



Senate

General Assembly

File No. 579

February Session, 2018

Substitute Senate Bill No. 397

Senate, April 19, 2018

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ADOPTION OF THE UNIFORM TRUST CODE, THE CONNECTICUT UNIFORM DIRECTED TRUST ACT AND THE CONNECTICUT QUALIFIED DISPOSITIONS IN TRUST ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2018*) This section and sections
2 2 to 87, inclusive, of this act may be cited as the "Connecticut Uniform
3 Trust Code".

4 Sec. 2. (NEW) (*Effective October 1, 2018*) Sections 1 to 113, inclusive,
5 of this act apply to express trusts, whether testamentary or inter vivos,
6 and trusts created pursuant to a statute, judgment or decree that
7 requires the trust to be administered in the manner of an express trust
8 and to charitable trusts, except sections 1 to 113, inclusive, of this act
9 shall not apply to statutory trusts created pursuant to chapter 615 of
10 the general statutes.

11 Sec. 3. (NEW) (*Effective October 1, 2018*) As used in sections 1 to 105,

12 inclusive, of this act:

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

15 (2) "Ascertainable standard" means a standard relating to an
16 individual's health, education, support or maintenance within the
17 meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue
18 Code of 1986, or any subsequent corresponding internal revenue code
19 of the United States, as amended from time to time, as in effect on
20 October 1, 2018, or as later amended.

21 (3) "Beneficiary" means a person that (A) has a present or future
22 beneficial interest in a trust, vested or contingent, or (B) in a capacity
23 other than that of trustee, holds a power of appointment over trust
24 property. "Beneficiary" does not include an appointee under a power
25 of appointment unless and until the power is exercised and the trustee
26 has knowledge of the exercise and the identity of the appointee.

27 (4) "Breach of trust" includes a violation by a trust director or trustee
28 of a duty imposed on that director or trustee by the terms of the trust,
29 sections 1 to 105, inclusive, of this act or any other law of this state
30 pertaining to trusts.

31 (5) "Directed trust" means a trust for which the terms of the trust
32 grant a power of direction.

33 (6) "Directed trustee" means a trustee that is subject to a trust
34 director's power of direction.

35 (7) "Charitable trust" means a trust, or portion of a trust, created for
36 a charitable purpose described in section 26 of this act that is created
37 when property is dedicated for a charitable purpose, whether the
38 dedication is by written instrument, declaration, deed, pledge,
39 judgment or decree.

40 (8) "Current beneficiary" means a beneficiary that, on the date the
41 beneficiary's qualification is determined, is a distributee or permissible

42 distributee of trust income or principal.

43 (9) "Conservator of the estate" means a person appointed by the
44 court pursuant to sections 45a-644 to 45a-663, inclusive, of the general
45 statutes to administer the estate of an adult individual.

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

48 (11) "Conservator of the person" means a person appointed by the
49 court pursuant to sections 45a-644 to 45a-663, inclusive, of the general
50 statutes to make decisions regarding the support, care, education,
51 health and welfare of an adult individual and includes a conservator of
52 the person of an adult, but does not include a guardian ad litem.

53 (12) "Inter vivos trust" means any trust that is not a testamentary
54 trust.

55 (13) "Interests of the beneficiaries" means the beneficial interests
56 provided in the terms of the trust.

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

59 (15) "Mandatory distribution" means a distribution of income or
60 principal that the trustee is required to make to a beneficiary under the
61 terms of the trust, including a distribution upon termination of the
62 trust. "Mandatory distribution" does not include a distribution subject
63 to the exercise of the trustee's discretion, regardless of whether the
64 terms of the trust (A) include a support or other standard to guide the
65 trustee in making distribution decisions, or (B) provide that the trustee
66 "may" or "shall" make discretionary distributions, including
67 distributions pursuant to a support standard or other standard.

68 (16) "Permissible distributee" means a beneficiary that is currently
69 entitled to or eligible to receive a distribution from a trust.

70 (17) "Person" means an individual, corporation, statutory or

71 business trust, estate, trust, partnership, limited liability company,
72 association, joint venture, court, government, governmental
73 subdivision, agency or instrumentality, public corporation or any other
74 legal or commercial entity.

75 (18) "Power of direction" means a power over a trust granted to a
76 person by the terms of the trust to the extent the power is exercisable
77 while the person is not serving as a trustee. "Power of direction"
78 includes a power over the investment, management, or distribution of
79 trust property or other matters of trust administration, but does not
80 include the powers described in subsection (b) of section 91 of this act.

81 (19) "Power of withdrawal" means a presently exercisable general
82 power of appointment other than a power exercisable only upon
83 consent of the trustee or a person holding an adverse interest.

84 (20) "Property" means anything that may be the subject of
85 ownership, whether real or personal and whether legal or equitable, or
86 any interest in such property.

87 (21) "Qualified beneficiary" means a beneficiary that, on the date the
88 beneficiary's qualification is determined: (A) Is a distributee or
89 permissible distributee of trust income or principal; (B) would be a
90 distributee or permissible distributee of trust income or principal if the
91 interests of the distributees described in subparagraph (A) of this
92 subdivision terminated on such date without causing the trust to
93 terminate; or (C) would be a distributee or permissible distributee of
94 trust income or principal if the trust terminated on such date.

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

98 (23) "Settlor" means a person, including a testator, that creates or
99 contributes property to a trust. If more than one person creates or
100 contributes property to a trust, each person is a settlor of the portion of
101 the trust property attributable to such person's contribution, except to

102 the extent another person has the power to revoke or withdraw such
103 portion and as otherwise provided in section 46 of this act.

104 (24) "Spendthrift provision" means a term of a trust that restrains
105 both voluntary and involuntary transfer of a beneficiary's interest.

106 (25) "State" means a state of the United States, the District of
107 Columbia, Puerto Rico, the United States Virgin Islands or any
108 territory or insular possession subject to the jurisdiction of the United
109 States, and includes an Indian tribe or band recognized by federal law
110 or formally acknowledged by a state.

111 (26) "Terms of a trust" means:

112 (A) The manifestation of the settlor's intent regarding a trust's
113 provisions as:

114 (i) Expressed in the trust instrument; or

115 (ii) Established by other evidence that would be admissible in a
116 judicial proceeding; or

117 (B) The trust's provisions, as established, determined or amended
118 by:

119 (i) A trustee or trust director in accordance with applicable law;

120 (ii) Court order; or

121 (iii) A nonjudicial settlement agreement under section 11 of this act.

122 (27) "Testamentary trust" means a trust created under a will.

123 (28) "Trust director" means a person that is granted a power of
124 direction by the terms of a trust to the extent the power is exercisable
125 while the person is not serving as a trustee, provided a person is a trust
126 director whether or not the terms of the trust refer to the person as a
127 trust director and whether or not the person is a beneficiary or settlor
128 of the trust.

129 (29) "Trust instrument" means any instrument executed by the
130 settlor that contains terms of the trust, including any amendments
131 thereto. In the case of a charitable trust, "trust instrument" means any
132 written instrument by which property is dedicated for a charitable
133 purpose described in section 26 of this act.

134 (30) "Trustee" includes an original, additional and successor trustee
135 and a cotrustee.

136 Sec. 4. (NEW) (*Effective October 1, 2018*) (a) Subject to subsection (b)
137 of this section, for the purposes of sections 1 to 105, inclusive, of this
138 act, a person has knowledge of a fact if the person (1) has actual
139 knowledge of the fact, (2) has received a notice or notification of the
140 fact, or (3) from all the facts and circumstances known to the person at
141 the time in question, has reason to know the fact.

142 (b) An organization that conducts activities through employees has
143 notice or knowledge of a fact involving a trust only from the time the
144 information was received by an employee having responsibility to act
145 for the trust, or from the time the information would have been
146 brought to the employee's attention if the organization had exercised
147 reasonable diligence. An organization exercises reasonable diligence if
148 it maintains reasonable routines for communicating significant
149 information to the employee having responsibility to act for the trust
150 and there is reasonable compliance with the routines. Reasonable
151 diligence does not require an employee of the organization to
152 communicate information unless the communication is part of the
153 employee's regular duties or the employee knows a matter involving
154 the trust would be materially affected by the information.

155 Sec. 5. (NEW) (*Effective October 1, 2018*) (a) Except as otherwise
156 provided in the terms of the trust, sections 1 to 105, inclusive, of this
157 act govern the duties and powers of a trustee, relations among trustees
158 and the rights and interests of a beneficiary.

159 (b) The terms of a trust prevail over any provision of sections 1 to
160 105, inclusive, of this act except: (1) The requirements for creating a

161 trust; (2) the duty of a trustee to act in good faith and in accordance
162 with the terms and purposes of the trust; (3) the requirement of section
163 25 of this act that a trust have a purpose that is lawful, not contrary to
164 public policy; (4) the power of the court to modify or terminate a trust
165 under sections 30 to 37, inclusive, of this act; (5) the effect of a
166 spendthrift provision and the rights of certain creditors and assignees
167 to reach a trust as provided in sections 39 to 46, inclusive, of this act;
168 (6) the power of the court under section 52 of this act to require,
169 dispense with, modify or terminate a bond; (7) the power of the court
170 under section 58 of this act to adjust a trustee's compensation specified
171 in the terms of the trust that is unreasonably low or high; (8) the effect
172 of an exculpatory term under section 80 of this act; (9) the rights under
173 sections 82 to 85, inclusive, of this act of a person other than a trustee
174 or beneficiary; (10) periods of limitation for commencing a judicial
175 proceeding; and (11) the power of the court to take such action and
176 exercise such jurisdiction as may be necessary in the interests of justice.

177 Sec. 6. (NEW) (*Effective October 1, 2018*) The common law of trusts
178 and principles of equity supplement sections 1 to 113, inclusive, of this
179 act, except to the extent modified by sections 1 to 113, inclusive, of this
180 act or another provision of the general statutes.

181 Sec. 7. (NEW) (*Effective October 1, 2018*) The meaning and effect of
182 the terms of a trust are determined by: (1) The law of the jurisdiction
183 designated in the terms of the trust, unless the designation of such
184 jurisdiction's law is contrary to a strong public policy of the
185 jurisdiction having the most significant relationship to the matter at
186 issue; or (2) in the absence of a controlling designation in the terms of
187 the trust, the law of the jurisdiction having the most significant
188 relationship to the matter at issue.

189 Sec. 8. (NEW) (*Effective October 1, 2018*) (a) Without precluding other
190 means for establishing a sufficient connection with the designated
191 jurisdiction, terms of a trust designating the principal place of
192 administration are valid and controlling if: (1) A trustee's principal
193 place of business is located in, or a trustee is a resident of, the

194 designated jurisdiction; (2) a trust director's principal place of business
195 is located in, or a trust director is a resident of, the designated
196 jurisdiction; or (3) all or part of the administration occurs in the
197 designated jurisdiction.

198 (b) A trustee is under a continuing duty to administer the trust at a
199 place appropriate to its purposes, its administration and the interests
200 of the beneficiaries.

201 (c) Without precluding the right of the court to order, approve or
202 disapprove a transfer, the trustee of an inter vivos trust, and the trustee
203 of a testamentary trust with court approval, in furtherance of the duty
204 prescribed by subsection (b) of this section, may transfer the trust's
205 principal place of administration to another state or to a jurisdiction
206 outside of the United States. A charitable trust may not be transferred
207 to a jurisdiction outside of the United States.

208 (d) The trustee shall notify the qualified beneficiaries of a proposed
209 transfer of a trust's principal place of administration not less than sixty
210 days prior to the date of initiating the transfer. The notice of proposed
211 transfer shall include:

212 (1) The name of the jurisdiction to which the principal place of
213 administration is to be transferred;

214 (2) The address and telephone number at the new location at which
215 the trustee can be contacted;

216 (3) An explanation of the reasons for the proposed transfer;

217 (4) The date on which the proposed transfer is anticipated to occur;
218 and

219 (5) The date, not less than sixty days after the giving of the notice,
220 by which the qualified beneficiary shall notify the trustee of an
221 objection to the proposed transfer.

222 (e) The authority of a trustee under this section to transfer a trust's

223 principal place of administration shall terminate if a qualified
224 beneficiary notifies the trustee of an objection to the proposed transfer
225 on or before the date specified in the notice.

