Effective 5/7/2025

Chapter 2
Uniform Trust Code

Part 1
General Provisions

75B-2-101 Reserved.

Reserved.

Enacted by Chapter 310, 2025 General Session

75B-2-102 Scope.

This chapter applies to a trust.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-103 Definitions for chapter.

As used in this chapter:

(1) "Action," with respect to an act of a trustee, includes a failure to act.

(2) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in Subsection 75B-2-405(1).

(3) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(4) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(5) "Jurisdiction," with respect to a geographic area, includes a state or country.

(6) "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.

(7) "Proceeding" means the same as that term is defined in Section 75-1-201.

(8) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(a) is a current distributee or permissible distributee of trust income or principal; or

(b) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(9) "Resident estate" means:

(a) an estate of a decedent who at death was domiciled in this state;

(b) a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at the time of the decedent's death was domiciled in this state; or

(c) a trust administered in this state.

(10) "Resident trust" means a resident estate.

(11) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(12) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer or encumbrance of a beneficiary's interest.

(13) "Terms of a trust" means:

(a) except as otherwise provided in Subsection (13)(b), the manifestation of the settlor's intent regarding a trust's provisions as:

(i) expressed in the trust instrument; or
(ii) established by other evidence that would be admissible in a judicial proceeding; or
(b) the trust's provisions as established, determined, or amended by:
(i) a trustee or trust director in accordance with the applicable law;
(ii) court order; or
(iii) a nonjudicial settlement agreement under Section 75B-2-110.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-104 Knowledge.

(1) Subject to Subsection (2), a person has knowledge of a fact if the person:
(a) has actual knowledge of the fact;
(b) has received a notice or notification of the fact; or
(c) from all the facts and circumstances known to the person at the time in question, has reason to know the fact.
(2)
(a) 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.
(b) An organization exercises reasonable diligence if the organization 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.
(c) 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-105 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) subject to Sections 75B-3-109, 75B-3-111, and 75B-3-112, 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 the terms of the trust be for the benefit of the trust's beneficiaries;
(d) the power of the court to modify or terminate a trust under Sections 75B-2-410 through 75B-2-416;
(e) the effect of a spendthrift provision, an asset protection trust described in Chapter 1, Part 3, Asset Protection Trust, and the rights of certain creditors and assignees to reach a trust as provided in Part 5, Spendthrift and Discretionary Trusts;
(f) the power of the court under Section 75B-2-702 to require, dispense with, or modify or terminate a bond;
(g) the effect of an exculpatory term under Section 75B-2-1008;

(h) the rights under Sections 75B-2-1010 through 75B-2-1013 of a person other than a trustee or beneficiary;
(i) periods of limitation for commencing a judicial proceeding; and
(j) the jurisdiction and venue requirements for an action involving a trust as described in Sections 75B-2-203 and 75B-2-205.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-106 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-107 Governing law.

(1) As used in 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 the fiduciary's 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 75B-1-303;
(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 the foreign trust's 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 the trust meets the requirements of Subsection (4).

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-108 Principal place of administration.

(1) Without precluding other means for establishing a sufficient connection with the designated jurisdiction, the 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 the trust's purposes, the trust's 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)
  (a) 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.
  (b) The notice of proposed transfer must include:
    (i) the name of the jurisdiction to which the principal place of administration is to be transferred;
    (ii) the address and telephone number at the new location at which the trustee can be contacted;
    (iii) an explanation of the reasons for the proposed transfer;
    (iv) the date on which the proposed transfer is anticipated to occur; and
    (v) 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 in accordance with Section 75B-2-704.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-109 Methods and waiver of notice.
(1)
  (a) 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.
  (b) 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 in accordance with the Utah Rules of Civil Procedure.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-110 Nonjudicial settlement agreements.

(1) As used in this section, "interested person" means a person 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), an interested person 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 that the nonjudicial settlement agreement 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-111 Rules of construction.

The rules of construction that apply to the interpretation of and disposition of property by will or other governing instrument also apply as appropriate to the interpretation of the terms of a trust and the disposition of the trust property.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-112 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-113 Foreign trustees.

(1) A foreign corporate trustee is required to qualify as a foreign corporation doing business in this state if the foreign corporate trustee maintains the principal place of administration of any trust within the state.
(2) A foreign corporate cotrustee is not required to qualify in this state solely because the other foreign corporate cotrustee maintains the principal place of administration in this state.
(3) Unless otherwise doing business in this state, local qualification by a foreign corporate trustee is not required in order for the trustee to receive distribution from a local estate or to hold, invest in, manage, or acquire property located in this state, or maintain litigation if the state of

the principal place of business of the foreign corporate trustee provides substantially similar provisions applicable to trustees from this state.

(4) Local qualification by a foreign trustee other than a corporation is not required in order for the trustee to receive distribution from a local estate or to hold, invest in, manage, or acquire property located in this state or maintain litigation.

(5) Nothing in this section affects a determination of what other acts require qualification as doing business in this state.

Renumbered and Amended by Chapter 310, 2025 General Session

Part 2
Jurisdiction and Venue for Trusts

75B-2-201 Court -- Exclusive jurisdiction of trusts.

(1)

(a) The court has exclusive jurisdiction over proceedings initiated by an interested party concerning the internal affairs of trusts.

(b) An interested party may bring proceedings under Subsection (1)(a) concerning:

(i) the administration and distribution of trusts;

(ii) the declaration of rights; and

(iii) the determination of other matters involving trustees and beneficiaries of trusts.

(c) A proceeding under Subsection (1) includes a proceeding to:

(i) appoint or remove a trustee;

(ii) review a trustee's fees;

(iii) review and settle interim or final accounts;

(iv) ascertain beneficiaries;

(v) determine any question arising in the administration or distribution of any trust, including questions of construction of trust instruments;

(vi) instruct trustees;

(vii) determine the existence or nonexistence of any immunity, power, privilege, duty, or right; or

(viii) order transfer of administration of the trust to another state upon appropriate conditions as may be determined by the court or accept transfer of administration of a trust from another state to this state upon such conditions as may be imposed by the supervising court of the other state, unless the court in this state determines that these conditions are incompatible with its own rules and procedures.

(2)

(a) A proceeding under this section does not result in continuing supervision by the court over the administration of the trust.

(b) The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustee's fees and other obligations of a trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously consistent with the terms of the trust, free of judicial intervention and without order, approval or other action of any court, subject to the jurisdiction of the court as invoked by interested parties or as otherwise exercised as provided by law.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-202 Effect of administration in this state -- Consent to jurisdiction.

(1) The trustee submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust if the trustee acts as trustee of a trust administered in this state.

(2)

(a) To the extent of the beneficial interests in a trust administered in this state, the beneficiaries of the trust are subject to the jurisdiction of the courts of this state regarding any matter involving the trust.

(b) By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust.

(3) By accepting the delegation of a trust function from the trustee of a trust administered in this state, the agent submits to the jurisdiction of the courts of this state regarding any matter involving the trust.

(4) Unless otherwise designated in the trust instrument, a trust is administered in this state if it meets the requirements of Subsection 75B-2-107(4).

