OF MONEY FOR THE
29 PROTECTION OF THE TRUST.

30 ~~The~~ (G) IF ENTERED INTO BY THE TRUSTEE, THE COURT MAY APPOINT
31 A SPECIAL FIDUCIARY TO MAKE A DECISION WITH RESPECT TO ~~any~~ THE

1 PROPOSED TRANSACTION THAT MIGHT VIOLATE THIS SECTION if entered into by the
2 trustee.

3 ~~SECTION 14.5-803. IMPARTIALITY.~~

4 IF A TRUST HAS TWO OR MORE BENEFICIARIES, THE TRUSTEE SHALL ACT
5 IMPARTIALLY IN INVESTING, MANAGING, AND DISTRIBUTING THE TRUST
6 PROPERTY, GIVING DUE REGARD TO THE ~~beneficiaries'~~ RESPECTIVE INTERESTS OF
7 THE BENEFICIARIES.

8 ~~SECTION 14.5-804. PRUDENT ADMINISTRATION.~~

9 (A) A TRUSTEE SHALL ADMINISTER THE TRUST AS A PRUDENT PERSON
10 WOULD, BY CONSIDERING THE PURPOSES, TERMS, DISTRIBUTIONAL
11 REQUIREMENTS, AND OTHER CIRCUMSTANCES OF THE TRUST.

12 (B) IN SATISFYING ~~this~~ THE STANDARD DESCRIBED IN SUBSECTION (A)
13 OF THIS SECTION, THE TRUSTEE SHALL EXERCISE REASONABLE CARE, SKILL,
14 AND CAUTION.

15 ~~SECTION 14.5-805. COSTS OF ADMINISTRATION.~~

16 IN ADMINISTERING A TRUST, THE TRUSTEE MAY INCUR ONLY COSTS THAT
17 ARE REASONABLE IN RELATION TO THE TRUST PROPERTY, THE PURPOSES OF
18 THE TRUST, AND THE SKILLS OF THE TRUSTEE.

19 ~~SECTION 14.5-806. TRUSTEE'S SKILLS.~~

20 A TRUSTEE WHO HAS SPECIAL SKILLS OR EXPERTISE, OR IS NAMED
21 TRUSTEE IN RELIANCE ~~upon~~ ON THE trustee's REPRESENTATION OF THE TRUSTEE
22 THAT THE TRUSTEE HAS SPECIAL SKILLS OR EXPERTISE, SHALL USE THOSE
23 SPECIAL SKILLS OR EXPERTISE.

24 ~~SECTION 14.5-807. DELEGATION BY TRUSTEE.~~

25 (A) (1) A TRUSTEE MAY DELEGATE DUTIES AND POWERS THAT A
26 PRUDENT TRUSTEE OF COMPARABLE SKILLS COULD PROPERLY DELEGATE
27 UNDER THE CIRCUMSTANCES TO AN AGENT, EVEN IF THE AGENT IS ASSOCIATED
28 WITH THE TRUSTEE. ~~The~~

29 (2) A TRUSTEE SHALL EXERCISE REASONABLE CARE, SKILL, AND
30 CAUTION IN:

31 (1) selecting (I) SELECTING AN AGENT;

1 ~~_____ (2) establishing _____~~ **(II) ESTABLISHING THE SCOPE AND**
2 **TERMS OF THE DELEGATION, CONSISTENT WITH THE PURPOSES AND TERMS OF**
3 **THE TRUST; AND**

4 ~~_____ (3) periodically _____~~ **(III) PERIODICALLY REVIEWING THE agent's**
5 **ACTIONS OF THE AGENT IN ORDER TO MONITOR THE agent's PERFORMANCE OF**
6 **THE AGENT AND COMPLIANCE WITH THE TERMS OF THE DELEGATION BY THE**
7 **AGENT.**

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

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

14 **(D) BY ACCEPTING A DELEGATION OF POWERS OR DUTIES FROM**
15 **THE TRUSTEE OF A TRUST THAT IS SUBJECT TO THE ~~law~~LAWS OF THIS STATE, AN**
16 **AGENT SUBMITS TO THE JURISDICTION OF THE COURTS OF THIS STATE.**

17 **(E) THIS SECTION ~~shall~~DOES NOT APPLY TO A DELEGATION OF**
18 **INVESTMENT DUTIES OR POWERS ~~pursuant to Section 15~~IN ACCORDANCE WITH §**
19 **~~15-114~~ OF THIS ~~Article~~ARTICLE.**

20 ~~—SECTION 14.5—808. POWERS TO DIRECT.~~

21 **(A) WHILE A TRUST IS REVOCABLE, THE TRUSTEE MAY FOLLOW A**
22 **DIRECTION OF THE SETTLOR THAT IS CONTRARY TO THE TERMS OF THE TRUST,**
23 **EVEN IF IN DOING SO ~~(i) the~~;**

24 ~~_____ (1) THE TRUSTEE EXCEEDS THE AUTHORITY GRANTED TO THE~~
25 ~~TRUSTEE UNDER THE TERMS OF THE TRUST; OR ~~(ii) the~~~~

26 ~~_____ (2) THE TRUSTEE WOULD OTHERWISE VIOLATE A DUTY THE~~
27 ~~TRUSTEE OWES UNDER THE TRUST.~~

28 ~~_____ (b) If~~ **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
29 **SUBSECTION, IF THE TERMS OF A TRUST CONFER ~~upon~~ON ONE OR MORE**
30 **PERSONS, ~~(OTHER THAN THE SETTLOR OF A REVOCABLE TRUST),~~ A POWER TO**
31 **DIRECT, CONSENT TO, OR DISAPPROVE ~~a trustee's~~THE ACTUAL OR PROPOSED**

1 INVESTMENT DECISIONS OF A TRUSTEE, DISTRIBUTION ~~decisions, or other decisions~~
 2 ~~of the trustee, such~~ DECISIONS, OR OTHER DECISIONS OF THE TRUSTEE, THE
 3 PERSONS SHALL BE CONSIDERED ~~advisors~~ ADVISERS AND FIDUCIARIES WHO, AS
 4 SUCH, ARE REQUIRED TO ACT IN GOOD FAITH WITH REGARD TO THE PURPOSES
 5 OF THE TRUST AND THE INTERESTS OF THE BENEFICIARIES; ~~except that a beneficiary~~
 6 ~~who holds a power to direct, consent, or disapprove of a trustee action shall not be treated as a~~
 7 ~~fiduciary with respect to the exercise of such power to the extent that the only persons whose~~
 8 ~~interests in the trust are affected by the decision of the beneficiary are the beneficiary and those~~
 9 ~~persons whose interests in the trust are subject to control by the beneficiary through the exercise or~~
 10 ~~non-exercise of a power of appointment. An advisor is liable for any loss that results from breach of~~
 11 ~~a fiduciary duty. (c) If the terms of a trust provide that a trustee is to follow the direction of an~~
 12 ~~advisor with respect to investment decisions, distributions decisions, or other decisions of the~~
 13 ~~trustee, then,~~

14 ~~(1) the~~ 2) A BENEFICIARY WHO HOLDS A POWER TO DIRECT,
 15 CONSENT TO, OR DISAPPROVE OF A TRUSTEE ACTION MAY NOT BE TREATED AS
 16 A FIDUCIARY WITH RESPECT TO THE EXERCISE OF THE POWER TO THE EXTENT
 17 THAT THE ONLY PERSONS WHOSE INTERESTS IN THE TRUST ARE AFFECTED BY
 18 THE DECISION OF THE BENEFICIARY ARE THE BENEFICIARY AND THOSE
 19 PERSONS WHOSE INTERESTS IN THE TRUST ARE SUBJECT TO CONTROL BY THE
 20 BENEFICIARY THROUGH THE EXERCISE OF A POWER OF APPOINTMENT.

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

23 (C) (1) IF THE TERMS OF A TRUST PROVIDE THAT A TRUSTEE IS TO
 24 FOLLOW THE DIRECTION OF AN ADVISER WITH RESPECT TO PROPOSED
 25 INVESTMENT DECISIONS, DISTRIBUTION DECISIONS, OR OTHER DECISIONS OF
 26 THE TRUSTEE;

27 (I) THE TRUSTEE SHALL ACT IN ACCORDANCE WITH THE
 28 DIRECTION OF THE ~~advisor~~ ADVISER AND SHALL NOT BE LIABLE FOR any ~~any~~ A LOSS
 29 RESULTING DIRECTLY OR INDIRECTLY FROM ~~any such~~ THE ACT EXCEPT IN THE
 30 CASE OF WILLFUL MISCONDUCT ON THE PART OF THE TRUSTEE ~~so directed;~~ AND

31 ~~(2) the~~ II) THE TRUSTEE SHALL HAVE NO DUTY TO: ~~(i) monitor~~

32 1. MONITOR THE CONDUCT OF THE ~~advisor;~~ ~~(ii)~~
 33 ~~provide~~ ADVISER;

34 2. PROVIDE ADVICE TO THE ~~advisor;~~ ~~or~~ ~~(iii)~~
 35 ~~communicate~~ ADVISER; OR

36 3. COMMUNICATE WITH ~~or,~~ WARN, OR APPRISE ~~any~~ A
 37 BENEFICIARY OR THIRD PARTY CONCERNING INSTANCES IN WHICH THE

1 TRUSTEE WOULD OR MIGHT HAVE EXERCISED THE ~~trustee's own~~ DISCRETION OF
2 THE TRUSTEE IN A MANNER DIFFERENT FROM THE MANNER DIRECTED BY THE
3 ~~advisor.~~ ADVISER.