226 (f) In connection with a transfer of the trust's principal place of
227 administration, the trustee may transfer some or all of the trust
228 property to a successor trustee designated in the terms of the trust or
229 appointed pursuant to section 54 of this act.

230 Sec. 9. (NEW) (*Effective October 1, 2018*) (a) Notice to a person under
231 sections 1 to 113, inclusive, of this act, or the sending of a document to
232 a person under sections 1 to 113, inclusive, of this act, shall be
233 accomplished in a manner reasonably suitable under the circumstances
234 and likely to result in receipt of the notice or document. Permissible
235 methods of notice or for sending a document include first-class mail,
236 personal delivery, delivery to the person's last known place of
237 residence or place of business, or a properly directed electronic
238 message, if the person has consented in advance to receive notices or
239 documents by electronic message.

240 (b) Notice otherwise required under sections 1 to 113, inclusive, of
241 this act, or a document otherwise required to be sent under sections 1
242 to 113, inclusive, of this act, need not be provided to a person whose
243 identity or location is unknown to and not reasonably ascertainable by
244 the trustee.

245 (c) Notice under sections 1 to 113, inclusive, of this act, or the
246 sending of a document under sections 1 to 113, inclusive, of this act,
247 may be waived by the person to be notified or to be sent the document.

248 (d) Notice of a judicial proceeding shall be given as provided in any
249 applicable court rules.

250 Sec. 10. (NEW) (*Effective October 1, 2018*) (a) Whenever notice to
251 qualified beneficiaries of a trust is required under sections 1 to 113,
252 inclusive, of this act, the trustee shall also give notice to any other
253 beneficiary who has sent the trustee a request for notice.

254 (b) A charitable organization expressly designated to receive
255 distributions under the terms of a charitable trust has the rights of a
256 qualified beneficiary under sections 1 to 113, inclusive, of this act if the
257 charitable organization, on the date the charitable organization's
258 qualification is being determined: (1) Is a distributee or permissible
259 distributee of trust income or principal; (2) would be a distributee or
260 permissible distributee of trust income or principal upon the
261 termination of the interests of other distributees or permissible
262 distributees then receiving or eligible to receive distributions; or (3)
263 would be a distributee or permissible distributee of trust income or
264 principal if the trust terminated on such date.

265 (c) The Attorney General has the rights of a qualified beneficiary
266 with respect to a charitable trust having its principal place of
267 administration in this state.

268 (d) A person appointed to enforce a trust created for the care of an
269 animal under section 45a-489a of the general statutes, or another
270 noncharitable purpose as provided in section 29 of this act, has the
271 rights of a qualified beneficiary under sections 1 to 113, inclusive, of
272 this act.

273 (e) A charitable organization shall only be granted the rights of a
274 qualified beneficiary under this section if its interest in a charitable
275 trust is not otherwise subject to any power of appointment, removal or
276 any other power of termination on the date that its qualification is
277 otherwise determined under this section.

278 Sec. 11. (NEW) (*Effective October 1, 2018*) (a) For the purposes of this
279 section, "interested persons" means persons whose consent would be
280 required in order to achieve a binding settlement were the settlement
281 to be approved by the court.

282 (b) Except as provided in subsections (c) and (e) of this section,
283 interested persons may enter into a binding nonjudicial settlement
284 agreement with respect to any matter involving an inter vivos trust.

285 (c) A nonjudicial settlement agreement is valid only to the extent it
286 does not violate a material purpose of the trust and includes terms and
287 conditions that could be properly approved by the court under
288 sections 1 to 113, inclusive, of this act or other applicable law.

289 (d) Matters that may be resolved by a nonjudicial settlement
290 agreement include: (1) The interpretation or construction of the terms
291 of the trust; (2) the approval of a trustee's report or accounting; (3)
292 direction to a trustee to refrain from performing a particular act or the
293 grant to a trustee of any necessary or desirable power; (4) the
294 resignation or appointment of a trustee and the determination of a
295 trustee's compensation; (5) transfer of a trust's principal place of
296 administration; and (6) liability of a trustee for an action relating to the
297 trust.

298 (e) A nonjudicial settlement agreement may not modify or terminate
299 an irrevocable trust. Such modification or termination may only be
300 accomplished under the provisions of sections 30 to 37, inclusive, of
301 this act.

302 (f) Any interested person may request the court to approve a
303 nonjudicial settlement agreement, to determine whether the
304 representation as provided in sections 17 to 21, inclusive, of this act
305 was adequate, and to determine whether the agreement contains terms
306 and conditions the court can properly approve.

307 Sec. 12. (NEW) (*Effective October 1, 2018*) A trustee has an insurable
308 interest in the life of an individual insured under a life insurance
309 policy that is owned by the trustee or that designates the trust itself as
310 the owner if, on the date the policy is issued:

311 (1) The insured is: (A) A settlor of the trust; or (B) an individual in
312 whom a settlor of the trust has, or would have had if living at the time
313 the policy was issued, an insurable interest; and

314 (2) The life insurance proceeds are primarily for the benefit of one or
315 more trust beneficiaries that have: (A) An insurable interest in the life

316 of the insured; or (B) a substantial interest engendered by love and
317 affection in the continuation of the life of the insured and, if not
318 already included under subdivision (1) of this section, who are: (i)
319 Related within the third degree or closer, as measured by the civil law
320 system of determining degrees of relation, either by blood or law, to
321 the insured; or (ii) stepchildren of the insured.

322 Sec. 13. (NEW) (*Effective October 1, 2018*) (a) A testamentary trust is
323 subject to continuing judicial supervision until the administration of
324 the trust is transferred to another state pursuant to other law of this
325 state.

326 (b) An inter vivos trust is not subject to continuing judicial
327 supervision.

328 Sec. 14. (NEW) (*Effective October 1, 2018*) (a) By accepting the
329 trusteeship of a trust having its principal place of administration in this
330 state, or by moving the principal place of administration to this state,
331 the trustee submits personally to the jurisdiction of the courts of this
332 state regarding any matter involving the trust.

333 (b) With respect to their interests in the trust, the beneficiaries of a
334 trust having its principal place of administration in this state are
335 subject to the jurisdiction of the courts of this state regarding any
336 matter involving the trust. By accepting a distribution from such a
337 trust, the recipient submits personally to the jurisdiction of the courts
338 of this state regarding any matter involving the trust.

339 (c) This section shall not preclude other methods of obtaining
340 jurisdiction over a trustee, beneficiary or other person receiving
341 property from the trust.

342 Sec. 15. (NEW) (*Effective October 1, 2018*) Subject matter jurisdiction
343 for a proceeding under sections 1 to 113, inclusive, of this act shall be
344 determined under other law of this state.

345 Sec. 16. (NEW) (*Effective October 1, 2018*) Venue for a proceeding
346 under sections 1 to 113, inclusive, of this act shall be determined under

347 other law of this state.

348 Sec. 17. (NEW) (*Effective October 1, 2018*) (a) Notice to a person who
349 may represent and bind another person under this section and sections
350 18 to 21, inclusive, of this act has the same effect as if notice were given
351 directly to such other person.

352 (b) The consent of a person who may represent and bind another
353 person under this section and sections 18 to 21, inclusive, of this act is
354 binding on the person represented unless the person represented
355 objects to the representation before the consent would otherwise have
356 become effective.

357 (c) Except as provided in section 48 of this act, a person that,
358 pursuant to this section and sections 18 to 21, inclusive, of this act, may
359 represent a settlor who lacks capacity may receive notice and give a
360 binding consent on the settlor's behalf.

361 (d) Notwithstanding any provision of the general statutes, this
362 section and sections 18 to 21, inclusive, of this act shall apply to all
363 judicial proceedings and all nonjudicial settlements, agreements or
364 actions under sections 1 to 113, inclusive, of this act and under any
365 other provisions of the general statutes pertaining to trust matters.

366 (e) As used in this section, "represent" shall not be construed to
367 permit a person who has not been admitted as an attorney pursuant to
368 section 51-80 of the general statutes to serve as legal counsel for any
369 other person in any matter arising under sections 1 to 113, inclusive, of
370 this act.

371 Sec. 18. (NEW) (*Effective October 1, 2018*) To the extent there is no
372 conflict of interest between the holder of a power of appointment and
373 the persons represented with respect to the particular question or
374 dispute: (1) The sole holder or all coholders of any power of
375 appointment, whether or not presently exercisable, shall represent the
376 potential appointees; and (2) the sole holder or all coholders of a power
377 of revocation or a general power of appointment, including one in the

378 form of a power of amendment, shall also represent the takers in
379 default of the exercise thereof.

380 Sec. 19. (NEW) (*Effective October 1, 2018*) To the extent there is no
381 conflict of interest between the representative and the person
382 represented or among those being represented with respect to a
383 particular question or dispute: (1) A conservator may represent and
384 bind the estate that the conservator controls; (2) a guardian may
385 represent and bind the ward if a conservator of the ward's estate has
386 not been appointed; (3) an agent having authority to do so may
387 represent and bind the principal; (4) a trustee may represent and bind
388 the beneficiaries of the trust; (5) an executor or administrator of a
389 decedent's estate may represent and bind persons interested in the
390 estate; and (6) if a conservator or guardian has not been appointed, a
391 parent may represent and bind the parent's minor or unborn child.

392 Sec. 20. (NEW) (*Effective October 1, 2018*) Unless otherwise
393 represented, a minor, an incapacitated or unborn individual, or a
394 person whose identity or location is unknown and not reasonably
395 ascertainable, may be represented by and bound by another person
396 having a substantially identical interest with respect to the particular
397 question or dispute, but only to the extent there is no conflict of
398 interest between the representative and the person being represented.

399 Sec. 21. (NEW) (*Effective October 1, 2018*) (a) If the court determines
400 that an interest is not represented pursuant to this section and sections
401 17 to 20, inclusive, of this act, or that the otherwise available
402 representation might be inadequate, the court may appoint a guardian
403 ad litem to receive notice, give consent, and otherwise represent, bind
404 and act on behalf of a minor, an incapacitated or unborn individual, or
405 a person whose identity or location is unknown. A guardian ad litem
406 may be appointed to represent several persons or interests.

407 (b) A guardian ad litem may act on behalf of the individual
408 represented with respect to any matter arising under sections 1 to 113,
409 inclusive, of this act, whether or not a judicial proceeding concerning
410 the trust is pending.

411 (c) In making decisions in any matter, a guardian ad litem may
412 consider general benefit accruing to the living members of the
413 individual's family.

414 Sec. 22. (NEW) (*Effective October 1, 2018*) A trust may be created by:
415 (1) Transfer of property to another person as trustee during the
416 settlor's lifetime, by deed or otherwise, or by will or other disposition
417 taking effect upon the settlor's death; (2) declaration by the owner of
418 property that the owner holds identifiable property as trustee; (3)
419 exercise of a power of appointment in favor of a trustee; (4) transfer of
420 property pursuant to a statute or judgment that requires property to be
421 administered in the manner of an express trust, including, but not
422 limited to, a trust created by the guardian of the estate of a minor or by
423 the conservator of an estate, or a trust described in 42 USC 1396p(d)(4),
424 as amended from time to time; or (5) court order.

425 Sec. 23. (NEW) (*Effective October 1, 2018*) (a) A trust is created only if:

426 (1) The settlor has capacity to create a trust;

427 (2) The settlor indicates an intention to create the trust;

428 (3) The trust has a definite beneficiary or is (A) a charitable trust, (B)
429 a trust for the care of an animal, as provided in section 45a-489a of the
430 general statutes, or (C) a trust for a noncharitable purpose, as provided
431 in section 29 of this act; and

432 (4) The trustee has duties to perform.

433 (b) A beneficiary is definite if the beneficiary can be ascertained now
434 or in the future, subject to any applicable rule against perpetuities.

435 (c) A power in a trustee to select a beneficiary from an indefinite
436 class is valid. If the power is not exercised within a reasonable time,
437 the power fails and the property subject to the power passes to the
438 persons who would have taken the property had the power not been
439 conferred.