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-203 Jurisdiction over an action involving a trust.

(1) A court of this state has jurisdiction as described in Title 78A, Judiciary and Judicial Administration, over an action involving a trust.

(2) This section does not preclude judicial or nonjudicial alternative dispute resolution.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-204 Trust proceedings -- Dismissal of matters relating to foreign trusts.

(1) The court may not, over the objection of a party, entertain proceedings under Section 75B-2-201 involving a trust that:

(a) is under the continuing supervision of a foreign court;

(b) is registered in another state; or

(c) has a fiduciary which transacts a major portion of its trust administration in another state.

(2) Notwithstanding Subsection (1), the court may entertain a proceeding regarding any matter involving a trust if:

(a) all appropriate parties could not be bound by litigation in the courts of the other state; or

(b) the interests of justice would be seriously impaired.

(3) The court may condition a stay or dismissal of a proceeding on the consent of any party to the jurisdiction of the courts of another state, or the court may grant a continuance or enter any other appropriate order.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-205 Venue for an action involving a trust.

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and except as provided in Subsection (2), a person shall bring an action involving a trust in:

(a) the county in which the trust's principal place of administration is or will be located; or

(b) if the trust is created by a will and the estate is not yet closed, the county in which the decedent's estate is being administered.

(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and if a trust has no trustee, a person shall bring an action for the appointment of a trustee in:
(a) a county of this state in which a beneficiary resides;
(b) a county in which any trust property is located; or
(c) if the trust is created by a will, the county in which the decedent's estate was or is being administered.
(3) This section does not apply to an action brought in the Business and Chancery Court.

Renumbered and Amended by Chapter 310, 2025 General Session

Part 3
Representation

75B-2-301 Basic effect.
(1) Notice to a person who may represent and bind another person under this part has the same effect as if notice were given directly to the other person.
(2) The consent of a person who may represent and bind another person under this part is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.
(3) Except as otherwise provided in Section 75B-2-411 and Chapter 1, Part 3, Asset Protection Trust, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-302 Representation by holder of general testamentary power of appointment.
To the extent there is no conflict of interest between the holder of a general testamentary power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-303 Representation by fiduciaries and parents.
To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:
(1) a conservator may represent and bind the protected person whose estate the conservator controls;
(2) a guardian may represent and bind the ward if a conservator of the ward's estate has not been appointed;
(3) an agent having authority to act with respect to the particular question or dispute may represent and bind the principal;
(4) a trustee may represent and bind the beneficiaries of the trust;
(5) a personal representative of a decedent's estate may represent and bind persons interested in the estate; and

(6) a parent may represent and bind the parent's minor or unborn child if a conservator or guardian for the child has not been appointed.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-304 Representation by person having substantially identical interest.

Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-305 Appointment of guardian ad litem or other representative.

(1)

(a) If the court determines that an interest is not represented under this part, or that the otherwise available representation might be inadequate, the court may appoint a guardian ad litem or other representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated or protected person, or unborn individual, or a person whose identity or location is unknown.

(b) A guardian ad litem or other representative may be appointed to represent several persons or interests.

(2) A guardian ad litem or other representative may act on behalf of the individual represented with respect to any matter arising under this chapter, whether or not a judicial proceeding concerning the trust is pending.

(3) In making decisions, a guardian ad litem or other representative may consider general benefit accruing to the living members of the individual's family.

Renumbered and Amended by Chapter 310, 2025 General Session

Part 4
Creation, Validity, Modification, and Termination of a Trust

75B-2-401 Methods of creating trust.

(1) A trust may be created by:

(a) transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;

(b) declaration by the owner of property that the owner holds identifiable property as trustee; or

(c) exercise of a power of appointment in favor of a trustee.

(2)

(a) A health savings account is established on the first day an individual is covered by a high deductible health plan, as defined in Section 223 of the Internal Revenue Code.

(b) The health savings account shall be opened with a trustee or custodian within the time prescribed by law, without extensions, for filing a federal income tax return for that year.

(c) A health savings account is established regardless of a transfer of cash or other property to the account and, unless required by the trustee or custodian, it is not necessary for any party to sign a health savings account trust or custodial agreement regarding the health savings account.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-402 Requirements for creation.

(1) A trust is created only if:
(a) the settlor has capacity to create a trust, which standard of capacity shall be the same as for a person to create a will;
(b) the settlor indicates an intention to create the trust or a statute, judgment, or decree authorizes the creation of a trust;
(c) the trust has a definite beneficiary or is:
(i) a charitable trust;
(ii) a trust for the care of an animal, as provided in Section 75-2-1001; or
(iii) a trust for a noncharitable purpose, as provided in Section 75-2-1001;
(d) the trustee has duties to perform; and
(e) the same person is not the sole trustee and sole beneficiary.
(2) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.
(3) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-403 Trusts created in other jurisdictions.

A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation:
(1) the settlor was domiciled, had a place of abode, or was a national;
(2) a trustee was domiciled or had a place of business; or
(3) any trust property was located.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-404 Trust purposes.

(1) A trust may be created only to the extent the trust's purposes are lawful, not contrary to public policy, and possible to achieve.
(2) A trust and the trust's terms must be for the benefit of the trust's beneficiaries.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-405 Charitable purposes -- Enforcement.

(1) A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to the community.

(2)
(a) If the terms of a charitable trust do not indicate a particular charitable purpose or beneficiary, the trustee, if authorized by the terms of the trust, or if not, the court may select one or more charitable purposes or beneficiaries.
(b) The selection must be consistent with the settlor's intention to the extent intent can be ascertained.
(3) The settlor of a charitable trust, among others, may maintain a proceeding to enforce the trust.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-406 Creation of trust induced by fraud, duress, or undue influence.

A trust is void to the extent the trust's creation was induced by fraud, duress, or undue influence.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-407 Evidence of oral trust.

Except as required by a statute other than this chapter, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and the trust's terms may be established only by clear and convincing evidence.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-408 Trust for care of animal.

A trust may be created to provide for the care of a pet or animal as provided in Section 75-2-1001.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-409 Noncharitable trust without ascertainable beneficiary.

A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee as provided in Section 75-2-1001.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-410 Modification or termination of trust -- Proceedings for approval or disapproval.

(1) In addition to the methods of termination prescribed by Sections 75B-2-411 through 78B-2-414, a trust terminates to the extent the trust is revoked or expires pursuant to the trust's terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.
(2)
(a) A proceeding to approve or disapprove a proposed modification or termination under Sections 75B-2-411 through 78B-2-416, or trust combination or division under Section 75B-2-417, may be commenced by a trustee or qualified beneficiary, and a proceeding to approve or disapprove a proposed modification or termination under Section 75B-2-411 may be commenced by the settlor.

(b) The settlor of a charitable trust may maintain a proceeding to modify the trust under Section 75B-2-413.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-411 Modification or termination of noncharitable irrevocable trust by consent.

(1)
(a) A noncharitable, irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust.
(b) A settlor's power to consent to a trust's termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust, by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized, or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed.