4 (2) ABSENT CLEAR AND CONVINCING EVIDENCE TO THE
5 CONTRARY, THE ACTIONS OF THE TRUSTEE PERTAINING TO MATTERS WITHIN
6 THE SCOPE OF THE ~~advisor's~~ AUTHORITY (OF THE ADVISER, SUCH AS CONFIRMING
7 THAT THE ~~advisor's~~ DIRECTIONS OF THE ADVISER HAVE BEEN CARRIED OUT AND
8 RECORDING AND REPORTING ACTIONS TAKEN AT THE ~~advisor's~~ DIRECTION) OF
9 THE ADVISER, SHALL BE PRESUMED TO BE ADMINISTRATIVE ACTIONS TAKEN BY
10 THE TRUSTEE SOLELY TO ALLOW THE TRUSTEE TO PERFORM THOSE DUTIES
11 ASSIGNED TO THE TRUSTEE BY THE TERMS OF THE TRUST, AND ~~such~~ THESE
12 ADMINISTRATIVE ACTIONS SHALL NOT BE DEEMED TO CONSTITUTE AN
13 UNDERTAKING BY THE TRUSTEE TO MONITOR THE ~~advisor~~ ADVISER OR
14 OTHERWISE PARTICIPATE IN ACTIONS WITHIN THE SCOPE OF THE ~~advisor's~~
15 AUTHORITY OF THE ADVISER.

16 (D) IF THE TERMS OF A TRUST PROVIDE THAT A TRUSTEE IS TO MAKE
17 DECISIONS WITH THE CONSENT OF AN ~~advisor,~~ ADVISER THEN, EXCEPT IN CASES
18 OF WILLFUL MISCONDUCT OR GROSS NEGLIGENCE ON THE PART OF THE
19 TRUSTEE, THE TRUSTEE ~~shall~~ IS NOT ~~be~~ LIABLE FOR ANY LOSS DIRECTLY OR
20 INDIRECTLY FROM ANY ACT TAKEN OR OMITTED AS A RESULT OF ~~such~~
21 ~~advisor's~~ THE FAILURE BY THE ADVISER TO PROVIDE ~~such~~ THE CONSENT AFTER
22 HAVING BEEN REQUESTED TO DO SO BY A TRUSTEE.

23 (E) UNLESS THE TERMS OF A TRUST OTHERWISE PROVIDE, AN
24 ~~advisor~~ ADVISER WHO IS GIVEN AUTHORITY WITH RESPECT TO INVESTMENT
25 DECISIONS HAS THE POWER TO PERFORM THE FOLLOWING:

26 (1) ~~direct~~ DIRECT THE TRUSTEE WITH RESPECT TO THE RETENTION,
27 PURCHASE, SALE, OR ENCUMBRANCE OF THE TRUST PROPERTY AND THE
28 INVESTMENT AND REINVESTMENT OF PRINCIPAL AND INCOME FROM THE
29 TRUST;

30 (2) ~~vote~~ VOTE PROXIES FOR SECURITIES HELD IN TRUST; AND

31 (3) ~~select~~ SELECT ONE OR MORE INVESTMENT ~~advisors~~ ADVISERS,
32 MANAGERS, OR COUNSELORS, INCLUDING THE TRUSTEE, AND DELEGATE TO
33 ~~them any~~ THE ADVISERS, MANAGERS, OR COUNSELORS A POWER OF THE ~~advisor's~~
34 ~~powers~~ ADVISER.

1 (F) THE TERMS OF A TRUST MAY CONFER ~~upon~~ON A TRUSTEE OR
2 OTHER PERSON A POWER TO DIRECT THE MODIFICATION OR TERMINATION OF
3 THE TRUST.

4 ~~SECTION 14.5-809. CONTROL AND PROTECTION OF TRUST PROPERTY. 809.~~

5 A TRUSTEE SHALL TAKE REASONABLE STEPS TO TAKE CONTROL OF AND
6 PROTECT THE TRUST PROPERTY, EXCEPT THAT THIS DUTY DOES NOT APPLY TO,
7 AND THE TRUSTEE IS NOT RESPONSIBLE FOR, ITEMS OF TANGIBLE PERSONAL
8 PROPERTY THAT ARE PROPERTY OF A TRUST THAT IS REVOCABLE BY THE
9 SETTLOR AND THAT ARE NOT IN THE POSSESSION OR CONTROL OF THE
10 TRUSTEE.

11 ~~SECTION 14.5-810. RECORDKEEPING AND IDENTIFICATION OF TRUST~~
12 ~~PROPERTY. 810.~~

13 (A) A TRUSTEE SHALL KEEP ADEQUATE RECORDS OF THE
14 ADMINISTRATION OF THE TRUST.

15 (B) A TRUSTEE SHALL KEEP TRUST PROPERTY SEPARATE FROM
16 ~~THE trustee's own~~PROPERTY OF THE TRUSTEE.

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

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

25 ~~SECTION 14.5-811. ENFORCEMENT AND DEFENSE OF CLAIMS. 811.~~

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

28 (B) A TRUSTEE MAY ABANDON anyA CLAIM THAT ~~is~~THE TRUSTEE
29 BELIEVES IS UNREASONABLE TO ENFORCE OR ASSIGN ~~such a~~THE CLAIM TO ONE
30 OR MORE OF THE BENEFICIARIES OF THE TRUST HOLDING THE CLAIM.

31 ~~SECTION 14.5-812. COLLECTING TRUST PROPERTY.~~

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

5 ~~SECTION 14.5-813. DUTY TO INFORM AND REPORT.~~

6 (A) UNLESS UNREASONABLE UNDER THE CIRCUMSTANCES, A
7 TRUSTEE SHALL PROMPTLY RESPOND TO THE REQUEST OF A QUALIFIED
8 BENEFICIARY's request FOR INFORMATION RELATED TO THE ADMINISTRATION OF
9 THE TRUST, INCLUDING A COPY OF THE TRUST INSTRUMENT.

10 ~~(b) A~~ (B) (1) ON REQUEST BY A QUALIFIED BENEFICIARY, A TRUSTEE
11 SHALL SEND TO THE QUALIFIED ~~beneficiaries who request it,~~ BENEFICIARY ANNUALLY
12 AND AT THE TERMINATION OF THE TRUST, A REPORT OF THE TRUST PROPERTY,
13 LIABILITIES, RECEIPTS, AND DISBURSEMENTS, INCLUDING THE SOURCE AND
14 AMOUNT OF THE trustee's COMPENSATION OF THE TRUSTEE, A LISTING OF THE
15 TRUST ASSETS AND, IF FEASIBLE, their THE RESPECTIVE MARKET VALUES OF THE
16 TRUST ASSETS. ~~Upon~~

17 (2) ON A VACANCY IN A TRUSTEESHIP, UNLESS A COTRUSTEE
18 REMAINS IN OFFICE, THE FORMER TRUSTEE ~~must~~ SHALL SEND A REPORT TO THE
19 QUALIFIED BENEFICIARIES WHO REQUEST it. ~~THE REPORT.~~

20 (3) A PERSONAL REPRESENTATIVE, GUARDIAN, OR
21 ATTORNEY ~~IN~~ FACT MAY SEND THE QUALIFIED BENEFICIARIES A REPORT ON
22 BEHALF OF THE FORMER TRUSTEE.

23 ~~SECTION 14.5-814. PROHIBITION FROM EXERCISING POWERS CONFERRED~~
24 UPON TRUSTEE. 814.