440 (d) The settlor's power to create or contribute to a trust may be
441 exercised by (1) an agent under a power of attorney only to the extent
442 expressly authorized to create or contribute property to a trust, or (2)
443 by a conservator of the estate as authorized by the court.

444 Sec. 24. (NEW) (*Effective October 1, 2018*) An inter vivos trust is
445 validly created if its creation complies with the law of the jurisdiction
446 in which the trust instrument was executed, or the law of the
447 jurisdiction in which, at the time of creation: (1) The settlor was
448 domiciled, had a place of abode or was a national; (2) a trustee was
449 domiciled or had a place of business; or (3) any trust property was
450 located.

451 Sec. 25. (NEW) (*Effective October 1, 2018*) A trust may be created only
452 to the extent its purposes are lawful and not contrary to public policy.

453 Sec. 26. (NEW) (*Effective October 1, 2018*) (a) A charitable trust may
454 be created for the relief of poverty, the advancement of education or
455 religion, the promotion of health, governmental or municipal purposes
456 or other purposes the achievement of which is beneficial to the
457 community, consistent with the provisions of sections 45a-514 and 47-2
458 of the general statutes.

459 (b) If the terms of a charitable trust do not indicate a particular
460 charitable purpose or beneficiary, and if the trustee is not given
461 discretion to select the charitable beneficiaries consistent with the
462 provisions of section 45a-515 of the general statutes, the court may
463 select one or more charitable purposes or beneficiaries. The selection
464 shall be consistent with the settlor's intention to the extent it can be
465 ascertained.

466 (c) The settlor of a charitable trust, among others, may maintain a
467 proceeding to enforce the trust, but only if the settlor has expressly
468 retained the right to do so in the trust instrument.

469 Sec. 27. (NEW) (*Effective October 1, 2018*) A trust or a provision of a
470 trust is void to the extent its creation was induced by fraud, duress or

471 undue influence.

472 Sec. 28. (NEW) (*Effective October 1, 2018*) Except as required by any
473 provision of the general statutes other than sections 1 to 113, inclusive,
474 of this act, a trust need not be evidenced by a trust instrument, but the
475 creation of an oral trust and its terms may be established only by clear
476 and convincing evidence.

477 Sec. 29. (NEW) (*Effective October 1, 2018*) Except as provided in
478 section 45a-489a of the general statutes or any other applicable
479 provision of the general statutes, the following rules apply to a trust
480 created pursuant to this section:

481 (1) A trust may be created for a noncharitable purpose without a
482 definite or definitely ascertainable beneficiary or for a noncharitable
483 but otherwise valid purpose to be selected by the trustee. The trust
484 may not be enforced for more than ninety years.

485 (2) A trust authorized by this section may be enforced by a person
486 appointed in the terms of the trust or, if no person is so appointed, by a
487 person appointed by the court.

488 (3) Property of a trust authorized by this section may be applied
489 only to its intended use, except to the extent the court determines that
490 the value of the trust property exceeds the amount required for the
491 intended use. Except as otherwise provided in the terms of the trust,
492 property not required for the intended use shall be distributed to the
493 settlor, if then living, otherwise to the settlor's successors in interest.

494 Sec. 30. (NEW) (*Effective October 1, 2018*) (a) In addition to the
495 methods of termination prescribed by section 35 of this act, a
496 noncharitable trust terminates to the extent the trust is revoked or
497 expires pursuant to its terms, no purpose of the trust remains to be
498 achieved or the purposes of the trust have become unlawful, contrary
499 to public policy or impossible to achieve. A charitable trust may be
500 terminated only in accordance with the provisions of section 45a-520 of
501 the general statutes.

502 (b) A proceeding to approve or disapprove a proposed modification
503 or termination under sections 33 to 35, inclusive, of this act, or trust
504 combination or division under section 38 of this act, may be
505 commenced by a trustee or beneficiary and, with respect to a charitable
506 trust, by the Attorney General. The settlor of a charitable trust that has
507 expressly retained the right to do so in the trust instrument may
508 maintain a proceeding to modify the trust under section 33 of this act.

509 Sec. 31. (NEW) (*Effective October 1, 2018*) (a) If, upon petition, the
510 court finds that the settlor and all qualified beneficiaries consent to the
511 modification or termination of a noncharitable irrevocable trust, or of a
512 charitable trust whose settlor has expressly retained the right to do so
513 in the trust instrument, the court may approve the modification or
514 termination even if the modification or termination is inconsistent with
515 a material purpose of the trust. A settlor's power to consent to a trust's
516 modification or termination may be exercised by (1) an agent under a
517 power of attorney only to the extent expressly authorized by the power
518 of attorney or the terms of the trust; or (2) the settlor's conservator with
519 the approval of the court supervising the conservatorship. This
520 subsection shall not apply to irrevocable trusts created before, or to
521 revocable trusts that become irrevocable prior to, October 1, 2018.

522 (b) A noncharitable irrevocable trust may be terminated or modified
523 upon consent of the trustee and all of the qualified beneficiaries if the
524 court concludes that the termination or modification is not inconsistent
525 with a material purpose of the trust and the probable intent of the
526 settlor.

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

529 (d) Upon termination of a trust under subsection (a) or (b) of this
530 section, the trustee shall distribute the trust property as agreed by the
531 beneficiaries.

532 (e) If the trustee consents but not all of the beneficiaries consent to a
533 proposed modification or termination of the trust under subsection (a)

534 or (b) of this section, the modification or termination may be approved
535 by the court if the court is satisfied that:

536 (1) If all of the beneficiaries had consented, the trust could have
537 been modified or terminated under this section; and

538 (2) The interests of a beneficiary who does not consent will be
539 adequately protected.

540 (f) In any proceeding under this section, the trustee shall be named
541 an interested party.

542 Sec. 32. (NEW) (*Effective October 1, 2018*) (a) The court may modify
543 the administrative or dispositive terms of a noncharitable trust or
544 terminate the noncharitable trust if, because of circumstances not
545 anticipated by the settlor, modification or termination will further the
546 purposes of the trust. To the extent practicable, the modification shall
547 be made in accordance with the settlor's probable intention.

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

551 (c) Upon termination of a trust under this section, the trustee shall
552 distribute the trust property in a manner consistent with the purposes
553 of the trust.

554 (d) For the purposes of this section, "circumstances not anticipated
555 by the settlor" does not include a change in the corporate identity of a
556 trustee.

557 Sec. 33. (NEW) (*Effective October 1, 2018*) Except as provided in
558 section 34 of this act, if a particular charitable purpose becomes
559 impossible, impracticable or illegal: (1) The trust does not fail, in whole
560 or in part; (2) the trust property does not revert to the settlor or the
561 settlor's successors in interest; and (3) the court may apply cy pres to
562 modify the trust by directing that the trust property be applied or
563 distributed, in whole or in part, in a manner consistent with the

564 settlor's charitable purposes.

565 Sec. 34. (NEW) (*Effective October 1, 2018*) A provision in the terms of
566 a charitable trust that would result in distribution of the trust property
567 to a noncharitable beneficiary prevails over the power of the court
568 under section 33 of this act to apply cy pres to modify or terminate the
569 trust only if, when the provision takes effect: (1) Except as provided in
570 section 45a-505 of the general statutes, the trust property is to revert to
571 the settlor and the settlor is still living; or (2) fewer than twenty-one
572 years have elapsed since the date of the trust's creation.

573 Sec. 35. (NEW) (*Effective October 1, 2018*) (a) If trust property has a
574 total value of less than two hundred thousand dollars and after notice
575 to the qualified beneficiaries, the trustee of a testamentary
576 noncharitable trust who obtains court approval, or the trustee of an
577 inter vivos noncharitable trust, with or without court approval, may
578 terminate the trust if such trustee concludes that the termination is not
579 inconsistent with the probable intent of the settlor and the value or
580 character of the trust property is insufficient or inappropriate to justify
581 the cost of administration.

582 (b) The court may modify or terminate a trust or remove the trustee
583 and appoint a different trustee if the total value of the trust property is
584 less than the amount specified in subsection (a) of this section.

585 (c) Upon termination of a trust under this section, the trustee shall
586 distribute the trust property in a manner consistent with the purposes
587 of the trust.

588 (d) This section shall not apply to an easement for conservation or
589 preservation.

590 Sec. 36. (NEW) (*Effective October 1, 2018*) The court may reform the
591 terms of a trust, even if unambiguous, to conform the terms to the
592 settlor's intention if it is proved by clear and convincing evidence what
593 the settlor's intention was and that the terms of the trust were affected
594 by a mistake of fact or law, whether in expression or inducement.

595 Sec. 37. (NEW) (*Effective October 1, 2018*) To achieve the settlor's tax
596 objectives, the court may modify the terms of a trust in a manner that
597 is not contrary to the settlor's probable intention. The court may
598 provide that the modification has retroactive effect.

599 Sec. 38. (NEW) (*Effective October 1, 2018*) After notice to the current
600 beneficiaries, a trustee may combine two or more trusts into a single
601 trust or divide a trust into two or more separate trusts, if the result
602 does not impair rights of any beneficiary or adversely affect
603 achievement of the purposes of the trust.

604 Sec. 39. (NEW) (*Effective October 1, 2018*) (a) To the extent a
605 beneficiary's interest in a trust is not subject to a spendthrift provision,
606 except as provided in this section and sections 40 to 46, inclusive, of
607 this act, the court may authorize a creditor or assignee of the
608 beneficiary to reach the beneficiary's interest by attachment of present
609 or future distributions to or for the benefit of the beneficiary. The court
610 may limit the award to such relief as is appropriate under the
611 circumstances, provided the court may not grant relief beyond the
612 attachment of present or future distributions.

613 (b) (1) A trustee of a charitable trust and a person holding and
614 administering an endowment fund or an institutional fund, as defined
615 in section 45a-535a of the general statutes, shall not mortgage,
616 hypothecate, pledge, use as collateral or otherwise encumber any of
617 the following assets of such charitable trust, endowment fund or
618 institutional fund, if the source of the asset was a charitable gift: (A)
619 Funds for which expenditures are restricted by the settlor for a
620 purpose other than the general purposes of a charity or institution; and
621 (B) the principal or corpus of a charitable trust or institutional fund for
622 which such principal or corpus is restricted to investment or
623 endowment purposes.

624 (2) No creditor, receiver appointed pursuant to chapter 920 of the
625 general statutes, or trustee appointed under Title 11 of the United
626 States Code may attach, garnish, lien or otherwise use funds subject to
627 the provisions of subdivision (1) of this subsection for the purpose of

628 applying such asset to payment of a charitable beneficiary's debt or
629 including such asset in the receivership or bankruptcy estate.

630 Sec. 40. (NEW) (*Effective October 1, 2018*) (a) A spendthrift provision
631 is valid only if it restrains both voluntary and involuntary transfer of a
632 beneficiary's interest. A provision in the terms of the trust permitting
633 the voluntary transfer of a beneficiary's interest, but only with the
634 consent of another person or entity, including the trustee, specified in
635 the terms of the trust, shall be deemed to be an acceptable restraint on
636 voluntary transfer.

637 (b) A term of a trust providing that the interest of a beneficiary is
638 held subject to a "spendthrift trust", or words of similar import, is
639 sufficient to restrain both voluntary and involuntary transfer of the
640 beneficiary's interest.

641 (c) A beneficiary may not transfer an interest in a trust in violation
642 of a valid spendthrift provision and, except as provided in sections 39
643 to 46, inclusive, of this act, a creditor or assignee of the beneficiary may
644 not reach the interest or a distribution by the trustee before its receipt
645 by the beneficiary.

646 Sec. 41. (NEW) (*Effective October 1, 2018*) (a) As used in this section
647 and section 42 of this act, "child" includes any person for whom an
648 order or judgment for child support has been entered in this or another
649 state.

650 (b) A spendthrift provision is valid even though a beneficiary is
651 named as the sole trustee or as a cotrustee of the trust.

652 (c) A spendthrift provision is enforceable against a former spouse of
653 a beneficiary.

654 (d) Even if a trust contains a spendthrift provision, a beneficiary's
655 child who has a judgment or court order against the beneficiary for
656 support or maintenance may obtain from a court an order attaching
657 present or future distributions to or for the benefit of the beneficiary,
658 but only if distributions can be made for the beneficiary's support

659 under the terms of the trust.