(2)
(a) A noncharitable, irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust.
(b) A noncharitable, irrevocable trust may be modified upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(3) A spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust.

(4) Upon termination of a trust under Subsection (1) or (2), the trustee shall distribute the trust property as agreed by the beneficiaries.

(5) If not all of the beneficiaries consent to a proposed modification or termination of the trust under Subsection (1) or (2), the modification or termination may be approved by the court if the court is satisfied that:
(a) if all of the beneficiaries had consented, the trust could have been modified or terminated under this section; and
(b) the interests of a beneficiary who does not consent will be adequately protected.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-412 Modification or termination because of unanticipated circumstances or inability to administer trust effectively.

(1)
(a) The court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust.
(b) To the extent practicable, the modification must be made in accordance with the settlor's probable intention.

(2) The court may modify the administrative terms of a trust if continuation of the trust on the trust's existing terms would be impracticable or wasteful or impair the trust's administration.

(3) Upon termination of a trust under this section, the trustee shall distribute the trust property as directed by the court or otherwise in a manner consistent with the purposes of the trust.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-413 Cy pres.

(1) Except as otherwise provided in Subsection (2), if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful:
  (a) the trust does not fail, in whole or in part;
  (b) the trust property does not revert to the settlor or the settlor's successors in interest; and
  (c) the court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, in a manner consistent with the settlor's charitable purposes.
(2) A provision in the terms of a charitable trust that would result in distribution of the trust property to a noncharitable beneficiary prevails over the power of the court under Subsection (1) to apply cy pres to modify or terminate the trust only if, when the provision takes effect:
  (a) the trust property is to revert to the settlor and the settlor is still living; or
  (b) fewer than 21 years have elapsed since the date of the trust's creation.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-414 Modification or termination of uneconomic trust.

(1) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value less than $100,000 may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.
(2) The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.
(3) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.
(4) This section does not apply to an easement for conservation or preservation.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-415 Reformation to correct mistakes.

The court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if it is proved by clear and convincing evidence that both the settlor's intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-416 Modification to achieve settlor's tax objectives.

(1) To achieve the settlor's tax objectives, the court may modify the terms of a trust in order to achieve the settlor's tax objectives.
(2) The court may provide that the modification has retroactive effect.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-417 Combination and division of trusts.

After notice to the qualified beneficiaries, a trustee may combine two or more trusts into a single trust or divide a trust into two or more separate trusts if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust.

Renumbered and Amended by Chapter 310, 2025 General Session

Part 5
Spendthrift and Discretionary Trusts

75B-2-501 Rights of beneficiary's creditor or assignee.

(1) To the extent a beneficiary's interest is not protected by a spendthrift provision or Chapter 1, Part 3, Asset Protection Trust, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means.
(2) The court may limit the award to relief as is appropriate under the circumstances.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-502 Spendthrift provisions for beneficiaries other than the settlor.

(1) A spendthrift provision for a beneficiary other than the settlor is valid only if the spendthrift provision restrains both voluntary and involuntary transfer of a beneficiary's interest, even if the beneficiary is the trustee or cotrustee of the trust.
(2) A term of a trust providing that the interest of a beneficiary other than the settlor is held subject to a "spendthrift trust," or words of similar import, is sufficient to restrain both voluntary and involuntary transfer of the beneficiary's interest.
(3) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in this part, a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-503 Exceptions to spendthrift provision.

(1) As used in this section:
  (a) "Child" includes any person for whom an order or judgment for child support has been entered in this or another state.
  (b) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.
  (c) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
  (d) "Restitution" means the same as that term is defined in Section 77-38b-102.
  (e) "Victim" means the same as that term is defined in Section 77-38b-102.
(2) Even if a trust contains a spendthrift provision, the following persons may obtain an order from a court that attaches present or future distributions to the beneficiary:
  (a) a beneficiary's child who has a judgment or court order against the beneficiary for support or maintenance;
  (b) a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust;

(c) a victim who has a judgment requiring the beneficiary to pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act, or similar provision in another state; or
(d) the Office of State Debt Collection, created in Section 63A-3-502, for collecting payment on a civil accounts receivable or a civil judgment of restitution.
(3) A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-504 Discretionary trusts -- Effect of standard.
(1) As used in this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.
(2) Except as otherwise provided in Subsection (3), whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:
(a) the discretion is expressed in the form of a standard of distribution; or
(b) the trustee has abused the discretion.
(3) To the extent a trustee has not complied with a standard of distribution or has abused a discretion:
(a) a distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child, spouse, or former spouse; and
(b) the court shall direct the trustee to pay to the child, spouse, or former spouse such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.
(4) This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-505 Creditor's claim against settlor.
Regardless of whether the terms of a trust contain a spendthrift provision, the following rules apply:
(1)
(a) During the lifetime of the settlor, the property of a revocable trust is subject to the claims of the settlor's creditors.
(b) If a revocable trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.
(2)
(a) With respect to an irrevocable trust other than an irrevocable trust that meets the requirements of Chapter 1, Part 3, Asset Protection Trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit.
(b) With respect to an irrevocable trust that has more than one settlor, other than an irrevocable trust that meets the requirements of Chapter 1, Part 3, Asset Protection Trust, the amount a creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(c) Notwithstanding Subsections (2)(a) and (b), a creditor of a settlor may not satisfy the creditor's claim from an irrevocable trust solely because the trustee may make a discretionary distribution reimbursing the settlor for income tax liability of the settlor attributable to the income of the irrevocable trust, when the distribution is:
(i) subject to the discretion of a trustee who is not the settlor;
(ii) subject to the consent of an advisor who is not the settlor; or
(iii) at the direction of an advisor who is not the settlor.
(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death, but not property received by the trust as a result of the death of the settlor which is otherwise exempt from the claims of the settlor's creditors, is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-506 Overdue distribution.

Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the required distribution date.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-507 Personal obligations of trustee.

Trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-508 Notice to creditors.

(1)
(a) A trustee for an inter vivos revocable trust, upon the death of the settlor, may publish a notice to creditors:
(i) once a week for three successive weeks in a newspaper of general circulation in the county where the settlor resided at the time of death; and
(ii) in accordance with Section 45-1-101 for three weeks.
(b) The notice required by Subsection (1)(a) shall:
(i) provide the trustee's name and address; and
(ii) notify creditors:
(A) of the deceased settlor; and
(B) to present their claims within three months after the date of the first publication of the notice or be forever barred from presenting the claim.
(2)
(a) A trustee shall give written notice by mail or other delivery to any known creditor of the deceased settlor, notifying the creditor to present the creditor's claim within 90 days from the

published notice if given as provided in Subsection (1) or within 60 days from the mailing or other delivery of the notice, whichever is later, or be forever barred.

(b) Written notice shall be the notice described in Subsection (1) or a similar notice.

(3)

(a) If the deceased settlor received medical assistance, as defined in Section 26B-3-1001, at any time after the age of 55, the trustee for an inter vivos revocable trust, upon the death of the settlor, shall mail or deliver written notice to the Director of the Office of Recovery Services, on behalf of the Department of Health and Human Services, to present any claim under Section 26B-3-1013 within 60 days from the mailing or other delivery of notice, whichever is later, or be forever barred.

