

Effective 5/7/2025

Chapter 3

Uniform Directed Trust Act

75B-3-101 Reserved.

Reserved.

Enacted by Chapter 310, 2025 General Session

75B-3-102 Definitions.

As used in this chapter:

- (1) "Breach of trust" includes a violation by a trust director or trustee of a duty imposed on the director or trustee by the terms of the trust, this chapter, or the law of this state other than this chapter pertaining to trusts.
- (2) "Directed trust" means a trust for which the terms of the trust grant a power of direction.
- (3) "Directed trustee" means a trustee that is subject to a trust director's power of direction.
- (4)
 - (a) "Power of direction" means a power over a trust granted to a person by the terms of the trust to the extent the power is exercisable while the person is not serving as a trustee.
 - (b) "Power of direction" includes a power over the investment, management, or distribution of trust property or other matters of trust administration.
 - (c) "Power of direction" does not include the powers described in Subsection 75B-3-105(2).
- (5) "Terms of a trust" means:
 - (a) subject to Subsection (5)(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 applicable law;
 - (ii) a court order; or
 - (iii) a nonjudicial settlement agreement under Section 75B-2-110.
- (6) "Trust director" means a person that is granted a power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee, regardless of whether:
 - (a) the terms of the trust refer to the person as a trust director; or
 - (b) the person is a beneficiary or settlor of the trust.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-103 Application -- Principal place of administration.

- (1) This chapter applies to a trust, whenever created, that has the trust's principal place of administration in this state, subject to the following rules:
 - (a) if the trust was created before May 14, 2019, this chapter applies only to a decision or action occurring on or after May 14, 2019; and
 - (b) if the principal place of administration of the trust is changed to this state on or after May 14, 2019, this chapter applies only to a decision or action occurring on or after the date of the change.

- (2) Without precluding other means to establish a sufficient connection with the designated jurisdiction in a directed trust, the terms of the trust that designate the principal place of administration of the trust 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;
 - (b) a trust director's principal place of business is located in, or a trust director is a resident of, the designated jurisdiction; or
 - (c) all or part of the administration occurs in the designated jurisdiction.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-104 Common law and principles of equity.

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

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-105 Exclusions.

- (1) As used in this section, "power of appointment" means a power that enables a person acting in a nonfiduciary capacity to designate a recipient of an ownership interest in, or another power of appointment over, trust property.
- (2) This chapter does not apply to:
- (a) a power of appointment;
 - (b) a power to appoint or remove a trustee or trust director;
 - (c) a power of a settlor over a trust to the extent the settlor has a power to revoke the trust;
 - (d) a power of a beneficiary over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of:
 - (i) the beneficiary; or
 - (ii) another beneficiary represented by the beneficiary under Chapter 2, Part 3, Representation, with respect to the exercise or nonexercise of the power; or
 - (e) power over a trust if:
 - (i) the terms of the trust provide that the power is held in a nonfiduciary capacity; and
 - (ii) the power must be held in a nonfiduciary capacity to achieve the settlor's tax objectives under the Internal Revenue Code of 1986, as amended, and any related Internal Revenue Service regulations.
- (3) Unless the terms of a trust provide otherwise, a power granted to a person to designate a recipient of an ownership interest in, or power of appointment over, trust property that is exercisable while the person is not serving as trustee is a power of appointment and not a power of direction.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-106 Powers of trust director.

- (1) Subject to Section 75B-3-107, the terms of a trust may grant a power of direction to a trust director.
- (2) Unless the terms of a trust provide otherwise:
- (a) a trust director may exercise any further power appropriate to the exercise or nonexercise of a power of direction granted to the director under Subsection (1); and

(b) trust directors with joint powers shall act by majority decision.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-107 Limitations on trust director.

- (1) A trust director is subject to the same rules as a trustee in a like position and under similar circumstances in the exercise or nonexercise of a power of direction or further power under Subsection 75B-3-106(2)(a) regarding:
 - (a) a payback provision in the terms of a trust necessary to comply with the Medicaid reimbursement requirements in Section 1917 of the Social Security Act, 42 U.S.C. Sec. 1396p(d)(4)(A), as amended, and any related regulations; and
 - (b) a charitable interest in the trust, including notice regarding the interest to the attorney general.
- (2) A trust director may not engage in trust business, as that term is defined in Section 7-5-101.

Amended by Chapter 112, 2026 General Session

75B-3-108 Duty and liability of trust director.