660 Sec. 42. (NEW) (*Effective October 1, 2018*) (a) Except as provided in
661 subdivision (2) of subsection (a) of section 43 of this act or subsection
662 (b) of this section, whether or not a trust contains a spendthrift
663 provision, a creditor of a beneficiary may not compel a distribution
664 that is subject to the trustee's discretion, even if: (1) The discretion is
665 expressed in the form of a standard of distribution; or (2) the trustee
666 has abused the discretion.

667 (b) To the extent a trustee has not complied with a standard of
668 distribution or has abused a discretion: (1) A distribution may be
669 ordered by the court to satisfy a judgment or court order against the
670 beneficiary for support or maintenance of the beneficiary's child; and
671 (2) the court may direct the trustee to pay to the child only such
672 amount as is equitable under the circumstances, but in no event more
673 than the amount the trustee would have been required to distribute to
674 or for the benefit of the beneficiary had the trustee complied with the
675 standard or not abused the discretion.

676 (c) This section shall not limit any preexisting right of a beneficiary
677 to maintain a judicial proceeding against a trustee for an abuse of
678 discretion or failure to comply with a standard for distribution.

679 (d) With respect to the powers set forth in section 46 of this act, the
680 provisions of this section shall apply even though the beneficiary is the
681 sole trustee or a cotrustee of the trust.

682 Sec. 43. (NEW) (*Effective October 1, 2018*) (a) Whether or not the
683 terms of a trust contain a spendthrift provision, and except as provided
684 in sections 106 to 112, inclusive, of this act, the following rules apply:

685 (1) During the lifetime of the settlor, the property of a revocable
686 trust is subject to claims of the settlor's creditors.

687 (2) Except as provided in subdivisions (4) and (5) of this subsection,
688 with respect to an irrevocable trust, a creditor or assignee of the settlor
689 may reach the maximum amount that can be distributed to or for the

690 benefit of the settlor. If a trust has more than one settlor, the amount
691 the creditor or assignee of a particular settlor may reach may not
692 exceed the settlor's interest in the portion of the trust attributable to
693 such settlor's contribution.

694 (3) With respect to a trust created pursuant to 42 USC
695 1396p(d)(4)(A) or (C), as amended from time to time, after notice to the
696 creditor and the state, the court may limit the award to a creditor of the
697 settlor under subdivision (1) or (2) of this subsection to such relief as is
698 appropriate under the circumstances, considering, among any other
699 factors determined to be appropriate by the court, the supplemental
700 needs of the beneficiary.

701 (4) A creditor or assignee of the settlor may not reach the assets of
702 an irrevocable trust, in whole or in part, solely because of the existence
703 of a discretionary power granted to the trustee by the terms of the
704 trust, or any other provision of law, to pay directly to the taxing
705 authorities or to reimburse the settlor for any tax on trust income or
706 principal which is payable by the settlor under the law imposing such
707 tax.

708 (5) A creditor or assignee of a settlor may not reach the assets of an
709 irrevocable trust except in accordance with the terms of the trust
710 instrument if (A) all of the settlors of the trust are commercial entities
711 organized to conduct business activities; (B) at least one trustee is a
712 commercial entity organized to conduct business activities; and (C) the
713 trust is created by contract in order to facilitate a business purpose of
714 the settlors.

715 (b) For the purposes of this section: (1) Except as provided in section
716 46 of this act, during the period the power may be exercised, the holder
717 of a power of withdrawal is treated in the same manner as the settlor
718 of a revocable trust to the extent of the property subject to the power;
719 and (2) upon the lapse, release or waiver of the power, the holder is
720 treated as the settlor of the trust only to the extent the value of the
721 property affected by the lapse, release or waiver exceeds the greater of
722 the amount specified in Section 2041(b)(2) or 2514(e) of the Internal

723 Revenue Code of 1986, or any subsequent corresponding internal
724 revenue code of the United States, as amended from time to time, and
725 the regulations adopted thereunder, or Section 2503(b) of said Internal
726 Revenue Code and the regulations adopted thereunder, in each case as
727 in effect on October 1, 2018.

728 Sec. 44. (NEW) (*Effective October 1, 2018*) Except as provided in
729 section 46 of this act, whether or not a trust contains a spendthrift
730 provision, a creditor or assignee of a beneficiary may reach a
731 mandatory distribution of income or principal, including a distribution
732 upon termination of the trust, if the trustee has not made the
733 distribution to the beneficiary within a reasonable time after the
734 mandated distribution date.

735 Sec. 45. (NEW) (*Effective October 1, 2018*) Trust property shall not be
736 subject to personal obligations of the trustee, even if the trustee
737 becomes insolvent or bankrupt.

738 Sec. 46. (NEW) (*Effective October 1, 2018*) (a) For all purposes under
739 this section and sections 39 to 45, inclusive, of this act, whether or not a
740 trust contains a spendthrift provision, a creditor of a beneficiary, other
741 than a creditor of the settlor if the settlor is a beneficiary of the trust,
742 may not attach or compel a distribution of property that is subject:

743 (1) To a power of withdrawal held by the beneficiary if the value of
744 the property subject to the power does not exceed the greater of the
745 amount specified in Section 2041(b)(2) or 2514(e) of the Internal
746 Revenue Code of 1986, or any subsequent corresponding internal
747 revenue code of the United States, as amended from time to time, and
748 the regulations adopted thereunder, or Section 2503(b) of said Internal
749 Revenue Code and the regulations adopted thereunder, in each case as
750 in effect on October 1, 2018;

751 (2) Except as provided in subsection (b) of section 42 of this act, to a
752 power, whether mandatory or discretionary, held by the trustee of the
753 trust, including a power held by the beneficiary as the sole trustee or a
754 cotrustee of the trust, to make distributions to or for the benefit of the

755 beneficiary, if the power is exercisable by the trustee only in
756 accordance with an ascertainable standard relating to such
757 beneficiary's individual health, education, support or maintenance
758 within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the
759 Internal Revenue Code of 1986, or any subsequent corresponding
760 internal revenue code of the United States, as amended from time to
761 time, and the regulations adopted thereunder, as in effect on October
762 1, 2018; or

763 (3) To a power, whether mandatory or discretionary, held by the
764 trustee of the trust, including a power held by the beneficiary as the
765 sole trustee or a cotrustee of the trust, to make distributions to or for
766 the benefit of a person who the beneficiary has an obligation to
767 support, if the power is exercisable by the trustee only in accordance
768 with an ascertainable standard relating to such person's individual
769 health, education, support or maintenance within the meaning of
770 Section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of
771 1986, or any subsequent corresponding internal revenue code of the
772 United States, as amended from time to time, and the regulations
773 adopted thereunder, as in effect on October 1, 2018.

774 (b) A beneficiary holding a power set forth in subsection (a) of this
775 section shall not, during the period the power may be exercised or
776 upon the lapse, release or waiver of the power, be treated as a settlor of
777 the trust.

778 (c) This section and sections 39 to 45, inclusive, of this act shall not
779 apply to statutory trusts created pursuant to chapter 615 of the general
780 statutes to the extent inconsistent with the terms of said chapter.

781 Sec. 47. (NEW) (*Effective October 1, 2018*) The capacity required to
782 create, amend, revoke or add property to a revocable trust, or to direct
783 the actions of the trustee of a revocable trust, is the same as that
784 required to make a will.

785 Sec. 48. (NEW) (*Effective October 1, 2018*) (a) Unless the terms of a
786 trust expressly provide that the trust is irrevocable, the settlor may

787 revoke or amend the trust. This subsection shall not apply to (1) a trust
788 created under an instrument executed before October 1, 2018, (2)
789 charitable pledges, or (3) other charitable gifts in which the charitable
790 interest has otherwise vested.

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

798 (c) (1) The settlor may revoke or amend a revocable trust by
799 substantial compliance with a method provided in the terms of the
800 trust.

801 (2) If the terms of the trust do not provide a method, or the method
802 provided in the terms is not expressly made exclusive, the settlor may
803 revoke or amend a revocable trust by (A) executing a later will or
804 codicil that has been admitted to probate and that expressly refers to
805 the trust or expressly devises specifically identified items of real or
806 personal property that would otherwise have passed according to the
807 terms of the trust, or (B) any other method manifesting clear and
808 convincing evidence of the settlor's intent, provided (i) a written
809 revocable trust may only be amended by a later written instrument,
810 and (ii) a written revocable trust may only be revoked by a later
811 written instrument or by the burning, cancellation, tearing or
812 obliteration of the revocable trust by the settlor or by some person in
813 the settlor's presence and at the settlor's direction.

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

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

819 of the trust and the power of attorney.

820 (f) Unless expressly prohibited by the terms of the trust, a
821 conservator of the settlor may exercise a settlor's powers with respect
822 to revocation, amendment or distribution of trust property with the
823 approval of the trustee and the court supervising the conservatorship.

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

828 (h) A trust created pursuant to 42 USC 1396p(d)(4), as amended
829 from time to time, is irrevocable if the terms of the trust prohibit the
830 settlor from revoking it, even if the settlor's estate or the settlor's heirs
831 at law are named as the remainder beneficiary of the trust upon the
832 settlor's death.

833 Sec. 49. (NEW) (*Effective October 1, 2018*) (a) To the extent a trust is
834 revocable by a settlor, a trustee may follow a direction of the settlor
835 that is contrary to the terms of the trust. To the extent a trust is
836 revocable by a settlor in conjunction with a person other than a trustee
837 or person holding an adverse interest, the trustee may follow a
838 direction from the settlor and the other person holding the power to
839 revoke even if the direction is contrary to the terms of the trust.

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

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

846 Sec. 50. (NEW) (*Effective October 1, 2018*) (a) A person may
847 commence a judicial proceeding to contest the validity of a trust that
848 was revocable at the settlor's death within the earlier of:

849 (1) One year after the settlor's death; or

850 (2) Sixty days after the date on which the trustee sent the person a
851 copy of the trust instrument and a notice informing the person of the
852 trust's existence, of the trustee's name and address, and of the time
853 allowed for commencing a proceeding. The trustee shall have the right
854 to provide the documentation and information set forth in this
855 subdivision to (A) all persons who would be entitled to notice of the
856 application for probate of a will or administration of an intestate estate
857 or to notice of the admission of a will to probate or the granting of
858 letters of administration, and (B) the beneficiaries of the trust and all
859 persons whose interests are, in the opinion of the trustee, adversely
860 affected by the trust.

861 (b) Upon the death of the settlor of a trust that was revocable at the
862 settlor's death, the trustee may proceed to distribute the trust property
863 in accordance with the terms of the trust. The trustee is not subject to
864 liability for doing so unless: (1) The trustee knows of a pending judicial
865 proceeding contesting the validity of the trust; (2) a potential
866 contestant has notified the trustee of a possible judicial proceeding to
867 contest the trust and a judicial proceeding is commenced within sixty
868 days after the date on which the contestant sent the notification; or (3)
869 the trustee failed to give notice in accordance with section 70 of this
870 act.

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

873 Sec. 51. (NEW) (*Effective October 1, 2018*) (a) Except as provided in
874 subsection (c) of this section, a person designated as trustee accepts the
875 trusteeship: (1) By substantially complying with a method of
876 acceptance provided in the terms of the trust; (2) if the terms of the
877 trust do not provide a method or the method provided in the terms is
878 not expressly made exclusive, by accepting delivery of the trust
879 property, exercising powers or performing duties as trustee, or
880 otherwise indicating acceptance of the trusteeship; or (3) in the case of
881 a testamentary trust, filing an acceptance of trust in the court with

882 jurisdiction over the trust.

883 (b) A person designated as trustee who has not yet accepted the
884 trusteeship may reject the trusteeship. A designated trustee who does
885 not accept the trusteeship within a reasonable time after knowing of
886 the designation is deemed to have rejected the trusteeship.

887 (c) A person designated as trustee, without accepting the
888 trusteeship, may: (1) Act to preserve the trust property if, within a
889 reasonable time after acting, the person sends a rejection of the
890 trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a
891 qualified beneficiary; and (2) inspect or investigate trust property to
892 determine potential liability under state or federal environmental or
893 other law or for any other purpose.

