

**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