- (1) Subject to Subsection (2), with respect to a power of direction or further power under Subsection 75B-3-106(2)(a):
 - (a) a trust director has the same fiduciary duty and liability in the exercise or nonexercise of the power:
 - (i) if the power is held individually, as a sole trustee in a like position and under similar circumstances; or
 - (ii) if the power is held jointly with a trustee or another trust director, as a cotrustee in a like position and under similar circumstances; and
 - (b) the terms of the trust may vary the director's duty or liability to the same extent the terms of the trust could vary the duty or liability of a trustee in a like position and under similar circumstances.
- (2) Unless the terms of a trust provide otherwise, if a trust director is licensed, certified, or otherwise authorized or permitted by law other than this chapter to provide health care in the ordinary course of the director's business or practice of a profession, to the extent the director acts in that capacity, the director has no duty or liability under this chapter.
- (3) The terms of a trust may impose a duty or liability on a trust director in addition to the duties and liability described in this section.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-109 Duty and liability of directed trustee.

- (1) Subject to Subsection (2), a directed trustee shall take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction or further power under Subsection 75B-3-106(2)(a), and the trustee is not liable for the action.
- (2) A directed trustee may not comply with a trust director's exercise or nonexercise of a power of direction or further power under Subsection 75B-3-106(2)(a) to the extent that by complying the trustee would engage in willful misconduct.
- (3) An exercise of a power of direction under which a trust director may release a trustee or another trust director from liability for breach of trust is not effective if:
 - (a) the breach involved the trustee's or other director's willful misconduct;

- (b) the release was induced by improper conduct of the trustee or other director in procuring the release; or
- (c) at the time of the release, the director did not know the material facts relating to the breach.
- (4) A directed trustee that has reasonable doubt about the directed trustee's duty under this section may petition the court for instructions.
- (5) The terms of a trust may impose a duty or liability on a directed trustee in addition to the duties and liabilities under this section.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-110 Duty to provide information to trust director or trustee.

- (1) Subject to Section 75B-3-111, a trustee shall provide information to a trust director to the extent the information is reasonably related both to:
 - (a) the powers or duties of the trustee; and
 - (b) the powers or duties of the director.
- (2) Subject to Section 75B-3-111, a trust director shall provide information to a trustee or another trust director to the extent the information is reasonably related both to:
 - (a) the powers or duties of the director; and
 - (b) the powers or duties of the trustee or other director.
- (3) A trustee that acts in reliance on information provided by a trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless, by acting, the trustee engages in willful misconduct.
- (4) A trust director that acts in reliance on information provided by a trustee or another trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless, by acting, the trust director engages in willful misconduct.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-111 No duty to monitor, inform, or advise.

- (1) Unless the terms of a trust provide otherwise:
 - (a) a trustee does not have a duty to:
 - (i) monitor a trust director; or
 - (ii) inform or give advice to a settlor, beneficiary, trustee, or trust director concerning an instance in which the trustee might have acted differently than the director; and
 - (b) by taking an action described in Subsection (1)(a), a trustee does not assume the duty excluded under Subsection (1)(a).
- (2) Unless the terms of a trust provide otherwise:
 - (a) a trust director does not have a duty to:
 - (i) monitor a trustee or another trust director; or
 - (ii) inform or give advice to a settlor, beneficiary, trustee, or another trust director concerning an instance in which the director might have acted differently than a trustee or another trust director; and
 - (b) by taking an action described in Subsection (1)(a), a trust director does not assume the duty excluded under Subsection (1)(a).

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-112 Application to cotrustee.

The terms of a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercise of a power of the other cotrustee to the same extent that, in a directed trust, a directed trustee is relieved from duty and liability with respect to a trust director's power of direction under Sections 75B-3-109 through 75B-3-111.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-113 Limitation of action against trust director.

- (1) An action against a trust director for a breach of trust must be commenced within the same limitation period as described in Section 75B-2-1005 for an action for a breach of trust against a trustee in a like position and under similar circumstances.
- (2) A report or accounting has the same effect on the limitation period for an action against a trust director for breach of trust that the report or accounting would have as described in Section 75B-2-1005 in an action for a breach of trust against a trustee in a like position and under similar circumstances.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-114 Defenses in action against trust director.

In an action against a trust director for a breach of trust, the director may assert the same defenses a trustee in a like position and under similar circumstances could assert in an action for a breach of trust against the trustee.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-115 Jurisdiction over trust director.

- (1) By accepting appointment as a trust director of a trust subject to this chapter, the director submits to personal jurisdiction of the courts of this state regarding any matter related to a power or duty of the director.
- (2) This section does not preclude other methods of obtaining jurisdiction over a trust director.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-116 Office of trust director.

Unless the terms of a trust provide otherwise, the rules applicable to a trustee apply to a trust director regarding the following matters:

- (1) acceptance under Section 75B-2-701;
- (2) giving of bond to secure performance under Section 75B-2-702;
- (3) reasonable compensation under Section 75B-2-708;
- (4) resignation under Section 75B-2-705;
- (5) removal under Section 75B-2-706; and
- (6) vacancy and appointment of successor under Section 75B-2-704.

Renumbered and Amended by Chapter 310, 2025 General Session

75B-3-117 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-3-118 Electronic records and signatures.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Renumbered and Amended by Chapter 310, 2025 General Session