

Part 8

Duties and Powers of Trustee

75-7-801 Duty to administer trust.

Upon acceptance of a trusteeship, the trustee shall administer the trust expeditiously and in good faith, in accordance with its terms and purposes and the interests of the beneficiaries, and in accordance with this chapter.

Enacted by Chapter 89, 2004 General Session

75-7-802 Duty of loyalty.

- (1) A trustee shall administer the trust solely in the interests of the beneficiaries.
- (2) Subject to the rights of persons dealing with or assisting the trustee as provided in Section 75-7-1012, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:
 - (a) the transaction was authorized by the terms of the trust;
 - (b) the transaction was approved by the court;
 - (c) the beneficiary did not commence a judicial proceeding within the time allowed by Section 75-7-1005;
 - (d) the beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with Section 75-7-1009; or
 - (e) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.
- (3) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:
 - (a) the trustee's spouse;
 - (b) the trustee's descendants, siblings, parents, or their spouses;
 - (c) an agent of the trustee, including but not limited to an attorney, accountant, or financial advisor; or
 - (d) a corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.
- (4) A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.
- (5) A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.
- (6) An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor rule of Section 75-7-901. The trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust.

- (7) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.
- (8) This section does not preclude the following actions by the trustee:
- (a) an agreement between the trustee and a beneficiary relating to the appointment or compensation of the trustee;
 - (b) payment of reasonable compensation to the trustee;
 - (c) a transaction between a trust and another trust, decedent's estate, conservatorship, or guardianship of which the trustee is a fiduciary or in which a beneficiary has an interest;
 - (d) a deposit of trust money in a regulated financial service institution operated by the trustee;
 - (e) an advance by the trustee of money for the protection of the trust;
 - (f) collecting, holding, and retaining trust assets received from a trustor until, in the judgment of the trustee, disposition of the assets should be made, even though the assets include an asset in which the trustee is personally interested;
 - (g) acquiring an undivided interest in a trust asset in which the trustee, in any trust capacity, holds an undivided interest;
 - (h) borrowing money to be repaid from the trust assets or otherwise;
 - (i) advancing money to be repaid from the assets or otherwise;
 - (j) employing persons, including attorneys, auditors, investment advisers, or agents, even if they are associated with the trustee:
 - (i) to advise or assist the trustee in the performance of the trustee's administrative duties or perform any act of administration, whether or not discretionary; or
 - (ii) to act without independent investigation upon their recommendations;
 - (k) if a governing instrument or order requires or authorizes investment in United States government obligations, investing in those obligations, either directly or in the form of securities or other interests, in any open-end or closed-end management type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, 15 U.S.C. Sections 80a-1 through 80a-64 if:
 - (i) the portfolio of the investment company or investment trust is limited to United States government obligations, and repurchase agreements are fully collateralized by United States government obligations; and
 - (ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement either directly or through an authorized custodian.
- (9) The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

Enacted by Chapter 89, 2004 General Session

75-7-803 Impartiality.

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

Enacted by Chapter 89, 2004 General Session

75-7-804 Prudent administration.

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

Enacted by Chapter 89, 2004 General Session

75-7-805 Costs of administration.

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

Enacted by Chapter 89, 2004 General Session

75-7-806 Trustee's skills.

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

Enacted by Chapter 89, 2004 General Session

75-7-807 Control and protection of trust property.

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

Enacted by Chapter 89, 2004 General Session

75-7-808 Recordkeeping and identification of trust property.

- (1) A trustee shall keep adequate records of the administration of the trust.
- (2) A trustee shall keep trust property separate from the trustee's own property.
- (3) Except as otherwise provided in Subsection (4), a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.
- (4) If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of two or more separate trusts.

Enacted by Chapter 89, 2004 General Session

75-7-809 Enforcement and defense of claims.

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

Enacted by Chapter 89, 2004 General Session

75-7-810 Collecting trust property.

A trustee shall take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee, and to redress a breach of trust known to the trustee to have been committed by a former trustee, unless the terms of the trust provide otherwise.

Enacted by Chapter 89, 2004 General Session

75-7-811 Duty to inform and report.

- (1) Except to the extent the terms of the trust provide otherwise, a trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless unreasonable under the circumstances, and unless otherwise provided by the terms of the trust a trustee shall promptly respond to a qualified beneficiary's request for information related to the administration of the trust.
- (2) Except to the extent the terms of the trust provide otherwise, a trustee:
 - (a) upon request of a qualified beneficiary, shall promptly furnish to the beneficiary a copy of the portions of the trust instrument which describe or affect the beneficiary's interest;
 - (b) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;
 - (c) within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in Subsection (3); and
 - (d) shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation.
- (3) A trustee shall send to the qualified beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements, including the amount of the trustee's compensation or a fee schedule or other writing showing how the trustee's compensation was determined, a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee, unless the terms of the trust provide otherwise. A personal representative, conservator, or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.
- (4) A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

Enacted by Chapter 89, 2004 General Session

75-7-812 Discretionary powers -- Tax savings.