25 ~~(A) Prohibitions.~~ NONE OF THE FOLLOWING POWERS CONFERRED ~~upon~~ ON
26 A TRUSTEE BY THE GOVERNING INSTRUMENT MAY BE EXERCISED BY THAT
27 TRUSTEE:

28 (1) THE POWER TO MAKE ~~any~~ DISCRETIONARY DISTRIBUTIONS OF
29 EITHER PRINCIPAL OR INCOME TO, OR FOR THE BENEFIT OF, THE TRUSTEE IN
30 THE trustee's INDIVIDUAL CAPACITY OF THE TRUSTEE, UNLESS LIMITED BY AN
31 ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, AND
32 SUPPORT AND MAINTENANCE OF THE TRUSTEE's ~~health, education, support and~~
33 ~~maintenance,~~ AS DEFINED IN 26 U.S.C. §§ 2041 AND 2514 AND THE U.S.
34 TREASURY REGULATIONS ~~promulgated~~ ISSUED UNDER THOSE SECTIONS;

1 (2) THE POWER TO MAKE ~~any~~ DISCRETIONARY DISTRIBUTIONS OF
2 EITHER PRINCIPAL OR INCOME TO SATISFY ~~any~~ A LEGAL OBLIGATION OF THE
3 TRUSTEE'S legal obligations IN THE trustee's INDIVIDUAL CAPACITY OF THE TRUSTEE
4 FOR SUPPORT OR OTHER PURPOSES;

5 (3) THE POWER TO MAKE DISCRETIONARY ALLOCATIONS IN ~~the~~
6 ~~trustee's~~ FAVOR OF THE TRUSTEE OF RECEIPTS OR EXPENSES AS BETWEEN
7 INCOME AND PRINCIPAL;

8 (4) ~~Any~~ A POWER, IN WHATEVER CAPACITY HELD, TO REMOVE OR
9 REPLACE ~~any~~ A TRUSTEE WHO HOLDS ~~any of the powers~~ A POWER PROSCRIBED IN
10 THIS SUBSECTION; OR

11 (5) THE POWER TO EXERCISE ~~any of the powers~~ A POWER
12 PROSCRIBED IN THIS SUBSECTION WITH REGARD TO A BENEFICIARY OTHER
13 THAN THE TRUSTEE TO THE EXTENT THAT ~~such~~ THE BENEFICIARY COULD
14 EXERCISE A SIMILAR PROHIBITED POWER IN CONNECTION WITH A TRUST
15 WHICH BENEFITS THE TRUSTEE.

16 ~~(b) Effect of exercise of prohibited powers.~~ (B) IF A TRUSTEE IS PROHIBITED BY
17 SUBSECTION (A) (1) OF THIS SECTION FROM EXERCISING A POWER CONFERRED
18 upon ON THE TRUSTEE, THE TRUSTEE MAY NEVERTHELESS EXERCISE THE POWER
19 EXCEPT THAT THE trustee's EXERCISE OF THAT POWER BY THE TRUSTEE SHALL
20 BE LIMITED BY AN ASCERTAINABLE STANDARD RELATING TO THE HEALTH,
21 EDUCATION, AND SUPPORT AND MAINTENANCE OF THE TRUSTEE'S health,
22 education, support and maintenance, AS DEFINED IN 26 U.S.C. §§ 2041 AND 2514 AND
23 THE U.S. TREASURY REGULATIONS promulgated ISSUED UNDER THOSE SECTIONS.

24 ~~(c) Appointment of qualified trustee to exercise powers.~~ If the governing instrument
25 contains a power described under subsection (a) of this section, and there is no trustee who can
26 exercise such power, upon application of any party in interest, a court may appoint a trustee who is
27 not otherwise disqualified under this section to exercise any such power during the period of time
28 that the court designates.

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

35 ~~(d) Limitations on applicability.~~ (D) THIS SECTION DOES NOT APPLY IF:

1 (1) AS A RESULT OF THE APPLICATION OF SUBSECTION (A) OF
2 THIS SECTION, A MARITAL DEDUCTION FOR THE TRUST PROPERTY WOULD NOT
3 BE ALLOWED TO A SPOUSE WHO IS A TRUSTEE AND TO WHOM A MARITAL
4 DEDUCTION WOULD OTHERWISE BE ALLOWED UNDER THE INTERNAL REVENUE
5 CODE;

6 (2) THE TRUST IS REVOCABLE OR AMENDABLE, DURING THE
7 TIME THAT THE TRUST REMAINS REVOCABLE OR AMENDABLE; OR

8 (3) CONTRIBUTIONS TO THE TRUST QUALIFY FOR THE ANNUAL
9 EXCLUSION UNDER ~~Section~~ § 2503(C) OF THE INTERNAL REVENUE CODE OF 1986,
10 AS AMENDED, AS IN EFFECT ON THE EFFECTIVE DATE OF THIS TITLE, OR AS
11 LATER AMENDED.

12 ~~(e) Parties in interest; applicable trusts.~~

13 (E) (1) IN THIS SUBSECTION, "PARTIES IN INTEREST" MEANS:

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

15 (II) EACH INCOME BENEFICIARY AND REMAINDER
16 BENEFICIARY OF THE TRUST THEN IN EXISTENCE OR, IF ~~such~~ THE BENEFICIARY
17 HAS NOT ATTAINED MAJORITY OR IS OTHERWISE INCAPACITATED, THE
18 ~~beneficiary's~~ LEGAL REPRESENTATIVE OF THE BENEFICIARY UNDER APPLICABLE
19 LAW OR THE ~~beneficiary's~~ DONEE OF THE BENEFICIARY UNDER A DURABLE POWER
20 OF ATTORNEY THAT IS SUFFICIENT TO GRANT ~~such~~ THE AUTHORITY.

21 ~~(2) Subject to the provisions of~~ (2) EXCEPT AS PROVIDED IN SUBSECTION
22 (D) OF THIS SECTION, THIS SECTION APPLIES TO:

23 (I) ~~Any~~ A TRUST CREATED UNDER A GOVERNING INSTRUMENT
24 EXECUTED AFTER SEPTEMBER 30, 1995, UNLESS THE TERMS OF THE
25 GOVERNING INSTRUMENT PROVIDE EXPRESSLY THAT THIS SECTION DOES NOT
26 APPLY; AND

27 (II) ~~Any~~ A TRUST CREATED UNDER A GOVERNING INSTRUMENT
28 EXECUTED BEFORE OCTOBER 1, 1995, UNLESS ALL PARTIES IN INTEREST
29 ELECT AFFIRMATIVELY NOT TO BE SUBJECT TO THE APPLICATION OF THIS
30 SECTION ON OR BEFORE THE LATER OF OCTOBER 1, 1998, ~~or~~ AND 3 YEARS
31 AFTER THE DATE ON WHICH THE TRUST BECOMES IRREVOCABLE.

32 ~~(F) Affirmative election.~~ THE AFFIRMATIVE ELECTION REQUIRED UNDER
33 SUBSECTION (E) OF THIS SECTION ~~must~~ SHALL BE MADE THROUGH A WRITTEN

1 DECLARATION SIGNED BY THE INTERESTED PERSON AND DELIVERED TO THE
2 TRUSTEE.

3 ~~SECTION 14.5--815. GENERAL POWERS OF TRUSTEE.~~

4 (A) A TRUSTEE, WITHOUT AUTHORIZATION BY THE COURT, MAY
5 EXERCISE:

6 (1) ~~powers~~ POWERS CONFERRED BY THE TERMS OF THE TRUST; OR

7 (2) ~~except~~ EXCEPT AS LIMITED BY THE TERMS OF THE TRUST:

8 (A) ~~all~~ ALL POWERS OVER THE TRUST PROPERTY
9 ~~which~~ THAT AN UNMARRIED COMPETENT OWNER HAS OVER INDIVIDUALLY
10 OWNED PROPERTY;

11 (B) ~~any other~~ II OTHER POWERS APPROPRIATE TO ACHIEVE
12 THE PROPER INVESTMENT, MANAGEMENT, AND DISTRIBUTION OF THE TRUST
13 PROPERTY; AND

14 (C) ~~any other~~ III OTHER POWERS CONFERRED BY THIS
15 TITLE.

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

18 ~~SECTION 14.5--816. SPECIFIC POWERS OF TRUSTEE.~~

19 WITHOUT LIMITING THE AUTHORITY CONFERRED BY ~~Section §§ 14.5--815~~
20 OF THIS TITLE AND Section 15-102, 15-102 OF THIS ARTICLE, A TRUSTEE MAY:

21 (1) ~~collect~~ COLLECT TRUST PROPERTY AND ACCEPT OR REJECT
22 ADDITIONS TO THE TRUST PROPERTY FROM A SETTLOR OR ~~any~~ OTHER PERSON;

23 (2) ~~acquire~~ ACQUIRE OR SELL PROPERTY, FOR CASH OR ON
24 CREDIT, AT PUBLIC OR PRIVATE SALE;

25 ~~exchange~~ (3) EXCHANGE, PARTITION, OR OTHERWISE CHANGE
26 THE CHARACTER OF TRUST PROPERTY;

27 (4) ~~deposit~~ DEPOSIT TRUST MONEY IN AN ACCOUNT IN A
28 REGULATED FINANCIAL ~~—~~ SERVICE INSTITUTION;

1 (5)~~—borrow~~ BORROW MONEY, WITH OR WITHOUT SECURITY,
2 FROM ~~any~~A BANK SELECTED BY THE TRUSTEE, INCLUDING A BANK THAT IS
3 SERVING AS TRUSTEE OR ONE OF ~~its~~THE AFFILIATES OF THE BANK, AND
4 MORTGAGE OR PLEDGE TRUST PROPERTY FOR A PERIOD WITHIN OR EXTENDING
5 BEYOND THE DURATION OF THE TRUST;