894 Sec. 52. (NEW) (*Effective October 1, 2018*) (a) A trustee shall give
895 bond to secure performance of the trustee's duties only if the court
896 finds that a bond is needed to protect the interests of the beneficiaries
897 or is required by the terms of the trust and, in the case of noncharitable
898 trusts, the court has not dispensed with the requirement.

899 (b) The court may specify the amount of a bond, its liabilities and
900 whether sureties are necessary. Except in the case of a charitable trust,
901 the court may modify or terminate a bond at any time.

902 (c) A testamentary trustee that is a foreign corporation shall also
903 comply with section 45a-206 of the general statutes.

904 Sec. 53. (NEW) (*Effective October 1, 2018*) (a) Cotrustees who are
905 unable to reach a unanimous decision may act by majority decision.

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

908 (c) Subject to the provisions of section 98 of this act, a cotrustee shall
909 participate in the performance of a trustee's function unless the
910 cotrustee is unavailable to perform the function because of absence,
911 illness, disqualification under other law or other temporary incapacity

912 or the cotrustee has properly delegated the performance of the
913 function to another trustee.

914 (d) If a cotrustee is unavailable to perform duties because of
915 absence, illness, disqualification under other law or other temporary
916 incapacity, and prompt action is necessary to achieve the purposes of
917 the trust or to avoid injury to the trust property, the remaining
918 cotrustee or a majority of the remaining cotrustees may act for the
919 trust.

920 (e) A trustee may delegate to a cotrustee the performance of any
921 function other than a function that the terms of the trust expressly
922 require to be performed by the trustees jointly. Unless a delegation
923 was irrevocable, a delegating trustee may revoke a delegation
924 previously made.

925 (f) Except as provided in subsection (g) of this section, a trustee who
926 does not join in an action of another trustee is not liable for the action.

927 (g) Subject to the provisions of section 98 of this act, each trustee
928 shall exercise reasonable care to: (1) Prevent a cotrustee from
929 committing a serious breach of trust; and (2) compel a cotrustee to
930 redress a serious breach of trust.

931 (h) A dissenting trustee who joins in an action at the direction of the
932 majority of the trustees and who notified any cotrustee of the dissent at
933 or before the time of the action is not liable for the action unless the
934 action is a serious breach of trust.

935 Sec. 54. (NEW) (*Effective October 1, 2018*) (a) A vacancy in a
936 trusteeship occurs if: (1) A person designated as trustee rejects the
937 trusteeship; (2) a person designated as trustee cannot be identified or
938 does not exist; (3) a trustee resigns; (4) a trustee is disqualified or
939 removed; (5) a trustee dies; or (6) a conservator is appointed for an
940 individual serving as trustee.

941 (b) If one or more cotrustees remain in office, a vacancy in a
942 trusteeship of a noncharitable trust need not be filled, unless otherwise

943 required by the terms of the trust. A vacancy in a trusteeship shall be
944 filled if the trust has no remaining trustee. A vacancy in a trusteeship
945 of a charitable trust shall be filled, unless otherwise excused by the
946 terms of the trust.

947 (c) A vacancy in a trusteeship required to be filled shall be filled in
948 the following order of priority: (1) By a person designated in the terms
949 of the trust to act as successor trustee or appointed according to a
950 procedure specified in such terms; (2) in the case of a noncharitable
951 trust, by a person appointed by unanimous agreement of the qualified
952 beneficiaries; or (3) by a person appointed by the court.

953 (d) Whether or not a vacancy in a trusteeship exists or is required to
954 be filled, the court may appoint an additional trustee or special
955 fiduciary whenever the court considers the appointment necessary for
956 the administration of the trust.

957 Sec. 55. (NEW) (*Effective October 1, 2018*) (a) A trustee of an inter
958 vivos trust may resign without court approval upon at least thirty
959 days' notice to either: (1) The qualified beneficiaries, the settlor, if
960 living, and all cotrustees; or (2) the court.

961 (b) A trustee of a testamentary trust may resign: (1) Without court
962 approval upon at least thirty days' notice to the qualified beneficiaries
963 and the court; or (2) with the approval of the court.

964 (c) In approving a resignation pursuant to subdivision (2) of
965 subsection (b) of this section, the court may issue orders and impose
966 conditions reasonably necessary for the protection of the trust
967 property, the beneficiaries and the other trustees, and may issue such
968 other orders as law and equity may require.

969 (d) Any liability of a resigning trustee or of any sureties on such
970 trustee's bond for acts or omissions of such trustee is not discharged or
971 affected by such trustee's resignation.

972 Sec. 56. (NEW) (*Effective October 1, 2018*) (a) The settlor of a
973 noncharitable trust, the settlor of a charitable trust who has expressed

974 the right to do so, the Attorney General in the case of a charitable trust,
975 a cotrustee or a beneficiary, may request the court to remove a trustee,
976 or a trustee may be removed by the court on its own initiative.

977 (b) The court may remove a trustee if:

978 (1) The trustee has committed a serious breach of trust;

979 (2) Lack of cooperation among cotrustees substantially impairs the
980 administration of the trust;

981 (3) Because of unfitness, unwillingness or persistent failure of the
982 trustee to administer the trust effectively, the court determines that
983 removal of the trustee best serves the interests of the beneficiaries; or

984 (4) There has been a substantial change of circumstances or removal
985 is requested by all of the qualified beneficiaries, the court finds that
986 removal of the trustee best serves the interests of all of the beneficiaries
987 and is not inconsistent with a material purpose of the trust, and a
988 suitable cotrustee or successor trustee is available. A successor
989 corporate fiduciary shall not be removed in such a manner as to
990 discriminate against state banks or national banking associations. No
991 consolidated state bank or national banking association and no
992 receiving state bank or national banking association may be removed
993 solely because it is a successor fiduciary, as defined in section 45a-245a
994 of the general statutes.

995 Sec. 57. (NEW) (*Effective October 1, 2018*) (a) Unless a cotrustee
996 remains in office or the court otherwise orders, and until the trust
997 property is delivered to a successor trustee or other person entitled to
998 it, a trustee who has resigned or been removed has the duties of a
999 trustee and the powers necessary to protect the trust property.

1000 (b) A trustee who has resigned or been removed shall proceed
1001 expeditiously to deliver the trust property within the trustee's
1002 possession to the cotrustee, successor trustee or other person entitled
1003 to it.

1004 Sec. 58. (NEW) (*Effective October 1, 2018*) (a) If the terms of a trust do
1005 not specify the trustee's compensation, a trustee is entitled to
1006 compensation that is reasonable under the circumstances.

1007 (b) If the terms of a trust specify the trustee's compensation, the
1008 trustee is entitled to be compensated as specified, but the court may
1009 allow more or less compensation if: (1) The duties of the trustee are
1010 substantially different from those contemplated when the trust was
1011 created; or (2) the compensation specified by the terms of the trust is
1012 unreasonably low or high.

1013 Sec. 59. (NEW) (*Effective October 1, 2018*) (a) A trustee is entitled to
1014 be reimbursed out of the trust property, with interest as appropriate,
1015 for: (1) Expenses that were properly incurred in the defense or
1016 administration of the trust, unless the trustee is determined to have
1017 committed a breach of trust; and (2) to the extent necessary to prevent
1018 unjust enrichment of the trust, expenses that were not properly
1019 incurred in the administration of the trust.

1020 (b) An advance by the trustee of money for the protection of the
1021 trust gives rise to a lien against trust property to secure reimbursement
1022 with reasonable interest.

1023 Sec. 60. (NEW) (*Effective October 1, 2018*) Upon acceptance of a
1024 trusteeship, the trustee shall administer the trust in good faith, in
1025 accordance with its terms and purposes, settlor's intent and the
1026 interests of the beneficiaries, and in accordance with sections 1 to 113,
1027 inclusive, of this act.

1028 Sec. 61. (NEW) (*Effective October 1, 2018*) (a) A trustee shall
1029 administer the trust assets solely in the interests of the beneficiaries
1030 consistent with the settlor's intent.

1031 (b) Subject to the rights of persons dealing with or assisting the
1032 trustee as provided in section 84 of this act, a sale, encumbrance or
1033 other transaction involving the investment or management of trust
1034 property entered into by the trustee for the trustee's own personal

1035 account or which is otherwise affected by a conflict between the
1036 trustee's fiduciary and personal interests is voidable by a beneficiary
1037 affected by the transaction unless: (1) The transaction was authorized
1038 by the terms of the trust; (2) the transaction was approved by the court;
1039 (3) the beneficiary did not commence a judicial proceeding within the
1040 time allowed by section 77 of this act; (4) the beneficiary consented to
1041 the trustee's conduct, ratified the transaction or released the trustee as
1042 provided in section 81 of this act; or (5) the transaction involves a
1043 contract entered into or claim acquired by the trustee before the person
1044 became or contemplated becoming trustee.

1045 (c) A sale, encumbrance or other transaction involving the
1046 investment or management of trust property is presumed to be
1047 affected by a conflict between personal and fiduciary interests if it is
1048 entered into by the trustee with: (1) The trustee's spouse; (2) the
1049 trustee's descendants, sibling, parents or their spouses; (3) an agent or
1050 attorney of the trustee; or (4) a corporation or other person or
1051 enterprise in which the trustee, or a person that owns a significant
1052 interest in the trustee, has an interest that might affect the trustee's best
1053 judgment.

1054 (d) A transaction between a trustee and a beneficiary that does not
1055 concern trust property but that occurs during the existence of the trust
1056 or while the trustee retains significant influence over the beneficiary
1057 and from which the trustee obtains an advantage is voidable by the
1058 beneficiary unless the trustee establishes that the transaction was fair
1059 to the beneficiary.

1060 (e) A transaction not concerning trust property in which the trustee
1061 engages in the trustee's individual capacity involves a conflict between
1062 personal and fiduciary interests if the transaction concerns an
1063 opportunity properly belonging to the trust.

1064 (f) The following transactions are not presumed to be affected by a
1065 conflict of interest between a trustee's personal and fiduciary interests,
1066 provided the transaction and any investment made pursuant to the
1067 transaction complies with the Connecticut Uniform Prudent Investor

1068 Act, sections 45a-541 to 45a-541l, inclusive, of the general statutes, is in
1069 the best interests of the beneficiaries and is not prohibited by the
1070 governing instrument: (1) An investment by a trustee in securities of
1071 an investment company or investment trust to which the trustee, or its
1072 affiliate, provides services in a capacity other than as trustee; (2) an
1073 investment by a trustee in an insurance contract purchased from an
1074 insurance agency owned by, or affiliated with, the trustee or its
1075 affiliate; and (3) the placing of securities transactions by a trustee
1076 through a securities broker that is a part of the same company as the
1077 trustee, that is owned by the trustee or that is affiliated with the
1078 trustee.

1079 (g) In voting shares of stock or in exercising powers of control over
1080 similar interests in other forms of enterprise, the trustee shall act in the
1081 best interests of the beneficiaries consistent with the intentions of the
1082 settlor. If the trust is the sole owner of a corporation or other form of
1083 enterprise, the trustee shall elect or appoint directors or other
1084 managers who will manage the corporation or enterprise in the best
1085 interests of the beneficiaries.

1086 (h) This section shall not preclude the following transactions, if fair
1087 to the beneficiaries: (1) An agreement between a trustee and a
1088 beneficiary relating to the appointment or compensation of the trustee;
1089 (2) payment of reasonable compensation to the trustee; (3) a
1090 transaction between a trust and another trust, decedent's estate or
1091 conservatorship of which the trustee is a fiduciary or in which a
1092 beneficiary has an interest; (4) a deposit of trust money in a regulated
1093 financial service institution operated by the trustee; or (5) an advance
1094 by the trustee of money for the protection of the trust.

1095 (i) The court may appoint a special fiduciary to make a decision
1096 with respect to any proposed transaction that may violate this section
1097 if entered into by the trustee.

1098 Sec. 62. (NEW) (*Effective October 1, 2018*) If a trust has two or more
1099 beneficiaries, the trustee shall act impartially in investing, managing
1100 and distributing the trust property, giving due regard to the

1101 beneficiaries' respective interests.

