

Part 1 General Provisions

75-7-101 Title.

This chapter is known as the "Utah Uniform Trust Code."

Repealed and Re-enacted by Chapter 89, 2004 General Session

75-7-102 Scope.

This chapter applies to trusts as defined in Section 75-1-201.

Enacted by Chapter 89, 2004 General Session

75-7-103 Definitions.

(1) In this chapter:

- (a) "Action," with respect to an act of a trustee, includes a failure to act.
- (b) "Beneficiary" means a person that:
 - (i) has a present or future beneficial interest in a trust, vested or contingent; or
 - (ii) in a capacity other than that of trustee, holds a power of appointment over trust property.
- (c) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in Subsection 75-7-405(1).
- (d) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.
- (e) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.
- (f) "Jurisdiction," with respect to a geographic area, includes a state or country.
- (g) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.
- (h) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:
 - (i) is a current distributee or permissible distributee of trust income or principal; or
 - (ii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.
- (i) "Resident estate" or "resident trust" means:
 - (i) an estate of a decedent who at death was domiciled in this state;
 - (ii) a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this state; or
 - (iii) a trust administered in this state.
- (j) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.
- (k) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.
- (l) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer or encumbrance of a beneficiary's interest.

- (m) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.
 - (n) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.
- (2) Terms not specifically defined in this section have the meanings provided in Section 75-1-201.

Enacted by Chapter 89, 2004 General Session

75-7-104 Knowledge.

- (1) Subject to Subsection (2), a person has knowledge of a fact if the person:
- (a) has actual knowledge of it;
 - (b) has received a notice or notification of it; or
 - (c) from all the facts and circumstances known to the person at the time in question, has reason to know it.
- (2) An organization that conducts activities through employees has notice or knowledge of a fact involving a trust only from the time the information was received by an employee having responsibility to act for the trust, or would have been brought to the employee's attention if the organization had exercised reasonable diligence. An organization exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the employee having responsibility to act for the trust and there is reasonable compliance with the routines. Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the individual's regular duties or the individual knows a matter involving the trust would be materially affected by the information.

Enacted by Chapter 89, 2004 General Session

75-7-105 Default and mandatory rules.

- (1) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.
- (2) Except as specifically provided in this chapter, the terms of a trust prevail over any provision of this chapter except:
- (a) the requirements for creating a trust;
 - (b) the duty of a trustee to act in good faith and in accordance with the purposes of the trust;
 - (c) the requirement that a trust and its terms be for the benefit of its beneficiaries;
 - (d) the power of the court to modify or terminate a trust under Sections 75-7-410 through 75-7-416;
 - (e) the effect of a spendthrift provision, Section 25-6-14, and the rights of certain creditors and assignees to reach a trust as provided in Part 5, Creditor's Claims - Spendthrift and Discretionary Trusts;
 - (f) the power of the court under Section 75-7-702 to require, dispense with, or modify or terminate a bond;
 - (g) the effect of an exculpatory term under Section 75-7-1008;
 - (h) the rights under Sections 75-7-1010 through 75-7-1013 of a person other than a trustee or beneficiary;
 - (i) periods of limitation for commencing a judicial proceeding; and
 - (j) the subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in Sections 75-7-203 and 75-7-205.

Enacted by Chapter 89, 2004 General Session

75-7-106 Common law of trusts -- Principles of equity.

The common law of trusts and principles of equity supplement this chapter, except to the extent modified by this chapter or laws of this state.

Enacted by Chapter 89, 2004 General Session

75-7-107 Governing law.