6 (6)~~—with~~ WITH RESPECT TO AN INTEREST IN A
7 PROPRIETORSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY, BUSINESS
8 TRUST, CORPORATION, OR OTHER FORM OF BUSINESS OR ENTERPRISE,
9 CONTINUE THE BUSINESS OR OTHER ENTERPRISE AND TAKE ~~any~~AN ACTION
10 THAT MAY BE TAKEN BY SHAREHOLDERS, MEMBERS, OR PROPERTY OWNERS,
11 INCLUDING MERGING, DISSOLVING, OR OTHERWISE CHANGING THE FORM OF
12 BUSINESS ORGANIZATION OR CONTRIBUTING ADDITIONAL CAPITAL;

13 (7)~~—with~~ WITH RESPECT TO STOCKS OR OTHER SECURITIES,
14 EXERCISE THE RIGHTS OF AN ABSOLUTE OWNER, INCLUDING THE RIGHT TO:

15 ~~—————(A) vote~~ (I) VOTE, OR GIVE PROXIES TO VOTE, WITH OR
16 WITHOUT POWER OF SUBSTITUTION, OR ENTER INTO OR CONTINUE A VOTING
17 TRUST AGREEMENT;

18 ~~—————(B) hold~~ (II) HOLD A SECURITY IN THE NAME OF A
19 NOMINEE OR IN OTHER FORM WITHOUT DISCLOSURE OF THE TRUST SO THAT
20 TITLE MAY PASS BY DELIVERY;

21 ~~—————(C) pay~~ (III) PAY CALLS, ASSESSMENTS, AND OTHER
22 SUMS CHARGEABLE OR ACCRUING AGAINST THE SECURITIES, AND SELL OR
23 EXERCISE STOCK SUBSCRIPTION OR CONVERSION RIGHTS;

24 ~~—————(D) exercise~~ (IV) EXERCISE STOCK OPTIONS AND OTHER
25 RIGHTS; AND

26 ~~—————(E) deposit~~ (V) DEPOSIT THE SECURITIES WITH A
27 DEPOSITARY OR OTHER REGULATED FINANCIAL ~~—~~SERVICE INSTITUTION;

28 (8)~~—with~~ WITH RESPECT TO AN INTEREST IN REAL PROPERTY
29 AND SUBJECT TO PARAGRAPH (9) OF THIS SECTION, CONSTRUCT, OR MAKE
30 ORDINARY OR EXTRAORDINARY REPAIRS TO, ALTERATIONS TO, OR
31 IMPROVEMENTS IN, BUILDINGS OR OTHER STRUCTURES, DEMOLISH
32 IMPROVEMENTS, RAZE EXISTING OR ERECT NEW PARTY WALLS OR BUILDINGS,
33 SUBDIVIDE OR DEVELOP LAND, DEDICATE LAND TO PUBLIC USE OR GRANT

1 PUBLIC OR PRIVATE EASEMENTS ~~(subject to section 14.5-816(9))~~, AND MAKE OR
2 VACATE PLATS AND ADJUST BOUNDARIES;

3 (9) ~~donate~~ DONATE A CONSERVATION EASEMENT ON ~~any~~ REAL
4 PROPERTY, OR CONSENT TO THE DONATION OF A CONSERVATION EASEMENT ON
5 ~~any~~ REAL PROPERTY BY A PERSONAL REPRESENTATIVE OF AN ESTATE OF WHICH
6 THE TRUSTEE IS A LEGATEE, IN ORDER TO OBTAIN THE BENEFIT OF THE ESTATE
7 TAX EXCLUSION ALLOWED UNDER § 2031 (C) OF THE ~~United States~~ INTERNAL
8 REVENUE CODE OF 1986, AS AMENDED, IF:

9 (A) THE GOVERNING INSTRUMENT AUTHORIZES OR
10 DIRECTS THE DONATION OF A CONSERVATION EASEMENT ON THE REAL
11 PROPERTY; OR

12 (B) EACH BENEFICIARY WHO HAS AN INTEREST IN THE
13 REAL PROPERTY THAT WOULD BE AFFECTED BY THE CONSERVATION EASEMENT
14 CONSENTS IN WRITING TO THE DONATION;

15 (10) ~~enter~~ ENTER INTO A LEASE ~~for any purpose~~ AS LESSOR OR
16 LESSEE, INCLUDING A LEASE OR OTHER ARRANGEMENT FOR EXPLORATION AND
17 REMOVAL OF NATURAL RESOURCES, WITH OR WITHOUT THE OPTION TO
18 PURCHASE OR RENEW, FOR A PERIOD WITHIN OR EXTENDING BEYOND THE
19 DURATION OF THE TRUST;

20 (11) ~~grant~~ GRANT AN OPTION INVOLVING A SALE, LEASE, OR
21 OTHER DISPOSITION OF TRUST PROPERTY OR ACQUIRE AN OPTION FOR THE
22 ACQUISITION OF PROPERTY, INCLUDING AN OPTION EXERCISABLE BEYOND THE
23 DURATION OF THE TRUST, AND EXERCISE AN OPTION SO ACQUIRED;

24 (12) ~~insure~~ INSURE THE PROPERTY OF THE TRUST AGAINST
25 DAMAGE OR LOSS AND INSURE THE TRUSTEE, THE ~~trustee's~~ AGENTS OF THE
26 TRUSTEE, AND BENEFICIARIES AGAINST LIABILITY ARISING FROM THE
27 ADMINISTRATION OF THE TRUST;

28 (13) ~~abandon~~ ABANDON OR DECLINE TO ADMINISTER
29 PROPERTY OF NO VALUE OR OF INSUFFICIENT VALUE TO JUSTIFY ~~its~~ THE
30 COLLECTION OR CONTINUED ADMINISTRATION OF THE PROPERTY;

31 (14) ~~with~~ WITH RESPECT TO POSSIBLE LIABILITY FOR
32 VIOLATION OF ENVIRONMENTAL LAW:

33 ~~(A) inspect~~ (I) INSPECT OR INVESTIGATE PROPERTY THE
34 TRUSTEE HOLDS OR HAS BEEN ASKED TO HOLD, OR PROPERTY OWNED OR
35 OPERATED BY AN ORGANIZATION IN WHICH THE TRUSTEE HOLDS OR HAS BEEN

1 ASKED TO HOLD AN INTEREST, FOR THE PURPOSE OF DETERMINING THE
2 APPLICATION OF ENVIRONMENTAL LAW WITH RESPECT TO THE PROPERTY;

3 ~~_____ (B) take _____~~ (II) TAKE ACTION TO PREVENT, ABATE, OR
4 OTHERWISE REMEDY ANY ACTUAL OR POTENTIAL VIOLATION OF ANY
5 ENVIRONMENTAL LAW AFFECTING PROPERTY HELD DIRECTLY OR INDIRECTLY
6 BY THE TRUSTEE, WHETHER TAKEN BEFORE OR AFTER THE ASSERTION OF A
7 CLAIM OR THE INITIATION OF GOVERNMENTAL ENFORCEMENT;

8 ~~_____ (C) decline _____~~ (III) DECLINE TO ACCEPT PROPERTY INTO
9 TRUST OR DISCLAIM ~~any~~A POWER WITH RESPECT TO PROPERTY THAT IS OR MAY
10 BE BURDENED WITH LIABILITY FOR VIOLATION OF ENVIRONMENTAL LAW;

11 ~~_____ (D) compromise _____~~ (IV) COMPROMISE CLAIMS AGAINST THE
12 TRUST WHICH MAY BE ASSERTED FOR AN ALLEGED VIOLATION OF
13 ENVIRONMENTAL LAW; AND

14 ~~_____ (E) pay _____~~ (V) PAY THE EXPENSE OF ~~any~~AN INSPECTION,
15 REVIEW, ABATEMENT, OR REMEDIAL ACTION TO COMPLY WITH
16 ENVIRONMENTAL LAW;

17 ~~(15) pay~~ PAY OR CONTEST ~~any~~A CLAIM, SETTLE A CLAIM BY OR
18 AGAINST THE TRUST, AND RELEASE, IN WHOLE OR IN PART, A CLAIM
19 BELONGING TO THE TRUST;

20 ~~(16) pay~~ PAY TAXES, ASSESSMENTS, COMPENSATION OF THE
21 TRUSTEE AND OF EMPLOYEES AND AGENTS OF THE TRUST, AND OTHER
22 EXPENSES INCURRED IN THE ADMINISTRATION OF THE TRUST;

23 ~~(17) exercise~~ EXERCISE ELECTIONS WITH RESPECT TO
24 FEDERAL, ~~state~~STATE, AND LOCAL TAXES;

25 ~~(18) select~~ SELECT A MODE OF PAYMENT UNDER ~~any~~AN
26 EMPLOYEE BENEFIT OR RETIREMENT PLAN, ANNUITY, OR LIFE INSURANCE
27 PAYABLE TO THE TRUSTEE, EXERCISE RIGHTS ~~thereunder~~UNDER THE PLAN,
28 ANNUITY, OR LIFE INSURANCE, INCLUDING EXERCISE OF THE RIGHT TO
29 INDEMNIFICATION FOR EXPENSES AND AGAINST LIABILITIES, AND TAKE
30 APPROPRIATE ACTION TO COLLECT THE PROCEEDS;