1102 Sec. 63. (NEW) (*Effective October 1, 2018*) A trustee shall administer
1103 the trust as a prudent person would, by considering the purposes,
1104 terms, distributional requirements and other circumstances of the
1105 trust. In satisfying this standard, the trustee shall exercise reasonable
1106 care, skill and caution.

1107 Sec. 64. (NEW) (*Effective October 1, 2018*) (a) A trustee may delegate
1108 duties and powers that a prudent trustee of comparable skills could
1109 properly delegate under the circumstances. The trustee shall exercise
1110 reasonable care, skill and caution in:

1111 (1) Selecting an agent;

1112 (2) Establishing the scope and terms of the delegation, consistent
1113 with the purposes and terms of the trust; and

1114 (3) Periodically reviewing the agent's actions in order to monitor the
1115 agent's performance and compliance with the terms of the delegation.

1116 (b) In performing a delegated function, an agent owes a duty to the
1117 trust to exercise reasonable care to comply with the terms of the
1118 delegation.

1119 (c) A trustee who complies with subsection (a) of this section is not
1120 liable to the beneficiaries or to the trust for an action of the agent to
1121 whom the function was delegated.

1122 (d) By accepting a delegation of powers or duties from the trustee of
1123 a trust that is subject to the law of this state, an agent submits to the
1124 jurisdiction of the courts of this state.

1125 Sec. 65. (NEW) (*Effective October 1, 2018*) In a judicial proceeding
1126 involving the administration of a trust, the court, as justice and equity
1127 may require, may award costs and expenses, including reasonable
1128 attorney's fees, to any party, to be paid by another party or from the
1129 trust that is the subject of the controversy.

1130 Sec. 66. (NEW) (*Effective October 1, 2018*) A trustee shall take
1131 reasonable steps to take control of and protect the trust property.

1132 Sec. 67. (NEW) (*Effective October 1, 2018*) (a) A trustee shall keep
1133 adequate records of the administration of the trust.

1134 (b) A trustee shall keep trust property separate from the trustee's
1135 own property.

1136 (c) Except as provided in subsection (d) of this section, a trustee
1137 shall cause the trust property to be designated so that the interest of
1138 the trust, to the extent feasible, appears in records maintained by a
1139 party other than a trustee or beneficiary.

1140 (d) If the trustee maintains records clearly indicating the respective
1141 interests, a trustee may invest as a whole the property of two or more
1142 separate trusts.

1143 Sec. 68. (NEW) (*Effective October 1, 2018*) A trustee shall take
1144 reasonable steps to enforce claims of the trust and to defend claims
1145 against the trust.

1146 Sec. 69. (NEW) (*Effective October 1, 2018*) A trustee shall take
1147 reasonable steps to compel a former trustee or other person to deliver
1148 trust property to the trustee and to redress a breach of trust known to
1149 the trustee to have been committed by a former trustee.

1150 Sec. 70. (NEW) (*Effective October 1, 2018*) (a) Unless, under the
1151 circumstances, disclosure is unreasonable: (1) A trustee shall keep the
1152 qualified beneficiaries of the trust reasonably informed about the
1153 administration of the trust and of the material facts necessary for them
1154 to protect their interests; and (2) a trustee shall promptly respond to a
1155 qualified beneficiary's request for trustee's reports and other
1156 information reasonably related to the administration of the trust.

1157 (b) A trustee: (1) Upon request of a qualified beneficiary, shall
1158 promptly furnish to the qualified beneficiary a copy of the trust
1159 instrument; (2) within sixty days after accepting a trusteeship, shall

1160 notify the qualified beneficiaries of the acceptance and of the trustee's
1161 name, address and telephone number; and (3) within sixty days after
1162 the date on which the trustee acquires knowledge of the creation of an
1163 irrevocable trust, or the date on which the trustee acquires knowledge
1164 that a formerly revocable trust has become irrevocable, whether by the
1165 death of the settlor or otherwise, shall notify the current beneficiaries
1166 of the trust's existence, of the identity of the settlor or settlors, of the
1167 right to request a copy of the trust instrument and of the right to
1168 trustee's reports.

1169 (c) A trustee shall send a report to the distributees and permissible
1170 distributees of trust income or principal, and to other qualified
1171 beneficiaries who request it, at least annually and at the termination of
1172 the trust. Upon a vacancy in a trusteeship, unless a cotrustee remains
1173 in office, the former trustee shall send a report to the distributees and
1174 permissible distributees, and to other qualified beneficiaries who
1175 request it. An executor, administrator or conservator may send the
1176 report on behalf of a deceased or incapacitated trustee. The report may
1177 be formal or informal, but shall include information relating to the
1178 trust property, liabilities, receipts and disbursements, including the
1179 amount of the trustee's compensation, a listing of the trust assets and,
1180 if feasible, their respective market values.

1181 (d) Any beneficiary may waive the right to trustee's reports or other
1182 information otherwise required to be furnished under this section. A
1183 beneficiary, with respect to future reports and other information, may
1184 withdraw a waiver previously given.

1185 (e) Judicial approval of a trustee's report forecloses claims as to
1186 those given notice of the proceeding as to matters disclosed in the
1187 report.

1188 Sec. 71. (NEW) (*Effective October 1, 2018*) (a) Notwithstanding the
1189 breadth of discretion granted to a trustee in the terms of the trust,
1190 including the use of such terms as "absolute", "sole" or "uncontrolled",
1191 the trustee shall exercise a discretionary power in good faith and in
1192 accordance with the terms and purposes of the trust, settlor's intent

1193 and the interests of the beneficiaries.

1194 (b) Subject to the provisions of subsection (d) of this section, and
1195 unless the terms of the trust expressly indicate that a rule in this
1196 subsection does not apply: (1) A person, other than a settlor, who is a
1197 beneficiary and trustee of a trust that confers on the trustee a power to
1198 make discretionary distributions to or for the trustee's personal benefit,
1199 may exercise the power only in accordance with an ascertainable
1200 standard relating to the trustee's individual health, education, support
1201 or maintenance within the meaning of Section 2041(b)(1)(A) or
1202 2514(c)(1) of the Internal Revenue Code of 1986, or any subsequent
1203 corresponding internal revenue code of the United States, as amended
1204 from time to time; and (2) a trustee may not exercise a power to make
1205 discretionary distributions to satisfy a legal obligation of support that
1206 the trustee personally owes another person.

1207 (c) A power to make discretionary distributions, the exercise of
1208 which is limited or prohibited by subsection (b) of this section, may be
1209 exercised by a majority of the remaining trustees whose exercise of
1210 such power is not so limited or prohibited. If the exercise of such
1211 power by all trustees is so limited or prohibited, the court may appoint
1212 a special fiduciary with authority to exercise such power.

1213 (d) Subsection (b) of this section does not apply to: (1) A power held
1214 by the settlor's spouse who is the trustee of a trust for which a marital
1215 deduction, as defined in Section 2056(b)(5) or 2523(e) of the Internal
1216 Revenue Code of 1986, or any subsequent corresponding internal
1217 revenue code of the United States, as amended from time to time, was
1218 previously allowed; (2) any trust during any period that the trust may
1219 be revoked or amended by its settlor; or (3) a trust, if contributions to
1220 the trust qualify for the annual exclusion under Section 2503(c) of said
1221 Internal Revenue Code.

1222 Sec. 72. (NEW) (*Effective October 1, 2018*) (a) A trustee, without
1223 authorization by the court, may exercise: (1) Powers conferred by the
1224 terms of the trust; and (2) except as limited by the terms of the trust,
1225 (A) all powers over the trust property which an unmarried competent

1226 owner has over individually owned property, (B) any other powers
1227 appropriate to achieve the proper investment, management and
1228 distribution of the trust property, and (C) any other powers conferred
1229 by sections 1 to 113, inclusive, of this act.

1230 (b) The exercise of any power is subject to the fiduciary duties
1231 prescribed by sections 60 to 74, inclusive, of this act.

1232 Sec. 73. (NEW) (*Effective October 1, 2018*) (a) Without limiting the
1233 authority conferred by section 72 of this act, a trustee may:

1234 (1) Collect trust property and accept or reject additions to the trust
1235 property from a settlor or any other person;

1236 (2) Acquire or sell property, for cash or on credit, at public or
1237 private sale;

1238 (3) Exchange, partition or otherwise change the character of trust
1239 property;

1240 (4) Deposit trust money in an account in a regulated financial
1241 service institution;

1242 (5) Borrow money, with or without security, and mortgage or
1243 pledge trust property for a period within or extending beyond the
1244 duration of the trust;

1245 (6) With respect to an interest in a proprietorship, partnership,
1246 limited liability company, business trust, corporation or other form of
1247 business or enterprise, continue the business or other enterprise and
1248 take any action that may be taken by shareholders, members or
1249 property owners, including merging, dissolving or otherwise changing
1250 the form of business organization or contributing additional capital;

1251 (7) With respect to stocks or other securities, exercise the rights of an
1252 absolute owner, including the right to (A) vote or give proxies to vote,
1253 with or without power of substitution, or enter into or continue a
1254 voting trust agreement, (B) hold a security in the name of a nominee or

1255 in other form without disclosure of the trust so that title may pass by
1256 delivery, (C) pay calls, assessments and other sums chargeable or
1257 accruing against the securities, and sell or exercise stock subscription
1258 or conversion rights, and (D) deposit the securities with a depository
1259 or other regulated financial service institution;

1260 (8) With respect to an interest in real property, construct or make
1261 ordinary or extraordinary repairs to, alterations to or improvements in
1262 buildings or other structures, demolish improvements, raze existing or
1263 erect new party walls or buildings, subdivide or develop land,
1264 dedicate land to public use or grant public or private easements, and
1265 make or vacate plats and adjust boundaries;

1266 (9) Enter into a lease for any purpose as lessor or lessee, including a
1267 lease or other arrangement for exploration and removal of natural
1268 resources, with or without the option to purchase or renew, for a
1269 period within or extending beyond the duration of the trust;

1270 (10) Grant an option involving a sale, lease or other disposition of
1271 trust property or acquire an option for the acquisition of property,
1272 including an option exercisable beyond the duration of the trust, and
1273 exercise an option so acquired;

1274 (11) Insure the property of the trust against damage or loss and
1275 insure the trustee, the trustee's agents and beneficiaries against liability
1276 arising from the administration of the trust;

1277 (12) Abandon or decline to administer property of no value or of
1278 insufficient value to justify its collection or continued administration;

1279 (13) With respect to possible liability for violation of environmental
1280 law, (A) inspect or investigate property the trustee holds or has been
1281 asked to hold, or property owned or operated by an organization in
1282 which the trustee holds or has been asked to hold an interest, for the
1283 purpose of determining the application of environmental law with
1284 respect to the property, (B) take action to prevent, abate or otherwise
1285 remedy any actual or potential violation of any environmental law

1286 affecting property held directly or indirectly by the trustee, whether
1287 taken before or after the assertion of a claim or the initiation of
1288 governmental enforcement, (C) decline to accept property into trust or
1289 disclaim any power with respect to property that is or may be
1290 burdened with liability for violation of environmental law, (D)
1291 compromise claims against the trust which may be asserted for an
1292 alleged violation of environmental law, and (E) pay the expense of any
1293 inspection, review, abatement or remedial action to comply with
1294 environmental law;

1295 (14) Pay or contest any claim, settle a claim by or against the trust,
1296 and release, in whole or in part, a claim belonging to the trust;

1297 (15) Pay taxes, assessments, compensation of the trustee and of
1298 employees and agents of the trust, and other expenses incurred in the
1299 administration of the trust;

1300 (16) Exercise elections with respect to federal, state and local taxes;

1301 (17) Select a mode of payment under any employee benefit or
1302 retirement plan, annuity or life insurance payable to the trustee,
1303 exercise rights thereunder, including exercise of the right to
1304 indemnification for expenses and against liabilities, and take
1305 appropriate action to collect the proceeds;

1306 (18) Make loans out of trust property, including loans to a
1307 beneficiary on terms and conditions the trustee considers to be fair and
1308 reasonable under the circumstances, with the trustee having a lien on
1309 future distributions for repayment of such loans;

1310 (19) Pledge trust property to guarantee loans made by others to the
1311 beneficiary;