(b) If the trustee does not mail notice to the director of the Office of Recovery Services on behalf of the Department of Health and Human Services in accordance with Subsection (3)(a), the Department of Health and Human Services shall have one year from the death of the settlor to present the Department of Health and Human Services' claim.

(4) The trustee is not liable to any creditor or to any successor of the deceased settlor for giving or failing to give notice under this section.

(5) The notice to creditors shall be valid against any creditor of the trust and also against any creditor of the estate of the deceased settlor.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-509 Limitations on presentation of claims.

(1) All claims against a deceased settlor which arose before the death of the deceased settlor, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the deceased settlor's estate, the trustee, the trust estate, and the beneficiaries of the deceased settlor's trust, unless presented within the earlier of the following:

(a) one year after the settlor's death; or

(b) the time provided by Subsection 75B-2-508(2) or (3) for creditors who are given actual notice, and where notice is published, within the time provided in Subsection 75B-2-508(1) for all claims barred by publication.

(2) In all events, claims barred by the nonclaim statute at the deceased settlor's domicile are also barred in this state.

(3) All claims against a deceased settlor's estate or trust estate which arise at or after the death of the settlor, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis are barred against the deceased settlor's estate, the trustee, the trust estate, and the beneficiaries of the deceased settlor, unless presented as follows:

(a) a claim based on a contract with the trustee within three months after performance by the trustee is due; or

(b) any other claim within the later of three months after the claim arises, or the time specified in Subsection (1).

(4) Nothing in this section affects or prevents:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the deceased settlor's estate or the trust estate;

(b) to the limits of the insurance protection only, any proceeding to establish liability of the deceased settlor or the trustee for which the deceased settlor or trustee is protected by liability insurance;

(c) collection of compensation for services rendered and reimbursement for expenses advanced by the trustee or by the attorney or accountant for the trustee of the trust estate; or
(d) the right to recover medical assistance provided to the settlor under Title 26B, Chapter 3, Part 10, Medical Benefits Recovery.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-510 Manner of presentation of claims.

(1) Claims against a deceased settlor's estate or inter vivos revocable trust shall be presented as follows:
(a)
(i) The claimant may deliver or mail to the trustee, or the trustee's attorney of record, a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed.
(ii) The claim is considered presented upon the receipt of the written statement of claim by the trustee or the trustee's attorney of record.
(iii) If a claim is not yet due, the date when the claim will become due shall be stated.
(iv) If the claim is contingent or unliquidated, the nature of the uncertainty shall be stated.
(v) If the claim is secured, the security shall be described.
(vi) Failure to describe correctly the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.
(b)
(i) The claimant may commence a proceeding against the trustee in any court where the trustee may be subjected to jurisdiction to obtain payment of the claim against the deceased settlor's estate or the trust estate, but the commencement of the proceeding must occur within the time limited for presenting the claim.
(ii) No presentation of claim is required in regard to matters claimed in proceedings against the deceased settlor which were pending at the time of the deceased settlor's death.
(2)
(a) If a claim is presented under Subsection (1)(a), a proceeding may not be commenced more than 60 days after the trustee has mailed a notice of disallowance.
(b) Notwithstanding Subsection (2)(a), in the case of a claim which is not presently due or which is contingent or unliquidated, the trustee may consent to an extension of the 60-day period, or to avoid injustice, the court, on petition, may order an extension of the 60-day period, except that the extension may not run beyond the applicable statute of limitations.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-511 Classification of claims.

(1) If the applicable assets of the deceased settlor's estate or trust estate are insufficient to pay all claims in full, the trustee shall make payment in the following order:
(a) reasonable funeral expenses;
(b) costs and expenses of administration;
(c) debts and taxes with preference under federal law;
(d) reasonable and necessary medical and hospital expenses of the last illness of the deceased settlor, including compensation of persons attending the deceased settlor, and medical assistance if Section 26B-3-1013 applies;
(e) debts and taxes with preference under other laws of this state; and

(f) all other claims.
(2) No preference shall be given in the payment of any claim over any other claim of the same class.
(3) A claim due and payable shall not be entitled to a preference over claims not due.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-512 Allowance of claims.
(1)
(a) As to claims presented in the manner described in Section 75B-2-510 and within the time limit prescribed in Section 75B-2-509, the trustee may mail a notice to any claimant stating that the claim has been allowed or disallowed.
(b) If, after allowing or disallowing a claim, the trustee changes the decision concerning the claim, the trustee shall notify the claimant.
(c) The trustee may not change a disallowance of a claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has expired and the claim has been barred.
(d) If the notice of disallowance warns the claimant of the impending bar, a claim which is disallowed in whole or in part by the trustee is barred so far as not allowed, unless the claimant seeks a court-ordered allowance by filing a petition for allowance in the court or by commencing a proceeding against the trustee not later than 60 days after the mailing of the notice of disallowance or partial allowance.
(e) If the trustee fails to mail notice to a claimant of action on the claim within 60 days after the time for original presentation of the claim has expired, this failure has the effect of a notice of allowance.
(2)
(a) Upon the petition of the trustee or a claimant in a proceeding for this purpose, the court may order any claim presented to the trustee or trustee's attorney in a timely manner and not barred by Subsection (1) to be allowed in whole or in part.
(b) Notice of this proceeding shall be given to the claimant, the trustee, and those other persons interested in the trust estate as the court may direct by order at the time the proceeding is commenced.
(3) A judgment in a proceeding in another court against the trustee to enforce a claim against a deceased settlor's estate is a court-ordered allowance of the claim.
(4) Unless otherwise provided in any judgment in another court entered against a trustee, allowed claims bear interest at the legal rate for the period commencing six months after the deceased settlor's date of death unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-513 Payment of claims.
(1)
(a) Upon the expiration of the earliest of the time limitations provided in Section 75B-2-509 for the presentation of claims, the trustee shall pay the claims allowed against the deceased settlor's estate in the order of priority prescribed, after making provision for claims already presented which have not yet been allowed or whose allowance has been appealed, and for unbarred claims which may yet be presented, including costs and expenses of administration.

(b) By petition to the court in a proceeding for that purpose, a claimant whose claim has been allowed but not paid as provided in this section may secure an order directing the trustee to pay the claim to the extent that funds of the deceased settlor's estate or trust estate are available for the payment.

(2) The trustee at any time may pay any just claim that has not been barred, with or without formal presentation, but the trustee shall be personally liable to any other claimant whose claim is allowed and who is injured by the payment if:

(a) the payment was made before the expiration of the time limit stated in Subsection (1) and the trustee failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(b) the payment was made, due to the negligence or willful fault of the trustee, in a way that deprived the injured claimant of his priority.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-514 Secured claims.

Payment of a secured claim shall be upon the basis of the amount allowed if the creditor surrenders the creditor's security, but otherwise payment shall be based upon one of the following:

(1) if the creditor exhausts the creditor's security before receiving payment, unless precluded by another provision of the law, upon the amount of the claim allowed less the fair value of the security; or

(2) if the creditor does not have the right to exhaust the creditor's security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting the security into money according to the terms of the agreement pursuant to which the security was delivered to the creditor, or by the creditor and trustee by agreement, arbitration, compromise, or litigation.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-515 Claims not due and contingent or unliquidated claims.