31 ~~(19) make~~ MAKE LOANS OUT OF TRUST PROPERTY, INCLUDING
32 LOANS TO A BENEFICIARY ON TERMS AND CONDITIONS THE TRUSTEE
33 CONSIDERS TO BE FAIR AND REASONABLE UNDER THE CIRCUMSTANCES, AND

1 ON WHICH THE TRUSTEE HAS A LIEN ON FUTURE DISTRIBUTIONS FOR
 2 REPAYMENT OF these~~THE~~ LOANS;

3 ~~(20)~~ ~~pledge~~ PLEDGE TRUST PROPERTY TO GUARANTEE LOANS
 4 MADE BY OTHERS TO THE BENEFICIARY;

5 ~~(21)~~ ~~appoint~~ APPOINT A TRUSTEE TO ACT IN ANOTHER
 6 JURISDICTION WITH RESPECT TO TRUST PROPERTY LOCATED IN THE OTHER
 7 JURISDICTION, CONFER ~~upon~~ON THE APPOINTED TRUSTEE ALL OF THE POWERS
 8 AND DUTIES OF THE APPOINTING TRUSTEE, REQUIRE THAT THE APPOINTED
 9 TRUSTEE FURNISH SECURITY, AND REMOVE ~~any~~A TRUSTEE ~~so~~ APPOINTED UNDER
 10 THIS PARAGRAPH;

11 ~~(22)~~ ~~pay~~ (I) PAY AN AMOUNT DISTRIBUTABLE TO A
 12 BENEFICIARY WHO IS UNDER A LEGAL DISABILITY OR WHO THE TRUSTEE
 13 REASONABLY BELIEVES IS INCAPACITATED, BY PAYING ~~the~~THE AMOUNT
 14 DIRECTLY TO THE BENEFICIARY OR APPLYING ~~the~~THE AMOUNT FOR THE
 15 beneficiary's BENEFIT, or by: _____ (A) paying it to OF THE BENEFICIARY'S;

16 _____ (II) PAY THE AMOUNT DESCRIBED IN ITEM (I) OF THIS ITEM
 17 TO THE GUARDIAN OF THE PROPERTY OF THE BENEFICIARY, OR, IF THE
 18 BENEFICIARY DOES NOT HAVE A GUARDIAN OF THE PROPERTY, THE ~~beneficiary's~~
 19 GUARDIAN OF THE PERSON OF THE BENEFICIARY;

20 ~~_____ (B) paying it to the beneficiary's _____~~ (III) PAY THE AMOUNT
 21 DESCRIBED IN ITEM (I) OF THIS ITEM TO THE CUSTODIAN OF THE BENEFICIARY
 22 UNDER THE UNIFORM TRANSFERS TO MINORS ACT, AND, FOR THAT PURPOSE,
 23 ~~creating~~CREATE A CUSTODIANSHIP;

24 ~~_____ (C) _____~~ (IV) ~~if~~ IF THE TRUSTEE DOES NOT KNOW OF A GUARDIAN OF THE
 25 PROPERTY, GUARDIAN OF THE PERSON, OR CUSTODIAN, ~~paying it~~PAY THE
 26 AMOUNT DESCRIBED IN ITEM (I) OF THIS ITEM TO AN ADULT RELATIVE OR
 27 OTHER PERSON HAVING LEGAL OR PHYSICAL CARE OR CUSTODY OF THE
 28 BENEFICIARY, TO BE EXPENDED ON BEHALF OF THE BENEFICIARY'S ~~beneficiary's~~ behalf; OR

29 ~~_____ (D) managing it _____~~ (V) MANAGE THE AMOUNT DESCRIBED IN
 30 ITEM (I) OF THIS ITEM AS A SEPARATE FUND ON BEHALF OF THE BENEFICIARY'S
 31 beneficiary's ~~beneficiary's~~ CONTINUING RIGHT OF THE BENEFICIARY TO
 32 WITHDRAW THE DISTRIBUTION;

33 ~~(23)~~ ~~or~~ ON DISTRIBUTION OF TRUST PROPERTY OR THE
 34 DIVISION OR TERMINATION OF A TRUST, MAKE DISTRIBUTIONS IN DIVIDED OR
 35 UNDIVIDED INTERESTS, ALLOCATE PARTICULAR ASSETS IN PROPORTIONATE OR

1 DISPROPORTIONATE SHARES, VALUE THE TRUST PROPERTY FOR THOSE
2 PURPOSES, AND ADJUST FOR RESULTING DIFFERENCES IN VALUATION;

3 (24)—~~resolve~~ RESOLVE A DISPUTE CONCERNING THE
4 INTERPRETATION OF THE TRUST OR ~~its~~THE ADMINISTRATION OF THE TRUST BY
5 MEDIATION, ARBITRATION, OR OTHER PROCEDURE FOR ALTERNATIVE DISPUTE
6 RESOLUTION;

7 (25)—~~prosecute~~ PROSECUTE OR DEFEND AN ACTION, CLAIM, OR
8 JUDICIAL PROCEEDING IN ANY JURISDICTION TO PROTECT TRUST PROPERTY
9 AND THE TRUSTEE IN THE PERFORMANCE OF THE ~~trustee's~~ DUTIES OF THE
10 TRUSTEE;

11 (26)—~~sign~~ SIGN AND DELIVER CONTRACTS AND OTHER
12 INSTRUMENTS THAT ARE USEFUL TO ACHIEVE OR FACILITATE THE EXERCISE OF
13 THE ~~trustee's~~ POWERS OF THE TRUSTEE;

14 (27)—~~purchase~~ PURCHASE AND PAY FROM TRUST PRINCIPAL THE
15 PREMIUMS ON LIFE INSURANCE; AND

16 (28)—~~on~~ ON TERMINATION OF THE TRUST, EXERCISE THE
17 POWERS APPROPRIATE TO WIND UP THE ADMINISTRATION OF THE TRUST AND
18 DISTRIBUTE THE TRUST PROPERTY TO THE PERSONS ENTITLED TO ~~the~~ THE TRUST
19 PROPERTY.

20 ~~SECTION 14.5—817. DISTRIBUTION UPON TERMINATION.~~

21 (A)—~~Upon~~ (1) ON TERMINATION OR PARTIAL TERMINATION OF
22 A TRUST, THE TRUSTEE MAY SEND TO THE BENEFICIARIES A PROPOSAL FOR
23 DISTRIBUTION.

24 (2) THE RIGHT OF anyA BENEFICIARY TO OBJECT TO theA
25 PROPOSED DISTRIBUTION UNDER PARAGRAPH (1) OF THIS SUBSECTION
26 TERMINATES IF THE BENEFICIARY DOES NOT NOTIFY THE TRUSTEE OF AN
27 OBJECTION WITHIN 30 DAYS AFTER THE PROPOSAL WAS SENT BUT ONLY IF THE
28 PROPOSAL INFORMED THE BENEFICIARY OF THE RIGHT TO OBJECT AND OF THE
29 TIME ALLOWED FOR OBJECTION.

30 (B)—~~Upon~~ ON THE OCCURRENCE OF AN EVENT TERMINATING OR
31 PARTIALLY TERMINATING A TRUST, THE TRUSTEE SHALL PROCEED
32 EXPEDITIOUSLY TO DISTRIBUTE THE TRUST PROPERTY TO THE PERSONS
33 ENTITLED TO ~~the~~ THE TRUST PROPERTY, SUBJECT TO THE RIGHT OF THE TRUSTEE

1 TO RETAIN A REASONABLE RESERVE FOR THE PAYMENT OF DEBTS, EXPENSES,
2 AND TAXES.

3
4 **SUBTITLE 9**
5 **[RESERVED]**

6 **SUBTITLE 9. LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING**
7 **WITH THE TRUSTEE.**

8 **~~SUBTITLE 10~~**
9 **~~LIABILITY OF TRUSTEES AND RIGHTS~~**
10 **~~OF PERSONS DEALING WITH TRUSTEE~~**

11 **14.5-901.**

12 **~~SECTION 14.5-1001. REMEDIES FOR BREACH OF TRUST.~~**

13 (A) ~~(1)~~ A VIOLATION BY A TRUSTEE OF A DUTY THE TRUSTEE OWES
14 TO A BENEFICIARY IS A BREACH OF TRUST.

15 ~~(2)~~ A BREACH OF TRUST UNDER THIS SUBSECTION MAY OCCUR
16 BY REASON OF AN ACTION OR BY REASON OF A FAILURE TO ACT.

