

**22-7-104 Trustee powers to convert trusts where there is no trustee other than an interested trustee -- Requirements to make unitrust election.**

If there is no trustee of the trust other than an interested trustee, the interested trustee, or when two or more persons are acting as trustees and are interested trustees, a majority of the interested trustees, in the trustee's sole discretion and without the approval of the district court, may:

- (1) elect to release the power to adjust described in Section 22-3-104 and to convert an income trust to a total return unitrust;
- (2) reconvert a total return unitrust to an income trust and reinstate the power to adjust described in Section 22-3-104; or
- (3) change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust if the requirements of Subsections 22-7-103(4)(a) through (f) are completed and the trustee appoints a disinterested person who, in the person's sole discretion but acting in a fiduciary capacity, determines for the trustee:
  - (a) the percentage to be used to calculate the unitrust amount;
  - (b) the method to be used in determining the fair market value of the trust; and
  - (c) which assets, if any, are to be excluded in determining the unitrust amount.

Enacted by Chapter 244, 2013 General Session