(1) If a claim which will become due at a future time or a contingent or unliquidated claim becomes due or certain before the distribution of the trust estate, and if the claim has been allowed or established by a proceeding, the claim shall be paid in the same manner as presently due and absolute claims of the same class.

(2) In other cases the trustee, or, on petition of the trustee or the claimant in a special proceeding for that purpose, the court, may provide for payment as follows:

(a) if the claimant consents, the claimant may be paid the present or agreed value of the claim, taking any uncertainty into account; or

(b) arrangement for future payment, or possible payment, on the happening of the contingency or on liquidation may be made by creating a trust, giving a mortgage, obtaining a bond or security from a beneficiary, or otherwise.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-516 Counterclaims.

(1)

(a) In allowing a claim, the trustee may deduct any counterclaim which the deceased settlor's estate has against the claimant.

(b) In determining a claim against a deceased settlor's estate, a court shall reduce the amount allowed by the amount of any counterclaims and, if the counterclaims exceed the claim, render a judgment against the claimant in the amount of the excess.
(2) A counterclaim, liquidated or unliquidated, may arise from a transaction other than that upon which the claim is based.
(3) A counterclaim may give rise to relief exceeding in amount or different in kind from that sought in the claim.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-517 Execution and levies prohibited.
(1) No execution may issue upon nor may any levy be made against any property of the deceased settlor's estate under any judgment against a deceased settlor or a trustee.
(2) This section may not be construed to prevent the enforcement of mortgages, pledges, or liens upon real or personal property in an appropriate proceeding.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-518 Compromise of claims.
When a claim against a deceased settlor's estate has been presented in any manner, the trustee may, if the claim appears in the best interest of the deceased settlor's estate, compromise the claim, whether due or not due, absolute or contingent, liquidated or unliquidated.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-519 Encumbered assets.
(1) If any assets of the deceased settlor's estate are encumbered by mortgage, pledge, lien, or other security interest, the trustee may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance, or convey or transfer the assets to the creditor in satisfaction of the creditor's lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be in the best interest of the deceased settlor's estate.
(2) Payment of an encumbrance does not increase the share of the beneficiary entitled to the encumbered assets unless the beneficiary is entitled to exoneration or unless the terms of the deceased settlor's trust, under which the beneficiary is entitled to the encumbered assets, provides otherwise.

Renumbered and Amended by Chapter 310, 2025 General Session

Part 6
Revocable Trust

75B-2-601 Capacity of settlor of revocable trust.
The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-602 Revocation or amendment of revocable trust.

(1)
(a) Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust.
(b) This Subsection (1) does not apply to a trust created under an instrument executed before May 1, 2004.

(2) If a revocable trust is created or funded by more than one settlor:
(a) to the extent the trust consists of community property, the trust may be revoked by either spouse acting alone but may be amended only by joint action of both spouses; and
(b) to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to that settlor's contribution.

(3) The settlor may revoke or amend a revocable trust:
(a) by substantially complying with a method provided in the terms of the trust; or
(b) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by:
(i) executing a later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust; or
(ii) any other method manifesting clear and convincing evidence of the settlor's intent.

(4) Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.

(5) A settlor's powers with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust or the power.

(6) A conservator of the settlor or, if no conservator has been appointed, a guardian of the settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the conservatorship or guardianship.

(7) A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-603 Settlor's powers -- Powers of withdrawal.

(1)
(a) To the extent a trust is revocable by a settlor, a trustee may follow a direction of the settlor that is contrary to the terms of the trust.
(b) To the extent a trust is revocable by a settlor in conjunction with a person other than a trustee or a person holding an adverse interest, the trustee may follow a direction from the settlor and the other person holding the power to revoke even if the direction is contrary to the terms of the trust.

(2) To the extent a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

(3) If a revocable trust has more than one settlor, the duties of the trustee are owed to all of the settlors having capacity to revoke the trust.

(4) During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-604 Limitation on action contesting validity of revocable trust -- Distribution of trust property.

(1) A person shall commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of:
  (a) three years after the settlor's death; or
  (b) 90 days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.

(2)
  (a) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust.
  (b) The trustee is not subject to liability for doing so unless:
    (i) the trustee knows of a pending judicial proceeding contesting the validity of the trust; or
    (ii) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent the notification.

(3)
  (a) With respect to a potential contest, the trustee is only liable for actions taken two or more business days after the trustee has actual receipt of written notice from a potential contestant.
  (b) The written notice shall include the name of the settlor or of the trust, the name of the potential contestant, and a description of the basis for the potential contest.
  (c) The written notice shall be mailed to the trustee at the principal place of administration of the trust by registered or certified mail, return receipt requested, or served upon the trustee in the same manner as a summons in a civil action.
  (d) Any other form or service of notice is not sufficient to impose liability on the trustee for actions taken pursuant to the terms of the trust.

(4) A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

Renumbered and Amended by Chapter 310, 2025 General Session

Part 7
Office of Trustee

75B-2-701 Accepting or declining trusteeship.

(1) Except as otherwise provided in Subsection (3), a person designated as trustee accepts the trusteeship:
  (a) by substantially complying with a method of acceptance provided in the terms of the trust; or

(b) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

(2)

(a) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship.

(b) A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is considered to have rejected the trusteeship.

(3) A person designated as trustee, without accepting the trusteeship, may:

(a) act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified beneficiary; and

(b) inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-702 Trustee's bond.

(1) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

(2)

(a) The court may specify the amount of a bond, the bond's liabilities, and whether sureties are necessary.

(b) The court may modify or terminate a bond at any time.

(3)

(a) A regulated financial service institution qualified to do trust business in this state need not give bond, unless required by the terms of the trust.

(b) The cost of any bond shall be borne by the trust.

(4) Unless otherwise directed by the court, the cost of the bond is charged to the trust.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-703 Cotrustees.

(1) Cotrustees who are unable to reach a unanimous decision may act by majority decision.

(2) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

(3) Subject to Section 75B-3-112, a cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity, or the cotrustee has properly delegated the performance of the function to another trustee.

(4) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, or if a cotrustee fails or refuses to act after reasonable notice, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

(5)

(a) A trustee may not delegate to a cotrustee the performance of a function the settlor intended the trustees to perform jointly as determined from the terms of the trust.