17 (B) TO REMEDY A BREACH OF TRUST BY THE TRUSTEE THAT HAS
18 OCCURRED OR MAY OCCUR, THE COURT MAY:

19 ~~(1) compel~~ (1) COMPEL THE TRUSTEE TO PERFORM THE trustee's
20 DUTIES OF THE TRUSTEE;

21 ~~(2) enjoin~~ (2) ENJOIN THE TRUSTEE FROM COMMITTING A
22 BREACH OF TRUST;

23 ~~(3) compel~~ (3) COMPEL THE TRUSTEE TO REDRESS A BREACH OF
24 TRUST BY PAYING MONEY, RESTORING PROPERTY, OR OTHER MEANS;

25 ~~(4) order~~ (4) ORDER A TRUSTEE TO ACCOUNT;

26 ~~(5) appoint~~ (5) APPOINT A SPECIAL FIDUCIARY TO TAKE
27 POSSESSION OF THE TRUST PROPERTY AND ADMINISTER THE TRUST;

28 ~~(6) suspend~~ (6) SUSPEND THE TRUSTEE;

29 ~~(7) remove~~ (7) REMOVE THE TRUSTEE AS PROVIDED IN Section §
30 14.5-706 OF THIS TITLE;

31 ~~(8) reduce~~ (8) REDUCE OR DENY COMPENSATION TO THE TRUSTEE;

1 ~~_____ (9) subject _____~~ **(9) SUBJECT TO Section § 14.5-1012, 912 OF THIS**
2 **SUBTITLE, VOID AN ACT OF THE TRUSTEE, IMPOSE A LIEN OR A CONSTRUCTIVE**
3 **TRUST ON TRUST PROPERTY, OR TRACE TRUST PROPERTY WRONGFULLY**
4 **DISPOSED OF AND RECOVER THE PROPERTY OR ~~its~~ PROCEEDS FROM THE**
5 **PROPERTY; OR**

6 **(10) ~~order any~~ ORDER OTHER APPROPRIATE RELIEF.**
7 **~~SECTION 14.5-1002. DAMAGES FOR BREACH OF TRUST.~~**

8 **14.5-902.**

9 **(A) A TRUSTEE WHO COMMITS A BREACH OF TRUST IS LIABLE TO**
10 **THE BENEFICIARIES AFFECTED BY THE BREACH FOR THE GREATER OF:**

11 **(1) ~~the~~ THE AMOUNT REQUIRED TO RESTORE THE VALUE OF**
12 **THE TRUST PROPERTY AND TRUST DISTRIBUTIONS TO WHAT THEY WOULD HAVE**
13 **BEEN HAD THE BREACH NOT OCCURRED; OR**

14 **(2) ~~the~~ THE PROFIT THE TRUSTEE MADE BY REASON OF THE**
15 **BREACH.**

16 **(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF**
17 **MORE THAN ONE TRUSTEE IS LIABLE TO THE BENEFICIARIES FOR A BREACH OF**
18 **TRUST, A TRUSTEE IS ENTITLED TO CONTRIBUTION FROM THE OTHER TRUSTEE**
19 **OR TRUSTEES THAT ARE ALSO LIABLE.**

20 **(2) A TRUSTEE IS NOT ENTITLED TO CONTRIBUTION UNDER THIS**
21 **SUBSECTION IF THE TRUSTEE WAS SUBSTANTIALLY MORE AT FAULT THAN**
22 **ANOTHER TRUSTEE OR IF THE TRUSTEE COMMITTED THE BREACH OF TRUST IN**
23 **BAD FAITH OR WITH RECKLESS INDIFFERENCE TO THE PURPOSES OF THE**
24 **TRUST OR THE INTERESTS OF THE BENEFICIARIES.**

25 **(3) A TRUSTEE WHO RECEIVED A BENEFIT FROM ~~the~~ A BREACH OF**
26 **TRUST UNDER THIS SUBSECTION IS NOT ENTITLED TO CONTRIBUTION FROM**
27 **ANOTHER TRUSTEE TO THE EXTENT OF THE BENEFIT RECEIVED.**

28 **~~SECTION 14.5-1003. DAMAGES IN ABSENCE OF BREACH.~~**

29 **14.5-903.**

30 **ABSENT A BREACH OF TRUST, A TRUSTEE IS NOT LIABLE TO A**
31 **BENEFICIARY FOR A LOSS OR DEPRECIATION IN THE VALUE OF TRUST**
32 **PROPERTY OR FOR NOT HAVING MADE A PROFIT.**

1 14.5-904.

2 —~~SECTION 14.5-1004. ATTORNEY'S FEES AND COSTS.~~ IN A JUDICIAL
 3 PROCEEDING INVOLVING THE ADMINISTRATION OF A TRUST, THE COURT, AS
 4 JUSTICE AND EQUITY MAY REQUIRE, MAY AWARD COSTS AND EXPENSES,
 5 INCLUDING REASONABLE ATTORNEY'S FEES, TO ~~any~~A PARTY, TO BE PAID BY
 6 ANOTHER PARTY, OR FROM THE TRUST THAT IS THE SUBJECT OF THE
 7 CONTROVERSY.

8 —~~SECTION 14.5-1005. LIMITATION OF ACTION AGAINST TRUSTEE.~~

9 14.5-905.

10 (A) A BENEFICIARY MAY NOT COMMENCE A PROCEEDING
 11 AGAINST A TRUSTEE FOR BREACH OF TRUST MORE THAN ~~one~~1 YEAR AFTER THE
 12 DATE THE BENEFICIARY OR THE REPRESENTATIVE OF THE BENEFICIARY WAS
 13 SENT A REPORT THAT ADEQUATELY DISCLOSED THE EXISTENCE OF A
 14 POTENTIAL CLAIM FOR BREACH OF TRUST AND INFORMED THE BENEFICIARY
 15 OR THE REPRESENTATIVE OF THE BENEFICIARY OF THE TIME ALLOWED FOR
 16 COMMENCING A PROCEEDING.

17 (B) A REPORT ADEQUATELY DISCLOSES THE EXISTENCE OF A
 18 POTENTIAL CLAIM FOR BREACH OF TRUST IF ~~the~~THE REPORT PROVIDES
 19 SUFFICIENT INFORMATION SO THAT THE BENEFICIARY OR REPRESENTATIVE
 20 KNOWS OF THE POTENTIAL CLAIM OR SHOULD HAVE INQUIRED INTO ~~its~~THE
 21 EXISTENCE OF THE CLAIM.

22 (C) NO BENEFICIARY SHALL COMMENCE ~~any~~A JUDICIAL
 23 PROCEEDING AGAINST A TRUSTEE FOR BREACH OF TRUST AFTER THE EARLIER
 24 OF:

25 (1) THE EXPIRATION OF ~~any~~AN APPLICABLE TIME PERIOD FOR
 26 COMMENCING ~~such~~THE ACTION AS PROVIDED BY MARYLAND LAW; OR

27 (2) THREE YEARS AFTER THE FIRST TO OCCUR OF:

28 (I.—) THE REMOVAL, RESIGNATION, OR DEATH OF THE
 29 TRUSTEE;

30 (II.—) THE TERMINATION OF THE INTEREST OF THE
 31 BENEFICIARY'S interest IN THE TRUST; OR

32 (III.—) THE TERMINATION OF THE TRUST.

1 **14.5-906.**

2 ~~—SECTION 14.5-1006. RELIANCE ON TRUST INSTRUMENT.~~ A TRUSTEE WHO
3 ACTS IN REASONABLE RELIANCE ON THE TERMS OF THE TRUST AS EXPRESSED
4 IN THE TRUST INSTRUMENT IS NOT LIABLE TO A BENEFICIARY FOR A BREACH
5 OF TRUST TO THE EXTENT THE BREACH RESULTED FROM THE RELIANCE.

6 **14.5-907.**

7 ~~—SECTION 14.5-1007. EVENT AFFECTING ADMINISTRATION OR DISTRIBUTION.~~

8 IF THE HAPPENING OF AN EVENT, INCLUDING ~~but not limited to~~ MARRIAGE,
9 DIVORCE, PERFORMANCE OF EDUCATIONAL REQUIREMENTS, DEATH, BIRTH, OR
10 ADOPTION, AFFECTS THE ADMINISTRATION OR DISTRIBUTION OF A TRUST, A
11 TRUSTEE WHO HAS EXERCISED REASONABLE CARE TO ASCERTAIN THE
12 HAPPENING OF THE EVENT IS NOT LIABLE FOR A LOSS RESULTING FROM THE
13 trustee's LACK OF KNOWLEDGE OF THE TRUSTEE.

14 ~~—SECTION 14.5-1008. EXCULPATION OF TRUSTEE.~~

15 **14.5-908.**

16 (A) A TERM OF A TRUST RELIEVING A TRUSTEE OF LIABILITY FOR
17 BREACH OF TRUST IS UNENFORCEABLE TO THE EXTENT THAT ~~THE TERM~~:

18 ~~(1) relieves~~ (1) RELIEVES THE TRUSTEE OF LIABILITY FOR
19 BREACH OF TRUST COMMITTED IN BAD FAITH OR WITH RECKLESS
20 INDIFFERENCE TO THE PURPOSES OF THE TRUST OR THE INTERESTS OF THE
21 BENEFICIARIES; OR

22 ~~(2) was~~ WAS INSERTED INTO THE TRUST AS THE RESULT OF AN
23 ABUSE BY THE TRUSTEE OF A FIDUCIARY OR CONFIDENTIAL RELATIONSHIP TO
24 THE SETTLOR.