1312 (20) Appoint a trustee to act in another jurisdiction with respect to
1313 trust property located in the other jurisdiction, confer upon such
1314 appointed trustee all of the powers and duties of the appointing
1315 trustee, require that such appointed trustee furnish security, and
1316 remove any trustee so appointed;

1317 (21) Pay an amount distributable to a beneficiary who is under a
1318 legal disability or who the trustee reasonably believes is incapacitated,
1319 by: (A) Paying it directly to the beneficiary or applying it for the
1320 beneficiary's benefit; (B) paying it to the beneficiary's conservator or, if
1321 the beneficiary does not have a conservator, the beneficiary's guardian;
1322 (C) paying it to the beneficiary's custodian under the Connecticut
1323 Uniform Transfers to Minors Act or to the beneficiary's custodial
1324 trustee under the Uniform Custodial Trust Act, and, for such purpose,
1325 creating a custodianship or custodial trust; (D) if the trustee does not
1326 know of a conservator, custodian or custodial trustee, paying it to an
1327 adult relative or other person having legal or physical care or custody
1328 of the beneficiary, to be expended on the beneficiary's behalf; or (E)
1329 managing it as a separate fund on the beneficiary's behalf, subject to
1330 the beneficiary's continuing right to withdraw the distribution;

1331 (22) On distribution of trust property or the division or termination
1332 of a trust, make distributions in divided or undivided interests,
1333 allocate particular assets in proportionate or disproportionate shares,
1334 value the trust property for such purposes and adjust for resulting
1335 differences in valuation;

1336 (23) Resolve a dispute concerning the interpretation of the trust or
1337 its administration by mediation, arbitration or other procedure for
1338 alternative dispute resolution;

1339 (24) Prosecute or defend an action, claim or judicial proceeding in
1340 any jurisdiction to protect trust property and the trustee in the
1341 performance of the trustee's duties;

1342 (25) Sign and deliver contracts and other instruments that are useful
1343 to achieve or facilitate the exercise of the trustee's powers; and

1344 (26) On termination of the trust, exercise the powers appropriate to
1345 wind up the administration of the trust and distribute the trust
1346 property to the persons entitled to it.

1347 (b) The foregoing powers shall not apply to a charitable trust to the

1348 extent that their exercise would give the trustee the authority to
1349 deviate from a stated charitable purpose or violate a restricted gift.

1350 Sec. 74. (NEW) (*Effective October 1, 2018*) (a) Upon termination or
1351 partial termination of a trust, the trustee of an inter vivos trust may
1352 send to the qualified beneficiaries a proposal for distribution. The right
1353 of any beneficiary, to whom the trustee has sent the proposal, to object
1354 to the proposed distribution terminates if the beneficiary does not
1355 notify the trustee of an objection not later than thirty days after the
1356 date on which the proposal was sent, but only if the proposal informed
1357 the beneficiary of the right to object and of the time allowed for
1358 objection.

1359 (b) Upon the occurrence of an event terminating or partially
1360 terminating a trust, the trustee shall proceed expeditiously to
1361 distribute the trust property to the persons entitled to it, subject to the
1362 right of the trustee to retain a reasonable reserve for the payment of
1363 debts, expenses and taxes.

1364 (c) A release by a beneficiary of a trustee from liability for breach of
1365 trust is invalid to the extent: (1) It was induced by improper conduct of
1366 the trustee; or (2) the beneficiary, at the time of the release, did not
1367 know of the beneficiary's rights or of the material facts relating to the
1368 breach.

1369 Sec. 75. (NEW) (*Effective October 1, 2018*) A violation by a trustee of a
1370 duty the trustee owes to a beneficiary is a breach of trust.

1371 Sec. 76. (NEW) (*Effective October 1, 2018*) (a) A trustee is accountable
1372 to an affected beneficiary for any profit made by the trustee arising
1373 from the administration of the trust, even absent a breach of trust.

1374 (b) Absent a breach of trust, a trustee is not liable to a beneficiary for
1375 a loss or depreciation in the value of trust property or for not having
1376 made a profit.

1377 Sec. 77. (NEW) (*Effective October 1, 2018*) (a) A beneficiary may not
1378 commence a proceeding against a trustee for breach of trust more than

1379 one year after the date on which the beneficiary or a representative of
1380 the beneficiary was sent a report that adequately disclosed the
1381 existence of a potential claim for breach of trust and informed the
1382 beneficiary of the time allowed for commencing a proceeding.

1383 (b) A report adequately discloses the existence of a potential claim
1384 for breach of trust if it provides sufficient information so that the
1385 beneficiary or representative knows of the potential claim or should
1386 have inquired into its existence.

1387 (c) If subsection (a) of this section does not apply, a judicial
1388 proceeding by a beneficiary against a trustee for breach of trust shall
1389 be commenced not later than two years after the first to occur of: (1)
1390 The removal, resignation or death of the trustee; (2) the termination of
1391 the beneficiary's interest in the trust; or (3) the termination of the trust.

1392 (d) In a proceeding involving a charitable trust, any notice that is
1393 required to be given to the Attorney General shall include a copy of the
1394 trust instrument.

1395 Sec. 78. (NEW) (*Effective October 1, 2018*) A trustee who acts in
1396 reasonable reliance on the terms of the trust as expressed in the trust
1397 instrument is not liable to a beneficiary for a breach of trust to the
1398 extent the breach resulted from the reliance.

1399 Sec. 79. (NEW) (*Effective October 1, 2018*) If the happening of an
1400 event, including marriage, divorce, performance of educational
1401 requirements or death, affects the administration or distribution of a
1402 trust, a trustee who has exercised reasonable care to ascertain the
1403 happening of the event is not liable for a loss resulting from the
1404 trustee's lack of knowledge.

1405 Sec. 80. (NEW) (*Effective October 1, 2018*) (a) A term of a trust
1406 relieving a trustee of liability for breach of trust is unenforceable to the
1407 extent that it: (1) Relieves the trustee of liability for breach of trust
1408 committed in bad faith or with reckless indifference to the purposes of
1409 the trust or the interests of the beneficiaries; or (2) was inserted as the

1410 result of an abuse by the trustee of a fiduciary or confidential
1411 relationship to the settlor.

1412 (b) Except for terms intended to provide protection for carrying out
1413 a stated trust purpose, an exculpatory term drafted or caused to be
1414 drafted by the trustee is invalid as an abuse of a fiduciary or
1415 confidential relationship unless the trustee proves that the exculpatory
1416 term is fair under the circumstances and that its existence and contents
1417 were adequately communicated to the settlor.

1418 Sec. 81. (NEW) (*Effective October 1, 2018*) A trustee is not liable to a
1419 beneficiary for breach of trust if the beneficiary consented to the
1420 conduct constituting the breach, released the trustee from liability for
1421 the breach or ratified the transaction constituting the breach, unless: (1)
1422 The consent, release or ratification of the beneficiary was induced by
1423 improper conduct of the trustee; or (2) at the time of the consent,
1424 release or ratification, the beneficiary did not know of the beneficiary's
1425 rights or of the material facts relating to the breach.

1426 Sec. 82. (NEW) (*Effective October 1, 2018*) (a) Except as otherwise
1427 provided in the contract, a trustee is not personally liable on a contract
1428 properly entered into in the trustee's fiduciary capacity in the course of
1429 administering the trust if the trustee in the contract disclosed the
1430 fiduciary capacity.

1431 (b) Except as otherwise limited by the general statutes, a trustee is
1432 personally liable for torts committed in the course of administering a
1433 trust or for obligations arising from ownership or control of trust
1434 property, including liability for violation of environmental law, only if
1435 the trustee is personally at fault.

1436 (c) A claim based on (1) a contract entered into by a trustee in the
1437 trustee's fiduciary capacity, (2) an obligation arising from ownership or
1438 control of trust property, or (3) a tort committed in the course of
1439 administering a trust, may be asserted in a judicial proceeding against
1440 the trustee in the trustee's fiduciary capacity, whether or not the
1441 trustee is personally liable for the claim.

1442 Sec. 83. (NEW) (*Effective October 1, 2018*) (a) Except as provided in
1443 subsection (c) of this section or unless personal liability is imposed in
1444 the contract, a trustee who holds an interest as a general partner in a
1445 general or limited partnership is not personally liable on a contract
1446 entered into by the partnership after the trust's acquisition of the
1447 interest if the fiduciary capacity was disclosed in the contract or in a
1448 statement previously filed pursuant to the Uniform Partnership Act,
1449 sections 34-300 to 34-399, inclusive, of the general statutes, or the
1450 Uniform Limited Partnership Act, sections 34-9 to 34-38u, inclusive, of
1451 the general statutes.

1452 (b) Except as otherwise provided in subsection (c) of this section, a
1453 trustee who holds an interest as a general partner is not personally
1454 liable for torts committed by the partnership or for obligations arising
1455 from ownership or control of the interest unless the trustee is
1456 personally at fault.

1457 (c) The immunity provided by this section does not apply if an
1458 interest in the partnership is held by the trustee in a capacity other
1459 than that of trustee or is held by the trustee's spouse or one or more of
1460 the trustee's descendants, siblings or parents or the spouse of any of
1461 them.

1462 (d) If the trustee of a revocable trust holds an interest as a general
1463 partner, the settlor is personally liable for contracts and other
1464 obligations of the partnership as if the settlor were a general partner.

1465 Sec. 84. (NEW) (*Effective October 1, 2018*) (a) A person other than a
1466 beneficiary who in good faith assists a trustee, or who in good faith
1467 and for value deals with a trustee, without knowledge that the trustee
1468 is exceeding or improperly exercising the trustee's powers, is protected
1469 from liability as if the trustee properly exercised the power.

1470 (b) A person other than a beneficiary who in good faith deals with a
1471 trustee is not required to inquire into the extent of the trustee's powers
1472 or the propriety of their exercise.

1473 (c) A person who in good faith delivers assets to a trustee need not
1474 ensure the proper application of such assets.

1475 (d) A person other than a beneficiary who in good faith assists a
1476 former trustee, or who in good faith and for value deals with a former
1477 trustee, without knowledge that the trusteeship has terminated, is
1478 protected from liability as if the former trustee were still a trustee.

1479 (e) Comparable protective provisions of other laws relating to
1480 commercial transactions or transfer of securities by fiduciaries prevail
1481 over the protection provided by this section.

1482 Sec. 85. (NEW) (*Effective October 1, 2018*) (a) Instead of furnishing a
1483 copy of the trust instrument to a person other than a beneficiary or, in
1484 the case of a charitable trust, the Attorney General's office, the trustee
1485 may furnish to the person or said office a certification of trust
1486 containing the following information: (1) That the trust exists and the
1487 date the trust instrument was executed; (2) the identity of the settlor;
1488 (3) the identity and address of the currently acting trustee; (4) the
1489 powers of the trustee; (5) the revocability or irrevocability of the trust
1490 and the identity of any person holding a power to revoke the trust; (6)
1491 the authority of cotrustees to sign or otherwise authenticate, and
1492 whether all or less than all are required in order to exercise powers of
1493 the trustee; (7) the trust's taxpayer identification number; and (8) the
1494 manner of taking title to trust property.

1495 (b) A certification of trust may be signed or otherwise authenticated
1496 by any trustee.

1497 (c) A certification of trust shall state that the trust has not been
1498 revoked, modified or amended in any manner that would cause the
1499 representations contained in the certification of trust to be incorrect.

1500 (d) A certification of trust need not contain the dispositive terms of a
1501 trust.

1502 (e) A recipient of a certification of trust may require the trustee to
1503 furnish copies of those excerpts from the original trust instrument and

1504 later amendments which designate the trustee and confer upon the
1505 trustee the power to act in the pending transaction.

1506 (f) A person who acts in reliance upon a certification of trust
1507 without knowledge that the representations contained therein are
1508 incorrect is not liable to any person for so acting and may assume
1509 without inquiry the existence of the facts contained in the certification.
1510 Knowledge of the terms of the trust may not be inferred solely from
1511 the fact that a copy of all or part of the trust instrument is held by the
1512 person relying upon the certification.

1513 (g) A person who in good faith enters into a transaction in reliance
1514 upon a certification of trust may enforce the transaction against the
1515 trust property as if the representations contained in the certification
1516 were correct.