(b) If one of the cotrustees is a regulated financial service institution qualified to do trust business in this state and the remaining cotrustees are individuals, a delegation by the individual cotrustees to the regulated financial service institution of the performance of trust investment functions shall be presumed to be in accordance with the settlor's intent unless the terms of the trust specifically provide otherwise.
(c) Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.
(6) Except as otherwise provided in Subsection (7), a trustee who does not join in an action of another trustee is not liable for the action.
(7) Subject to Section 75B-3-112, each trustee shall exercise reasonable care to:
(a) prevent a cotrustee from committing a serious breach of trust; and
(b) compel a cotrustee to redress a serious breach of trust.
(8) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-704 Vacancy in trusteeship -- Appointment of successor.
(1) A vacancy in a trusteeship occurs if:
(a) a person designated as trustee rejects the trusteeship;
(b) a person designated as trustee cannot be identified or does not exist;
(c) a trustee resigns;
(d) a trustee is disqualified or removed;
(e) a trustee dies; or
(f) a guardian or conservator is appointed for an individual serving as trustee, unless otherwise provided in the trust.
(2)
(a) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled.
(b) A vacancy in a trusteeship must be filled if the trust has no remaining trustee.
(3) A vacancy in a trusteeship required to be filled must be filled in the following order of priority:
(a) by a person designated in the terms of the trust to act as successor trustee;
(b) by a person appointed by unanimous agreement of the qualified beneficiaries; or
(c) by a person appointed by the court.
(4) A vacancy in a trusteeship of a charitable trust that is required to be filled must be filled in the following order of priority:
(a) by a person designated in the terms of the trust to act as successor trustee;
(b) by a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust if the attorney general concurs in the selection; or
(c) by a person appointed by the court.
(5) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-705 Resignation of trustee.
(1) A trustee may resign:

(a) upon at least 30 days' notice to the qualified beneficiaries, the settlor, if living, and all cotrustees; or
(b) with the approval of the court.
(2) In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.
(3) Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-706 Removal of trustee.
(1) The settlor, a cotrustee, or a qualified beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on the court's own initiative.
(2) The court may remove a trustee if:
(a) the trustee has committed a serious breach of trust;
(b) lack of cooperation among cotrustees substantially impairs the administration of the trust;
(c) because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries; or
(d) there has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.
(3) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order appropriate relief under Subsection 75B-2-1001(2) necessary to protect the trust property or the interests of the beneficiaries.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-707 Delivery of property by former trustee.
(1) Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.
(2) A trustee who has resigned or been removed shall proceed expeditiously to deliver the trust property within the trustee's possession to the cotrustee, successor trustee, or other person entitled to the trust property.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-708 Compensation of trustee.
If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to compensation that is reasonable under the circumstances.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-709 Reimbursement of expenses.
(1) A trustee is entitled to be reimbursed out of the trust property, with interest as appropriate, for:

(a) expenses that were properly incurred in the administration of the trust; and
(b) to the extent necessary to prevent unjust enrichment of the trust, expenses that were not properly incurred in the administration of the trust.
(2) An advance by the trustee of money for the protection of the trust gives rise to a lien against trust property to secure reimbursement with reasonable interest.

Renumbered and Amended by Chapter 310, 2025 General Session

Part 8
Duties and Power of Trustee

75B-2-801 Duty to administer trust.

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

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-802 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 75B-2-1012, 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 75B-2-1005;
(d) the beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with Section 75B-2-1009; 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 the sale, encumbrance, or other transaction is entered into by the trustee with:
(a) the trustee's spouse;
(b) the trustee's descendants, siblings, parents, or the spouses of the trustee's descendants, siblings, or parents;
(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)

(a) 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 75B-2-901.

(b) The trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust.

(7)

(a) 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.

(b) 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 a person, including an attorney, an auditor, an investment adviser, or an agent, even if the person is 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 the person's 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-803 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-804 Prudent administration.

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

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-805 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-806 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-807 Control and protection of trust property.

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

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-808 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-809 Enforcement and defense of claims.

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

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-810 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-811 Duty to inform and report.

(1)

(a) 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 the qualified beneficiaries to protect the qualified beneficiaries' interests.

(b) 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) 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, the trust assets' respective market values.

(b) 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.

(c) A personal representative, conservator, or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

(4)

(a) A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section.

(b) A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-812 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 requirement described 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) 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.

(b) 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 the trust's 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-812.5 Discretionary power -- Decanting a trust.

(1) As used in this section:

(a) "Current income beneficiary" means the same as that term is defined in Section 75A-5-102.

(b) "Decanting power" means the power of a trustee as described in Subsection (2)(a):

(i) to distribute income or principal from a first trust to a second trust; or

(ii) to modify the terms of a first trust.

(c) "First trust" means a trust over which a trustee exercises discretion to distribute income or principal to, or for the benefit of, a beneficiary.

(d) "General power to change the trustees" means a beneficiary may, whether alone or in concert with other persons:

(i) name the beneficiary as a trustee; or

(ii) remove a trustee and replace that trustee with a new trustee who is:

(A) the beneficiary; or

(B) a related or subordinate party, as defined in Section 672(c) of the Internal Revenue Code, of the beneficiary.

(e) "Restricted trustee" means a trustee of the first trust if:

(i) the trustee is also a beneficiary of the first trust; or

(ii) a beneficiary of the first trust holds a general power to change the trustees of the first trust.

(f) "Second trust" means:

(i) a trust to which a distribution of income or principal from a first trust is made to the trustee of the trust under Subsection (2)(a)(i); or

(ii) a trust that is modified under Subsection (2)(a)(ii).

(2)

(a) If a trustee has discretion under the terms of a trust instrument to distribute income or principal to, or for the benefit of, a beneficiary of a trust, the trustee may:

(i) distribute part or all of the income or principal to a trust governed by a trust instrument that is separate from the trust instrument of the first trust; or

(ii) modify the terms of the trust instrument of the first trust.

(b) A trustee may not exercise the decanting power if the terms of the trust instrument for the first trust expressly prohibit the trustee from:

(i) distributing part or all of the income or principal to a trust governed by a trust instrument that is separate from the trust instrument of the first trust; or

(ii) modifying the terms of the trust instrument of the first trust.

(c) Before a trustee exercises the decanting power to modify the terms of the trust instrument of a first trust, the trustee shall notify all beneficiaries of the trust, in writing, at least 20 days before the day on which the trustee exercises the decanting power.

(3) Before a trustee exercises the decanting power, the trustee shall determine whether distribution or modification is necessary or desirable after taking into account:

(a) the purposes of the first trust;

(b) the terms and conditions of the second trust; and

(c) the consequences of the distribution.

(4) A trustee may only exercise the decanting power if the second trust has a beneficiary that is a beneficiary of the first trust to or for whom:

(a) a trustee has discretion to distribute income or principal from the first trust; or

(b) a trustee may distribute income or principal in the future from the first trust at a time, or upon the happening of an event, that is specified in the trust instrument of the first trust.