- (1) For purposes of this section:
 - (a) "Foreign trust" means a trust that is created in another state or country and valid in the state or country in which the trust is created.
 - (b) "State law provision" means a provision that the laws of a named state govern the validity, construction, and administration of a trust.
- (2) If a trust has a state law provision specifying this state, the validity, construction, and administration of the trust are to be governed by the laws of this state if any administration of the trust is done in this state.
- (3) For all trusts created on or after December 31, 2003, if a trust does not have a state law provision, the validity, construction, and administration of the trust are to be governed by the laws of this state if the trust is administered in this state.
- (4) A trust shall be considered to be administered in this state if:
 - (a) the trust states that this state is the place of administration, and any administration of the trust is done in this state; or
 - (b) the place of business where the fiduciary transacts a major portion of its administration of the trust is in this state.
- (5) If a foreign trust is administered in this state as provided in this section, the following provisions are effective and enforceable under the laws of this state:
 - (a) a provision in the trust that restricts the transfer of trust assets in a manner similar to Section 25-6-14;
 - (b) a provision that allows the trust to be perpetual; or
 - (c) a provision that is not expressly prohibited by the law of this state.
- (6) A foreign trust that moves its administration to this state is valid whether or not the trust complied with the laws of this state at the time of the trust's creation or after the trust's creation.
- (7) Unless otherwise designated in the trust instrument, a trust is administered in this state if it meets the requirements of Subsection (4).

Renumbered and Amended by Chapter 89, 2004 General Session

75-7-108 Principal place of administration.

- (1) Without precluding other means for establishing a sufficient connection with the designated jurisdiction, terms of a trust designating the principal place of administration are valid and controlling if:
 - (a) a trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction; or
 - (b) all or part of the administration occurs in the designated jurisdiction.
- (2) A trustee is under a continuing duty to administer the trust at a place appropriate to its purposes, its administration, and the interests of the beneficiaries.

- (3) Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the duty prescribed by Subsection (2), may transfer the trust's principal place of administration to another state or to a jurisdiction outside of the United States.
- (4) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than 60 days before initiating the transfer. The notice of proposed transfer must include:
 - (a) the name of the jurisdiction to which the principal place of administration is to be transferred;
 - (b) the address and telephone number at the new location at which the trustee can be contacted;
 - (c) an explanation of the reasons for the proposed transfer;
 - (d) the date on which the proposed transfer is anticipated to occur; and
 - (e) the date, not less than 60 days after the giving of the notice, by which the qualified beneficiary must notify the trustee of an objection to the proposed transfer.
- (5) The authority of a trustee under this section to transfer a trust's principal place of administration terminates if a qualified beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.
- (6) In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed pursuant to Section 75-7-704.

Enacted by Chapter 89, 2004 General Session

75-7-109 Methods and waiver of notice.

- (1) Notice to a person under this chapter or the sending of a document to a person under this chapter must be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice or for sending a document include first-class mail, personal delivery, delivery to the person's last known place of residence or place of business, or a properly directed electronic message.
- (2) Notice under this chapter or the sending of a document under this chapter may be waived by the person to be notified or sent the document.
- (3) Notice of a judicial proceeding must be given as provided in the applicable rules of civil procedure.

Enacted by Chapter 89, 2004 General Session

75-7-110 Nonjudicial settlement agreements.

- (1) For purposes of this section, "interested persons" means persons whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the court.
- (2) Except as otherwise provided in Subsection (3), interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.
- (3) A nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under this chapter or other applicable law.
- (4) Matters that may be resolved by a nonjudicial settlement agreement include:
 - (a) the interpretation or construction of the terms of the trust;
 - (b) the approval of a trustee's report or accounting;
 - (c) direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;

- (d) the resignation or appointment of a trustee and the determination of a trustee's compensation;
 - (e) transfer of a trust's principal place of administration; and
 - (f) liability of a trustee for an action relating to the trust.
- (5) Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in Part 3, Representation, was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

Enacted by Chapter 89, 2004 General Session

75-7-111 Rules of construction.

The rules of construction that apply to the interpretation of and disposition of property by will or other governing instrument, as defined in Section 75-1-201, also apply as appropriate to the interpretation of the terms of a trust and the disposition of the trust property.

Enacted by Chapter 89, 2004 General Session

75-7-112 Penalty provisions.

A provision in a trust instrument purporting to penalize a beneficiary by charging the beneficiary's interest in the trust, or to penalize the beneficiary in another manner, for instituting a proceeding to challenge the acts of the trustee or other fiduciary of a trust, or for instituting other proceedings relating to the trust is unenforceable if probable cause exists for instituting the proceedings.

Enacted by Chapter 89, 2004 General Session