25 (B) AN EXCULPATORY TERM DRAFTED OR CAUSED TO BE
26 DRAFTED BY THE TRUSTEE IS INVALID AS AN ABUSE OF A FIDUCIARY OR
27 CONFIDENTIAL RELATIONSHIP UNLESS THE TRUSTEE PROVES THAT THE
28 EXCULPATORY TERM IS FAIR UNDER THE CIRCUMSTANCES AND THAT ~~its~~ THE
29 EXISTENCE AND CONTENTS OF THE EXCULPATORY TERM WERE ADEQUATELY
30 COMMUNICATED TO THE SETTLOR.

31 (C) IF THE SETTLOR WAS REPRESENTED BY INDEPENDENT COUNSEL,
32 AN EXCULPATORY TERM IS NOT CONSIDERED DRAFTED OR CAUSED TO BE
33 DRAFTED BY THE TRUSTEE, EVEN IF THE TERM INCORPORATES SUGGESTED
34 PROVISIONS PROVIDED BY THE TRUSTEE.

1 14.5-909.2 ~~—SECTION 14.5-1009. BENEFICIARY'S CONSENT, RELEASE, OR RATIFICATION.~~3 A TRUSTEE IS NOT LIABLE TO A BENEFICIARY FOR BREACH OF TRUST IF
4 THE BENEFICIARY CONSENTED TO THE CONDUCT CONSTITUTING THE BREACH,
5 RELEASED THE TRUSTEE FROM LIABILITY FOR THE BREACH, OR RATIFIED THE
6 TRANSACTION CONSTITUTING THE BREACH, UNLESS:7 (1)~~—the~~ THE CONSENT, RELEASE, OR RATIFICATION OF THE
8 BENEFICIARY WAS INDUCED BY IMPROPER CONDUCT OF THE TRUSTEE; OR9 (2)~~—at~~ AT THE TIME OF THE CONSENT, RELEASE, OR
10 RATIFICATION, THE BENEFICIARY DID NOT KNOW OF THE RIGHTS OF THE
11 BENEFICIARY'S RIGHTS OR OF THE MATERIAL FACTS RELATING TO THE BREACH.12 ~~—SECTION 14.5-1010. LIMITATION ON PERSONAL LIABILITY OF TRUSTEE.~~13 14.5-910.14 (A) EXCEPT AS OTHERWISE PROVIDED IN THE CONTRACT, A
15 TRUSTEE IS NOT PERSONALLY LIABLE ON A CONTRACT PROPERLY ENTERED
16 INTO ~~in~~BY THE TRUSTEE~~'s~~ IN THE FIDUCIARY CAPACITY OF THE TRUSTEE IN THE
17 COURSE OF ADMINISTERING THE TRUST IF THE TRUSTEE IN THE CONTRACT
18 DISCLOSED THE FIDUCIARY CAPACITY.19 (B) A TRUSTEE IS PERSONALLY LIABLE FOR TORTS COMMITTED
20 IN THE COURSE OF ADMINISTERING A TRUST, OR FOR OBLIGATIONS ARISING
21 FROM OWNERSHIP OR CONTROL OF TRUST PROPERTY, INCLUDING LIABILITY
22 FOR VIOLATION OF ENVIRONMENTAL LAW, ONLY IF THE TRUSTEE IS
23 PERSONALLY AT FAULT.24 (C) A CLAIM BASED ON A CONTRACT ENTERED INTO BY A
25 TRUSTEE IN THE ~~trustee's~~ FIDUCIARY CAPACITY OF THE TRUSTEE, ON AN
26 OBLIGATION ARISING FROM OWNERSHIP OR CONTROL OF TRUST PROPERTY, OR
27 ON A TORT COMMITTED IN THE COURSE OF ADMINISTERING A TRUST, MAY BE
28 ASSERTED IN A JUDICIAL PROCEEDING AGAINST THE TRUSTEE IN THE ~~trustee's~~
29 FIDUCIARY CAPACITY OF THE TRUSTEE, REGARDLESS OF WHETHER ~~or not~~ THE
30 TRUSTEE IS PERSONALLY LIABLE FOR THE CLAIM.31 ~~—SECTION 14.5-1011. INTEREST AS GENERAL PARTNER.~~32 14.5-911.33 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF
34 THIS SECTION OR UNLESS PERSONAL LIABILITY IS IMPOSED IN THE CONTRACT,

1 A TRUSTEE WHO HOLDS AN INTEREST AS A GENERAL PARTNER IN A GENERAL
2 OR LIMITED PARTNERSHIP IS NOT PERSONALLY LIABLE ON A CONTRACT
3 ENTERED INTO BY THE PARTNERSHIP AFTER THE ~~trust's~~ ACQUISITION BY THE
4 TRUST OF THE INTEREST IF THE FIDUCIARY CAPACITY WAS DISCLOSED IN THE
5 CONTRACT OR IN A STATEMENT PREVIOUSLY FILED ~~pursuant to~~ IN ACCORDANCE
6 WITH THE UNIFORM PARTNERSHIP ACT OR UNIFORM LIMITED PARTNERSHIP
7 ACT.

8 (B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF
9 THIS SECTION, A TRUSTEE WHO HOLDS AN INTEREST AS A GENERAL PARTNER IS
10 NOT PERSONALLY LIABLE FOR TORTS COMMITTED BY THE PARTNERSHIP OR
11 FOR OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF THE INTEREST
12 UNLESS THE TRUSTEE IS PERSONALLY AT FAULT.

13 (C) THE IMMUNITY PROVIDED BY THIS SECTION DOES NOT APPLY
14 IF AN INTEREST IN THE PARTNERSHIP IS HELD BY THE TRUSTEE IN A CAPACITY
15 OTHER THAN THAT OF TRUSTEE OR IS HELD BY THE SPOUSE OF THE TRUSTEE's
16 ~~spouse~~ OR ONE OR MORE OF THE ~~trustee's~~ DESCENDANTS, SIBLINGS, OR PARENTS
17 OF THE TRUSTEE, OR THE SPOUSE OF ~~any of them~~ A DESCENDANT, SIBLING, OR
18 PARENT OF THE TRUSTEE.

19 (D) IF THE TRUSTEE OF A REVOCABLE TRUST HOLDS AN
20 INTEREST AS A GENERAL PARTNER, THE SETTLOR IS PERSONALLY LIABLE FOR
21 CONTRACTS AND OTHER OBLIGATIONS OF THE PARTNERSHIP AS IF THE
22 SETTLOR WERE A GENERAL PARTNER.

23 ~~SECTION 14.5-1012. PROTECTION OF PERSON DEALING WITH TRUSTEE.~~

24 14.5-912.

25 (A) A PERSON WHO IN GOOD FAITH ASSISTS A TRUSTEE, OR WHO
26 IN GOOD FAITH AND FOR VALUE DEALS WITH A TRUSTEE, WITHOUT KNOWLEDGE
27 THAT THE TRUSTEE IS EXCEEDING OR IMPROPERLY EXERCISING THE POWERS
28 OF THE TRUSTEE's ~~powers~~, IS PROTECTED FROM LIABILITY AS IF THE TRUSTEE
29 PROPERLY EXERCISED THOSE POWERS.

30 (B) A PERSON WHO IN GOOD FAITH DEALS WITH A TRUSTEE IS
31 NOT REQUIRED TO INQUIRE INTO THE EXTENT OF THE POWERS OF THE
32 TRUSTEE's ~~powers~~ OR THE PROPRIETY OF ~~their~~ THE EXERCISE OF A POWER OF THE
33 TRUSTEE.

34 (C) A PERSON WHO IN GOOD FAITH DELIVERS ASSETS TO A
35 TRUSTEE NEED NOT ENSURE ~~their~~ THE PROPER APPLICATION OF THE ASSETS.

1 (D) A PERSON WHO IN GOOD FAITH ASSISTS A FORMER TRUSTEE,
 2 OR WHO IN GOOD FAITH AND FOR VALUE DEALS WITH A FORMER TRUSTEE,
 3 WITHOUT KNOWLEDGE THAT THE TRUSTEESHIP HAS TERMINATED, IS
 4 PROTECTED FROM LIABILITY AS IF THE FORMER TRUSTEE ~~were~~WAS STILL A
 5 TRUSTEE.

6 (E) COMPARABLE PROTECTIVE PROVISIONS OF OTHER LAWS
 7 RELATING TO COMMERCIAL TRANSACTIONS OR TRANSFER OF SECURITIES BY
 8 FIDUCIARIES PREVAIL OVER THE PROTECTION PROVIDED BY THIS SECTION.

9 ~~SECTION 14.5-1013. CERTIFICATION OF TRUST.~~

10 14.5-913.