(5) Except as provided in Subsection (6), a restricted trustee may not exercise the decanting power if the distribution would have the effect of:

(a) benefiting the restricted trustee as a beneficiary of the first trust, unless the distribution is limited to an ascertainable standard based on or related to health, education, maintenance, or support;

(b) increasing the distributions that can be made from the second trust to a restricted trustee, or to a beneficiary holding a general power to change the trustees of the first trust, compared to the distributions that can be made to the restricted trustee, or to the beneficiary holding a general power to change the trustees, under the first trust, unless the distribution is limited to an ascertainable standard based on or related to health, education, maintenance, or support; or

(c) removing restrictions on a discretionary distribution imposed by the trust instrument of the first trust, unless the trust instrument of the second trust limits distributions of income or principal from the second trust to:

(i) an ascertainable standard based on or related to the health, education, maintenance, or support of a beneficiary; or
(ii) a trust described in 42 U.S.C. Sec. 1396p(d)(4).
(6) Subsection (5) limits a restricted trustee's exercise of the decanting power only if:
(a) at least one restricted trustee is a United States citizen or domiciliary under the Internal Revenue Code;
(b) at least one beneficiary holding a general power to change the trustees of the first trust is a United States citizen or domiciliary under the Internal Revenue Code; or
(c) the first trust owns property that would be subject to United States estate or gift taxes if owned free of the trust by:
(i) the restricted trustee of the first trust if there is a restricted trustee of the first trust; or
(ii) the beneficiary holding a general power to change the trustees of the first trust if there is a beneficiary holding a general power to change the trustees of the first trust.
(7) If a trust contribution has been treated as a gift qualifying for the exclusion from the gift tax described in Section 2503(b) of the Internal Revenue Code, the trust instrument for the second trust shall provide that the beneficiary's remainder interest must vest no later than the day on which the remainder interest would have vested under the terms of the trust instrument for the first trust.
(8) A trustee's exercise of the decanting power as described in Subsection (2):
(a) may not reduce an income interest of a current income beneficiary of:
(i) a trust for which a marital deduction has been taken for federal tax purposes under Section 2056 or 2523 of the Internal Revenue Code or for state tax purposes under a comparable state law;
(ii) a charitable remainder trust under Section 664 of the Internal Revenue Code; or
(iii) a grantor retained annuity or unitrust trust under Section 2702 of the Internal Revenue Code;
(b) does not apply to property of a trust that is subject to a power of withdrawal held by a beneficiary of the trust to whom, or for the benefit of whom, the trustee has authority to distribute income or principal, unless after the distribution of income or principal under Subsection (4) the beneficiary's power of withdrawal is unchanged with respect to the property of a trust;
(c) is not prohibited by:
(i) a spendthrift clause in the first trust; or
(ii) a clause in the trust instrument of the first trust that prohibits amendment or revocation of the trust;
(d) is an exercise of a power of appointment; and
(e) may not be exercised in a manner that would cause the decanting power to be a general power of appointment as described in Section 2041 or 2514 of the Internal Revenue Code.
(9)
(a) This section does not preclude the trust instrument of a second trust from granting a power of appointment to a beneficiary of the second trust that is a beneficiary of the first trust.
(b) A power of appointment described in Subsection (9)(a) may include the power to appoint trust property to the holder of the power of appointment, the holder's creditors, the holder's estate, the creditors of the holder's estate, or any other person regardless of whether that person is a beneficiary of the second trust.
(10) This section applies to a trust administered under the laws of this state, including a trust whose governing jurisdiction is transferred to this state.

Enacted by Chapter 338, 2025 General Session

75B-2-813 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 that 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-814 Specific powers of trustee.

(1) Without limiting the authority conferred by Section 75B-2-813, 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 the financial institution's 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 depositary 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 the amount directly to the beneficiary or applying it for the beneficiary's benefit, or by:
(i) paying the amount to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;
(ii) paying the amount 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 the amount 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 the amount 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 the trust.

(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)

(a) 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.

(b) This Subsection (3) applies to a trustee's exercise of trust powers.

(c) 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-815 Distribution upon termination.

(1)

(a) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution.

(b) 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 the trust property,

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) the release 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.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-816 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 that has a restriction on transfer described in Section 75B-1-303 shall include in the title the words "asset protection trust."

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-817 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.

Renumbered and Amended by Chapter 310, 2025 General Session

Part 9
Uniform Prudent Investor Act

75B-2-901 Prudent investor rule.

(1)

(a) Except as otherwise provided in Subsection (2), a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule described in this chapter.
(b) If a trustee is named on the basis of a trustee's representations of special skills or expertise, the trustee has a duty to use those special skills or expertise.
(2)
(a) The prudent investor rule is a default rule and may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust.
(b) A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-902 Standard of care -- Portfolio strategy -- Risk and return objectives.
(1)
(a) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust.
(b) In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.
(2) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.
(3) Among circumstances that a trustee shall consider in investing and managing trust assets are the following which may be relevant to the trust or the trust's beneficiaries:
(a) general economic conditions;
(b) the possible effect of inflation or deflation;
(c) the expected tax consequences of investment decisions or strategies;
(d) the role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
(e) the expected total return from income and the appreciation of capital;
(f) other resources of the beneficiaries;
(g) needs for liquidity, regularity of income, and preservation or appreciation of capital; and
(h) an asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.
(4) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.
(5) A trustee may invest in any kind of property or type of investment consistent with the standards of this chapter.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-903 Diversification.
A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-904 Duties at inception of trusteeship.

Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this chapter.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-905 Reviewing compliance.

(1) Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.
(2) This section does not require a specific outcome in investing.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-906 Investment direction.

(1) As used in this section, "investment direction" means a direction that is binding on the trustee, except for an investment direction given by a settlor as described in Subsection (2) to do any of the following with respect to an investment:
  (a) retention;
  (b) purchase;
  (c) sale;
  (d) exchange;
  (e) tender; or
  (f) any other transaction affecting ownership in the investment.
(2)
  (a) During the time period that a trust is revocable, the trustee may follow any investment direction of the settlor, including an investment direction that:
    (i) is manifestly contrary to the terms of the trust; or
    (ii) seriously breaches a fiduciary duty to the beneficiaries.
  (b) The trustee is not liable for any loss resulting from following an investment direction described in Subsection (2)(a).
(3) If the terms of a trust authorize a person to give investment direction to the trustee, the person authorized to give investment direction:
  (a) is presumptively a fiduciary only with respect to an investment direction that the person gives to the trustee;
  (b) is required to act in good faith with regard to:
    (i) the purposes of the trust; and
    (ii) the interests of the beneficiaries; and
  (c) is liable for any loss that results from breach of the fiduciary duty only with respect to an investment direction that the person gives to the trustee.
(4) Except in cases of willful misconduct or gross negligence, a trustee is not liable for any loss that results from following an investment direction if:
  (a) the terms of a trust authorizes a person to give the investment direction to the trustee; and
  (b) the trustee acts in accordance with the investment direction given by a person described in Subsection (4)(a).

(5) If the terms of a trust require another person's approval or consent to an investment decision of the trustee:
(a) the person from whom approval or consent is required:
(i) is presumptively a fiduciary;
(ii) is required to act in good faith with regard to:
(A) the purposes of the trust; and
(B) the interests of the beneficiaries; and
(iii) is liable for any loss that results from breach of the fiduciary duty; and
(b) except in cases of willful misconduct or gross negligence, the trustee is not liable for any loss resulting from any act not taken as a result of the person's failure to respond to a request for approval or consent.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-907 Language invoking standard of chapter.

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this chapter: "investments permissible by law for investment of trust funds," "legal investments," "authorized investments," "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital," "prudent man rule," "prudent trustee rule," "prudent person rule," and "prudent investor rule."