- (1) Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute," "sole," or "uncontrolled," the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.
- (2) Subject to Subsection (4), and unless the terms of the trust expressly indicate that a rule in this section does not apply:
 - (a) a person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee's individual health, education, support, or maintenance within the meaning of Subsection 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on May 1, 2004; and
 - (b) a trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

- (3) A power whose exercise is limited or prohibited by Subsection (2) may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.
- (4) Subsection (2) does not apply to:
 - (a) a power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in Subsection 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, as in effect on May 1, 2004, was previously allowed;
 - (b) any trust during any period that the trust may be revoked or amended by its settlor; or
 - (c) a trust if contributions to the trust qualify for the annual exclusion under Subsection 2503(c) of the Internal Revenue Code of 1986, as in effect on May 1, 2004.

Enacted by Chapter 89, 2004 General Session

75-7-813 General powers of trustee.

- (1) A trustee, without authorization by the court, may exercise:
 - (a) powers conferred by the terms of the trust; or
 - (b) except as limited by the terms of the trust:
 - (i) all powers over the trust property which an unmarried competent owner has over individually owned property;
 - (ii) any other powers appropriate to achieve the proper investment, management, and distribution of the trust property; and
 - (iii) any other powers conferred by this chapter.
- (2) The exercise of a power is subject to the fiduciary duties prescribed by this part.

Enacted by Chapter 89, 2004 General Session

Effective until 9/1/2024

75-7-814 Specific powers of trustee.

- (1) Without limiting the authority conferred by Section 75-7-813, a trustee may:
 - (a) collect trust property and accept or reject additions to the trust property from a settlor or any other person;
 - (b) acquire or sell property, for cash or on credit, at public or private sale;
 - (c) exchange, partition, or otherwise change the character of trust property;
 - (d) deposit trust money in an account in a regulated financial service institution;
 - (e) borrow money, with or without security from any financial institution, including a financial institution that is serving as a trustee or one of its affiliates, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;
 - (f) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;
 - (g) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:
 - (i) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;

- (ii) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;
- (iii) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and
- (iv) deposit the securities with a depository or other regulated financial service institution;
- (h) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;
- (i) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;
- (j) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;
- (k) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;
- (l) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;
- (m) with respect to possible liability for violation of environmental law:
 - (i) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;
 - (ii) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;
 - (iii) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;
 - (iv) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and
 - (v) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;
- (n) pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;
- (o) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;
- (p) exercise elections with respect to federal, state, and local taxes;
- (q) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;
- (r) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;
- (s) pledge trust property to guarantee loans made by others to the beneficiary;

- (t) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;
 - (u) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:
 - (i) paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;
 - (ii) paying it to the beneficiary's custodian under Title 75, Chapter 5a, Uniform Transfers to Minors Act;
 - (iii) if the trustee does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or
 - (iv) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;
 - (v) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;
 - (w) resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;
 - (x) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;
 - (y) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers; and
 - (z) on termination of the trust, exercise the powers appropriate to finalize the administration of the trust and distribute the trust property to the persons entitled to it.
- (2) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances.
- (a) The trustee shall exercise reasonable care, skill, and caution in:
 - (i) selecting the agent;
 - (ii) establishing the scope and terms of the delegation consistent with the purposes of the trust; and
 - (iii) periodically reviewing the agent's actions to monitor the agent's performance and compliance with the terms of the delegation.
 - (b) In performing a delegated function, an agent has a duty to the trust to exercise reasonable care to comply with the terms of the delegation.
 - (c) A trustee who complies with the requirements of this Subsection (2) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.
- (3) The trustee may exercise the powers set forth in this section and in the trust either in the name of the trust or in the name of the trustee as trustee, specifically including the right to take title, to encumber or convey assets, including real property, in the name of the trust. This Subsection (3) applies to a trustee's exercise of trust powers. After May 11, 2010, for recording purposes, the name of the trustee, the address of the trustee, and the name and date of the trust, shall be included on all recorded documents affecting real property to which the trust is a party in interest.

Amended by Chapter 93, 2010 General Session

Effective 9/1/2024

75-7-814 Specific powers of trustee.