11 (A) INSTEAD OF FURNISHING A COPY OF THE TRUST INSTRUMENT
 12 TO A PERSON OTHER THAN A BENEFICIARY, THE TRUSTEE MAY FURNISH TO THE
 13 PERSON A CERTIFICATION OF TRUST CONTAINING THE FOLLOWING
 14 INFORMATION:

15 (1) ~~that~~ THAT THE TRUST EXISTS AND THE DATE THE TRUST
 16 INSTRUMENT WAS EXECUTED;

17 (2) ~~the~~ THE IDENTITY OF THE SETTLOR;

18 (3) ~~the~~ THE IDENTITY AND ADDRESS OF THE CURRENTLY
 19 ACTING TRUSTEE;

20 (4) ~~the~~ THE POWERS OF THE TRUSTEE IN THE PENDING
 21 TRANSACTION;

22 (5) ~~the~~ THE REVOCABILITY OR IRREVOCABILITY OF THE TRUST
 23 AND THE IDENTITY OF ~~any~~A PERSON HOLDING A POWER TO REVOKE THE TRUST;

24 (6) ~~the~~ THE AUTHORITY OF COTRUSTEES TO SIGN OR
 25 OTHERWISE AUTHENTICATE AND WHETHER THE AUTHENTICATION OF ALL OR
 26 ~~less~~FEWER THAN ALL ~~are~~OF THE COTRUSTEES IS REQUIRED IN ORDER TO
 27 EXERCISE POWERS OF THE TRUSTEE;

28 ~~the trust's~~ (7) THE TAXPAYER IDENTIFICATION NUMBER;
 29 provided, however, that the certification of trust need not contain OF THE TRUST's taxpayer
 30 identification number if that, UNLESS THE TAXPAYER IDENTIFICATION NUMBER IS
 31 ALSO THE ~~social security~~SOCIAL SECURITY NUMBER OF A SETTLOR; AND

1 (8) ~~the~~ THE MANNER AND NAME IN WHICH TITLE TO TRUST
2 PROPERTY MAY BE TAKEN.

3 (B) A CERTIFICATION OF TRUST MAY BE SIGNED OR OTHERWISE
4 AUTHENTICATED BY ~~any~~A TRUSTEE.

5 (C) A CERTIFICATION OF TRUST ~~must~~SHALL STATE THAT THE
6 TRUST HAS NOT BEEN REVOKED, MODIFIED, OR AMENDED IN ~~any~~A MANNER
7 THAT WOULD CAUSE THE REPRESENTATIONS CONTAINED IN THE
8 CERTIFICATION OF TRUST TO BE INCORRECT.

9 (D) A CERTIFICATION OF TRUST NEED NOT CONTAIN THE
10 DISPOSITIVE TERMS OF A TRUST.

11 (E) A RECIPIENT OF A CERTIFICATION OF TRUST MAY REQUIRE
12 THE TRUSTEE TO FURNISH COPIES OF THOSE EXCERPTS FROM THE ORIGINAL
13 TRUST INSTRUMENT AND LATER AMENDMENTS WHICH DESIGNATE THE
14 TRUSTEE AND CONFER ~~upon~~ON THE TRUSTEE THE POWER TO ACT IN THE
15 PENDING TRANSACTION.

16 (F) (1) A PERSON WHO ACTS IN RELIANCE ~~upon~~ON A CERTIFICATION
17 OF TRUST WITHOUT KNOWLEDGE THAT THE REPRESENTATIONS CONTAINED
18 ~~therein~~IN THE TRUST ARE INCORRECT IS NOT LIABLE ~~to any person~~FOR ~~so acting~~THE
19 ACT AND MAY ASSUME WITHOUT INQUIRY THE EXISTENCE OF THE FACTS
20 CONTAINED IN THE CERTIFICATION.

21 (2) KNOWLEDGE OF THE TERMS OF THE TRUST MAY NOT BE
22 INFERRED SOLELY FROM THE FACT THAT A COPY OF ALL OR PART OF THE
23 TRUST INSTRUMENT IS HELD BY THE PERSON RELYING ~~upon~~ON THE
24 CERTIFICATION.

25 (G) A PERSON WHO IN GOOD FAITH ENTERS INTO A TRANSACTION
26 IN RELIANCE ~~upon~~ON A CERTIFICATION OF TRUST MAY ENFORCE THE
27 TRANSACTION AGAINST THE TRUST PROPERTY AS IF THE REPRESENTATIONS
28 CONTAINED IN THE CERTIFICATION WERE CORRECT.

29 (H) A PERSON MAKING A DEMAND FOR THE TRUST INSTRUMENT
30 IN ADDITION TO A CERTIFICATION OF TRUST OR EXCERPTS OF THE TRUST IS
31 LIABLE FOR DAMAGES IF THE COURT DETERMINES THAT THE PERSON DID NOT
32 ACT IN GOOD FAITH IN DEMANDING THE TRUST INSTRUMENT.

1 (I) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PERSON TO OBTAIN
2 A COPY OF THE TRUST INSTRUMENT IN A JUDICIAL PROCEEDING CONCERNING
3 THE TRUST.

4 SUBTITLE 10. MISCELLANEOUS PROVISIONS.

5 ~~SUBTITLE 11~~
6 ~~MISCELLANEOUS PROVISIONS~~

7 14.5-1001.

8 ~~SECTION 14.5-1101. ELECTRONIC RECORDS AND SIGNATURES.~~ THE
9 PROVISIONS OF THIS TITLE GOVERNING THE LEGAL EFFECT, VALIDITY, OR
10 ENFORCEABILITY OF ELECTRONIC RECORDS OR ELECTRONIC SIGNATURES, AND
11 OF CONTRACTS FORMED OR PERFORMED WITH THE USE OF ~~such~~ THOSE RECORDS
12 OR SIGNATURES, CONFORM TO THE REQUIREMENTS OF ~~Section~~ § 102 OF THE
13 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (15
14 U.S.C. § 7002) AND SUPERSEDE, MODIFY, AND LIMIT THE REQUIREMENTS OF
15 THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

16 14.5-1002.

17 ~~SECTION 14.5-1102. SEVERABILITY CLAUSE.~~ ~~If any~~ IF A PROVISION OF THIS
18 TITLE OR ~~its~~ THE APPLICATION OF A PROVISION TO any A PERSON OR
19 CIRCUMSTANCES IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER
20 PROVISIONS OR APPLICATIONS OF THIS TITLE WHICH CAN BE GIVEN EFFECT
21 WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE
22 PROVISIONS OF THIS TITLE ARE SEVERABLE.

23 ~~SECTION 14.5-1103. APPLICATION TO EXISTING RELATIONSHIPS.~~

24 14.5-1003.

25 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, ON
26 OCTOBER 1, 2011:

27 (1) ~~this~~ THIS TITLE APPLIES TO ALL TRUSTS CREATED BEFORE,
28 ON, OR AFTER OCTOBER 1, 2011;

29 (2) ~~this~~ THIS TITLE APPLIES TO ALL JUDICIAL PROCEEDINGS
30 CONCERNING TRUSTS COMMENCED ON OR AFTER OCTOBER 1, 2011;

31 (3) ~~this~~ THIS TITLE APPLIES TO JUDICIAL PROCEEDINGS
32 CONCERNING TRUSTS COMMENCED BEFORE OCTOBER 1, 2011, ~~2011~~, UNLESS THE
33 COURT FINDS THAT APPLICATION OF A PARTICULAR PROVISION OF THIS TITLE
34 WOULD SUBSTANTIALLY INTERFERE WITH THE EFFECTIVE CONDUCT OF THE

1 JUDICIAL PROCEEDINGS OR PREJUDICE THE RIGHTS OF THE PARTIES, IN
2 WHICH CASE THE PARTICULAR PROVISION OF THIS TITLE DOES NOT APPLY AND
3 THE SUPERSEDED LAW APPLIES;

4 (4)—~~any~~ A RULE OF CONSTRUCTION OR PRESUMPTION
5 PROVIDED IN THIS TITLE APPLIES TO TRUST INSTRUMENTS EXECUTED BEFORE
6 OCTOBER 1, 2011, UNLESS THERE IS A CLEAR INDICATION OF A CONTRARY
7 INTENT IN THE TERMS OF THE TRUST; AND

8 (5)—~~an~~ AN ACT DONE BEFORE OCTOBER 1, 2011, IS NOT
9 AFFECTED BY THIS TITLE.

10 (B) IF A RIGHT IS ACQUIRED, EXTINGUISHED, OR BARRED ~~upon~~ ON
11 THE EXPIRATION OF A PRESCRIBED PERIOD THAT HAS COMMENCED TO RUN
12 UNDER ~~any other~~ ANOTHER STATUTE BEFORE OCTOBER 1, 2011, THAT STATUTE
13 CONTINUES TO APPLY TO THE RIGHT EVEN IF ~~the~~ THE STATUTE HAS BEEN
14 REPEALED OR SUPERSEDED.

15 Article – Financial Institutions

16 3-506.

17 (b) To the extent that a fund plan does not provide otherwise as to the
18 determination, allocation, and apportionment of principal and income, the principles of
19 Title 14 AND TITLE 14.5 of the Estates and Trusts Article apply.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2011.

22