Renumbered and Amended by Chapter 310, 2025 General Session

Part 10
Liability of Trustees and Rights of Persons Dealing with Trustee

75B-2-1001 Remedies for breach of trust.

(1) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.
(2) To remedy a breach of trust that has occurred or may occur, the court may:
(a) compel the trustee to perform the trustee's duties;
(b) enjoin the trustee from committing a breach of trust;
(c) compel the trustee to redress a breach of trust by paying money, restoring property, or other means;
(d) order a trustee to account;
(e) appoint a special fiduciary to take possession of the trust property and administer the trust;
(f) suspend the trustee;
(g) remove the trustee as provided in Section 75B-2-706;
(h) reduce or deny compensation to the trustee;
(i) subject to Section 75B-2-1012, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or the property's proceeds; or
(j) order any other appropriate relief.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1002 Damages for breach of trust.

(1) A trustee who commits a breach of trust is liable to the beneficiaries affected for the greater of:
  (a) the amount required to restore the value of the trust property and trust distributions to what the beneficiaries would have been had the breach not occurred; or
  (b) the profit the trustee made by reason of the breach.
(2)
  (a) Except as otherwise provided in this Subsection (2), if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees.
  (b) A trustee is not entitled to contribution if the trustee was substantially more at fault than another trustee or if the trustee committed the breach of trust in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries.
  (c) A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1003 Damages in absence of breach.

(1) A trustee is accountable to an affected beneficiary for any profit made by the trustee arising from the administration of the trust, even absent a breach of trust.
(2) Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1004 Attorney's fees and costs.

(1) In a judicial proceeding involving the administration of a trust, the court may, as justice and equity may require, award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the trust that is the subject of the controversy.
(2) If a trustee defends or prosecutes any proceeding in good faith, whether successful or not, the trustee is entitled to receive from the trust the necessary expenses and disbursements, including reasonable attorney's fees, incurred.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1005 Limitation of action against trustee.

(1) A beneficiary may not commence a proceeding against a trustee for breach of trust more than six months after the date that the beneficiary or a person who may represent and bind the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and informed the beneficiary of the time allowed for commencing a proceeding.
(2) A report adequately discloses the existence of a potential claim for breach of trust if the report provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into the claim's existence.
(3) If Subsection (1) does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within one year after the first to occur of:
  (a) the removal, resignation, or death of the trustee;

(b) the termination of the beneficiary's interest in the trust; or
(c) the termination of the trust.
(4) This section does not preclude an action to recover for fraud or misrepresentation related to the report.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1006 Reliance on trust instrument.

A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1007 Event affecting administration or distribution.

If the happening of an event, including marriage, divorce, performance of educational requirements, or death, affects the administration or distribution of a trust, a trustee is not liable for a loss resulting from the trustee's lack of knowledge or lack of notice.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1008 Exculpation of trustee.

A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that the term:
(1) relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; or
(2) was inserted by the trustee or fiduciary without disclosure of its existence and contents.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1009 Beneficiary's consent, release, or ratification.

A trustee is not liable to a beneficiary for breach of trust if the beneficiary, while having capacity, consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless at the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1010 Limitation on personal liability of trustee.

(1) Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administering the trust if the trustee in the contract disclosed the fiduciary capacity.
(2) A trustee is personally liable for torts committed in the course of administering a trust, or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.
(3) A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the

course of administering a trust, may be asserted in a judicial proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable for the claim.

(4) The question of liability as between the trust estate and the trustee individually may be determined in a proceeding for accounting, surcharge, or indemnification or other appropriate proceeding.

(5) Whenever an instrument creating a trust reserves to the settlor, or vests in an advisory or investment committee, or in any other person or persons, including one or more cotrustees to the exclusion of the trustee or to the exclusion of one or more of several trustees, authority to direct the making or retention of any investment, the excluded trustee or trustees shall not be liable, either individually or as a fiduciary, for any loss resulting from the making or retention of any investment pursuant to such direction.

(6)

(a) In the absence of actual knowledge or information which would cause a reasonable trustee to inquire further, no trustee shall be liable for failure to take necessary steps to compel the redress of any breach of trust or fiduciary duty by any predecessor personal representative, trustee, or other fiduciary.

(b) The provisions of this section shall not be construed to limit the fiduciary liability of any trustee for the trustee's own acts or omissions with respect to the trust estate.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1011 Interest as general partner.

(1) Except as otherwise provided in Subsection (3) or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed in accordance with Title 16, Chapter 19, Utah Uniform Limited Partnership Act.

(2) Except as otherwise provided in Subsection (3), a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

(3) The immunity provided by this section does not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse of any of them.

(4) If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

Amended by Chapter 92, 2026 General Session

75B-2-1012 Protection of person dealing with trustee.

(1) A person other than a beneficiary who in good faith assists a trustee, or who in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's powers is protected from liability as if the trustee properly exercised the power.

(2) A person other than a beneficiary who in good faith deals with a trustee is not required to inquire into the extent of the trustee's powers or the propriety of the trustee's exercise.

(3) A person who in good faith delivers assets to a trustee need not ensure the assets' proper application.

(4) A person other than a beneficiary who in good faith assists a former trustee, or who in good faith and for value deals with a former trustee, without knowledge that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee.
(5) Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection provided by this section.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1013 Certification of trust.
(1) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:
  (a) that the trust exists and the date the trust instrument was executed;
  (b) the identity of the settlor;
  (c) the identity and address of the currently acting trustee;
  (d) the powers of the trustee in the pending transaction;
  (e) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;
  (f) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee; and
  (g) the name in which title to trust property may be taken.
(2) A certification of trust may be signed or otherwise authenticated by any trustee.
(3) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.
(4) A certification of trust need not contain the dispositive terms of a trust.
(5) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.
(6)
  (a) A person who acts in reliance upon a certification of trust without knowledge that the representations contained in it are incorrect is not liable to any person for acting and may assume without inquiry the existence of the facts contained in the certification.
  (b) Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.
(7) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.
(8) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in demanding the trust instrument.
(9) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

Renumbered and Amended by Chapter 310, 2025 General Session

Part 11

Applicability Provisions

75B-2-1101 Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to this chapter's subject matter among states that enact this chapter.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1102 Electronic records and signatures.

The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7002) and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-2-1103 Application to existing relationships.

(1) Except as otherwise provided, this chapter applies to:
  (a) all trusts created before, on, or after July 1, 2004;
  (b) all judicial proceedings concerning trusts commenced on or after July 1, 2004; and
  (c) judicial proceedings concerning trusts commenced before July 1, 2004, unless the court finds that application of a particular provision of this chapter would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of this chapter does not apply and the superseded section will apply.
(2) Any rule of construction or presumption provided in this chapter applies to trust instruments executed before July 1, 2004, unless there is a clear indication of a contrary intent in the terms of the trust.
(3) An act done before July 1, 2004, is not affected by this chapter.
(4) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run under any other statute before July 1, 2004, that statute continues to apply to the right even if the right has been repealed or superseded.

Renumbered and Amended by Chapter 310, 2025 General Session