- (1) Without limiting the authority conferred by Section 75-7-813, a trustee may:
- (a) collect trust property and accept or reject additions to the trust property from a settlor or any other person;
 - (b) acquire or sell property, for cash or on credit, at public or private sale;
 - (c) exchange, partition, or otherwise change the character of trust property;
 - (d) deposit trust money in an account in a regulated financial service institution;
 - (e) borrow money, with or without security from any financial institution, including a financial institution that is serving as a trustee or one of its affiliates, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;
 - (f) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;
 - (g) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:
 - (i) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;
 - (ii) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;
 - (iii) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and
 - (iv) deposit the securities with a depository or other regulated financial service institution;
 - (h) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;
 - (i) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;
 - (j) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;
 - (k) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;
 - (l) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;
 - (m) with respect to possible liability for violation of environmental law:
 - (i) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;

- (ii) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;
- (iii) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;
- (iv) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and
- (v) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;
- (n) pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;
- (o) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;
- (p) exercise elections with respect to federal, state, and local taxes;
- (q) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;
- (r) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;
- (s) pledge trust property to guarantee loans made by others to the beneficiary;
- (t) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;
- (u) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:
 - (i) paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;
 - (ii) paying it to the beneficiary's custodian under Title 75A, Chapter 8, Uniform Transfers to Minors Act;
 - (iii) if the trustee does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or
 - (iv) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;
- (v) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;
- (w) resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;
- (x) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;
- (y) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers; and

- (z) on termination of the trust, exercise the powers appropriate to finalize the administration of the trust and distribute the trust property to the persons entitled to it.
- (2) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances.
 - (a) The trustee shall exercise reasonable care, skill, and caution in:
 - (i) selecting the agent;
 - (ii) establishing the scope and terms of the delegation consistent with the purposes of the trust; and
 - (iii) periodically reviewing the agent's actions to monitor the agent's performance and compliance with the terms of the delegation.
 - (b) In performing a delegated function, an agent has a duty to the trust to exercise reasonable care to comply with the terms of the delegation.
 - (c) A trustee who complies with the requirements of this Subsection (2) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.
- (3) The trustee may exercise the powers set forth in this section and in the trust either in the name of the trust or in the name of the trustee as trustee, specifically including the right to take title, to encumber or convey assets, including real property, in the name of the trust. This Subsection (3) applies to a trustee's exercise of trust powers. After May 11, 2010, for recording purposes, the name of the trustee, the address of the trustee, and the name and date of the trust, shall be included on all recorded documents affecting real property to which the trust is a party in interest.

Amended by Chapter 364, 2024 General Session

75-7-815 Distribution upon termination.

- (1) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within 30 days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.
- (2) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.
- (3) A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent:
 - (a) it was induced by improper conduct of the trustee; or
 - (b) the beneficiary, at the time of the release, did not know or had no reason to know of the beneficiary's rights or of the material facts relating to the breach.

Enacted by Chapter 89, 2004 General Session

Effective until 9/1/2024

75-7-816 Recitals when title to real property is in trust -- Failure.

- (1) When title to real property is granted to a person as trustee, the terms of the trust may be given either:
 - (a) in the deed of transfer; or

- (b) in an instrument signed by the grantor and recorded in the same office as the grant to the trustee.
- (2) If the terms of the trust are not made public as required in Subsection (1), a conveyance from the trustee is absolute in favor of purchasers for value who take the property without notice of the terms of the trust.
- (3) The terms of the trust recited in the deed of transfer or the instrument recorded under Subsection (1)(b) shall include:
 - (a) the name of the trustee;
 - (b) the address of the trustee; and
 - (c) the name and date of the trust.
- (4) Any real property titled in a trust which has a restriction on transfer described in Section 25-6-502 shall include in the title the words "asset protection trust."

Amended by Chapter 204, 2017 General Session

Effective 9/1/2024

75-7-816 Recitals when title to real property is in trust -- Failure.

- (1) When title to real property is granted to a person as trustee, the terms of the trust may be given either:
 - (a) in the deed of transfer; or
 - (b) in an instrument signed by the grantor and recorded in the same office as the grant to the trustee.
- (2) If the terms of the trust are not made public as required in Subsection (1), a conveyance from the trustee is absolute in favor of purchasers for value who take the property without notice of the terms of the trust.
- (3) The terms of the trust recited in the deed of transfer or the instrument recorded under Subsection (1)(b) shall include:
 - (a) the name of the trustee;
 - (b) the address of the trustee; and
 - (c) the name and date of the trust.
- (4) Any real property titled in a trust which has a restriction on transfer described in Section 75B-1-302 shall include in the title the words "asset protection trust."

Amended by Chapter 364, 2024 General Session

75-7-817 Marital deduction formulas -- Trusts.

- (1) For estates of decedents dying after December 31, 1981, where a decedent's trust executed before September 13, 1981, contains a formula expressly providing that the decedent's spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by federal law, this formula shall be construed as referring to the unlimited marital deduction allowable by federal law as amended by Section 403(a) of the Economic Recovery Tax Act of 1981.
- (2) The intention of a trustor as expressed in the trust shall control the legal effect of any dispositions made by it for purposes of construing Subsection (1), and the rule of construction of Subsection (1) shall apply unless a contrary intention is indicated by the trust.

Enacted by Chapter 89, 2004 General Session