1517 (h) A person making a demand for the trust instrument in addition
1518 to a certification of trust or excerpts is liable for damages if the court
1519 determines that the person did not act in good faith in demanding the
1520 trust instrument.

1521 (i) This section shall not limit the right of a person to obtain a copy
1522 of the trust instrument in a judicial proceeding concerning the trust,
1523 and shall not in any way limit the rights of the Attorney General to
1524 notice under subsection (d) of section 77 of this act.

1525 Sec. 86. (NEW) (*Effective October 1, 2018*) In applying and construing
1526 the uniform provisions of sections 1 to 87, inclusive, of this act,
1527 consideration shall be given to the need to promote uniformity of the
1528 law with respect to the subject matter among states that enact such
1529 uniform provisions.

1530 Sec. 87. (NEW) (*Effective October 1, 2018*) If any provision of this
1531 section or sections 1 to 86, inclusive, of this act or its application to any
1532 person or circumstances is held invalid, the invalidity does not affect
1533 other provisions or applications of this section or sections 1 to 86,
1534 inclusive, of this act which can be given effect without the invalid

1535 provision or application, and to this end the provisions of this section
1536 and sections 1 to 86, inclusive, of this act are severable.

1537 Sec. 88. (NEW) (*Effective October 1, 2018*) This section and sections 89
1538 to 105, inclusive, of this act may be cited as the "Connecticut Uniform
1539 Directed Trust Act."

1540 Sec. 89. (NEW) (*Effective October 1, 2018*) Sections 88 to 105,
1541 inclusive, of this act apply to a trust, whenever created, that has its
1542 principal place of administration in this state, subject to the following
1543 rules:

1544 (1) If the trust was created before October 1, 2018, sections 88 to 105,
1545 inclusive, of this act apply only to a decision or action occurring on or
1546 after October 1, 2018.

1547 (2) If the principal place of administration of the trust is changed to
1548 this state on or after October 1, 2018, sections 88 to 105, inclusive, of
1549 this act apply only to a decision or action occurring on or after the date
1550 of the change.

1551 Sec. 90. (NEW) (*Effective October 1, 2018*) The common law and
1552 principles of equity supplement sections 88 to 105, inclusive, of this act,
1553 except to the extent modified by sections 88 to 105, inclusive, of this act
1554 or law of this state other than sections 88 to 105, inclusive, of this act.

1555 Sec. 91. (NEW) (*Effective October 1, 2018*) (a) As used in this section,
1556 "power of appointment" means a power that enables a person acting in
1557 a nonfiduciary capacity to designate a recipient of an ownership
1558 interest in or another power of appointment over trust property.

1559 (b) Sections 88 to 105, inclusive, of this act do not apply to a:

1560 (1) Power of appointment;

1561 (2) Power to appoint or remove a trustee or trust director;

1562 (3) Power of a settlor over a trust to the extent the settlor has a
1563 power to revoke the trust;

1564 (4) Power of a beneficiary over a trust to the extent the exercise or
1565 nonexercise of the power affects the beneficial interest of:

1566 (A) The beneficiary; or

1567 (B) Another beneficiary represented by the beneficiary under
1568 sections 17 to 21, inclusive, of this act with respect to the exercise or
1569 nonexercise of the power; or

1570 (5) Power over a trust if:

1571 (A) The terms of the trust provide that the power is held in a
1572 nonfiduciary capacity; and

1573 (B) The power is held in a nonfiduciary capacity to achieve the
1574 settlor's tax objectives under the United States Internal Revenue Code
1575 of 1986, or any subsequent corresponding internal revenue code of the
1576 United States, as amended from time to time.

1577 (c) Unless the terms of a trust provide otherwise, a power granted to
1578 a person to designate a recipient of an ownership interest in or power
1579 of appointment over trust property which is exercisable while the
1580 person is not serving as a trustee is a power of appointment and not a
1581 power of direction.

1582 Sec. 92. (NEW) (*Effective October 1, 2018*) (a) Subject to section 93 of
1583 this act, the terms of a trust may grant a power of direction to a trust
1584 director.

1585 (b) Unless the terms of a trust provide otherwise: (1) A trust director
1586 may exercise any further power appropriate to the exercise or
1587 nonexercise of a power of direction granted to the director under
1588 subsection (a) of this section; and (2) trust directors with joint powers
1589 shall act by majority decision.

1590 Sec. 93. (NEW) (*Effective October 1, 2018*) A trust director is subject to
1591 the same rules as a trustee in a like position and under similar
1592 circumstances in the exercise or nonexercise of a power of direction or

1593 further power under subdivision (1) of subsection (b) of section 92 of
1594 this act regarding:

1595 (1) A payback provision in the terms of a trust necessary to comply
1596 with the reimbursement requirements of 42 USC 1396p(d)(4)(A), as
1597 amended from time to time; and

1598 (2) A charitable interest in the trust, including notice regarding the
1599 interest to the Attorney General.

1600 Sec. 94. (NEW) (*Effective October 1, 2018*) (a) Subject to the provisions
1601 of subsection (b) of this section, with respect to a power of direction or
1602 further power under subdivision (1) of subsection (b) of section 92 of
1603 this act:

1604 (1) A trust director has the same fiduciary duty and liability in the
1605 exercise or nonexercise of the power:

1606 (A) If the power is held individually, as a sole trustee in a like
1607 position and under similar circumstances; or

1608 (B) If the power is held jointly with a trustee or another trust
1609 director, as a cotrustee in a like position and under similar
1610 circumstances; and

1611 (2) The terms of the trust may vary the director's duty or liability to
1612 the same extent the terms of the trust could vary the duty or liability of
1613 a trustee in a like position and under similar circumstances.

1614 (b) Unless the terms of a trust provide otherwise, if a trust director is
1615 licensed, certified, or otherwise authorized or permitted by law other
1616 than sections 88 to 105, inclusive, of this act to provide health care in
1617 the ordinary course of the director's business or practice of a
1618 profession, to the extent the director acts in that capacity, the director
1619 has no duty or liability under sections 88 to 105, inclusive, of this act.

1620 (c) The terms of a trust may impose a duty or liability on a trust
1621 director in addition to the duties and liabilities under this section.

1622 Sec. 95. (NEW) (*Effective October 1, 2018*) (a) Subject to the provisions
1623 of subsection (b) of this section, a directed trustee shall take reasonable
1624 action to comply with a trust director's exercise or nonexercise of a
1625 power of direction or further power under subdivision (1) of
1626 subsection (b) of section 92 of this act, and the trustee is not liable for
1627 the action.

1628 (b) A directed trustee must not comply with a trust director's
1629 exercise or nonexercise of a power of direction or further power under
1630 subdivision (1) of subsection (b) of section 92 of this act to the extent
1631 that by complying the trustee would engage in wilful misconduct.

1632 (c) An exercise of a power of direction under which a trust director
1633 may release a trustee or another trust director from liability for breach
1634 of trust is not effective if: (1) The breach involved the trustee's or other
1635 director's wilful misconduct; (2) the release was induced by improper
1636 conduct of the trustee or other director in procuring the release; or (3)
1637 at the time of the release, the director did not know the material facts
1638 relating to the breach.

1639 (d) A directed trustee that has reasonable doubt about its duty
1640 under this section may petition the court for instructions.

1641 (e) The terms of a trust may impose a duty or liability on a directed
1642 trustee in addition to the duties and liabilities under this section.

1643 Sec. 96. (NEW) (*Effective October 1, 2018*) (a) Subject to the provisions
1644 of section 97 of this act, a trustee shall provide information to a trust
1645 director to the extent the information is reasonably related to: (1) The
1646 powers or duties of the trustee; and (2) the powers or duties of the
1647 director.

1648 (b) Subject to the provisions of section 97 of this act, a trust director
1649 shall provide information to a trustee or another trust director to the
1650 extent the information is reasonably related to: (1) The powers or
1651 duties of the director; and (2) the powers or duties of the trustee or
1652 other director.

1653 (c) A trustee that acts in reliance on information provided by a trust
1654 director is not liable for a breach of trust to the extent the breach
1655 resulted from the reliance, unless by so acting the trustee engages in
1656 wilful misconduct.

1657 (d) A trust director that acts in reliance on information provided by
1658 a trustee or another trust director is not liable for a breach of trust to
1659 the extent the breach resulted from the reliance, unless by so acting the
1660 trust director engages in wilful misconduct.

1661 Sec. 97. (NEW) (*Effective October 1, 2018*) (a) Unless the terms of a
1662 trust provide otherwise: (1) A trustee does not have a duty to: (A)
1663 Monitor a trust director; or (B) inform or give advice to a settlor,
1664 beneficiary, trustee or trust director concerning an instance in which
1665 the trustee might have acted differently than the director; and (2) by
1666 taking an action described in subdivision (1) of this subsection, a
1667 trustee does not assume the duty excluded in said subdivision.

1668 (b) Unless the terms of a trust provide otherwise: (1) A trust director
1669 does not have a duty to: (A) Monitor a trustee or another trust director;
1670 or (B) inform or give advice to a settlor, beneficiary, trustee or another
1671 trust director concerning an instance in which the director might have
1672 acted differently than a trustee or another trust director; and (2) by
1673 taking an action described in subdivision (1) of this subsection, a trust
1674 director does not assume the duty excluded by said subdivision.

1675 Sec. 98. (NEW) (*Effective October 1, 2018*) The terms of a trust may
1676 relieve a cotrustee from duty and liability with respect to another
1677 cotrustee's exercise or nonexercise of a power of the other cotrustee to
1678 the same extent that in a directed trust a directed trustee is relieved
1679 from duty and liability with respect to a trust director's power of
1680 direction under sections 95 to 97, inclusive, of this act.

1681 Sec. 99. (NEW) (*Effective October 1, 2018*) (a) An action against a trust
1682 director for breach of trust must be commenced within the same
1683 limitation period as under section 77 of this act for an action for breach
1684 of trust against a trustee in a like position and under similar

1685 circumstances.

1686 (b) A report or accounting has the same effect on the limitation
1687 period for an action against a trust director for breach of trust that the
1688 report or accounting would have under section 77 of this act in an
1689 action for breach of trust against a trustee in a like position and under
1690 similar circumstances.

1691 Sec. 100. (NEW) (*Effective October 1, 2018*) In an action against a trust
1692 director for breach of trust, the director may assert the same defenses a
1693 trustee in a like position and under similar circumstances could assert
1694 in an action for breach of trust against the trustee.

1695 Sec. 101. (NEW) (*Effective October 1, 2018*) (a) By accepting
1696 appointment as a trust director of a trust subject to sections 88 to 105,
1697 inclusive, of this act, the director submits to personal jurisdiction of the
1698 courts of this state regarding any matter related to a power or duty of
1699 the director.

1700 (b) This section does not preclude other methods of obtaining
1701 jurisdiction over a trust director.

1702 Sec. 102. (NEW) (*Effective October 1, 2018*) Unless the terms of a trust
1703 provide otherwise, the rules applicable to a trustee apply to a trust
1704 director regarding the following matters:

1705 (1) Acceptance under section 51 of this act;

1706 (2) Giving of bond to secure performance under section 52 of this
1707 act;

1708 (3) Reasonable compensation under section 58 of this act;

1709 (4) Resignation under section 55 of this act;

1710 (5) Removal under section 56 of this act; and

1711 (6) Vacancy and appointment of successor under section 54 of this
1712 act.

1713 Sec. 103. (NEW) (*Effective October 1, 2018*) In applying and
1714 construing the uniform provisions of sections 88 to 105, inclusive, of
1715 this act, consideration shall be given to the need to promote uniformity
1716 of the law with respect to its subject matter among states that enact it.

1717 Sec. 104. (NEW) (*Effective October 1, 2018*) Sections 88 to 105,
1718 inclusive, of this act modify, limit or supersede the Electronic
1719 Signatures in Global and National Commerce Act, 15 USC 7001 et seq.,
1720 but do not modify, limit or supersede Section 101(c) of said act, 15 USC
1721 Section 7001(c), or authorize electronic delivery of any of the notices
1722 described in Section 103(b) of said act, 15 USC 7003(b).

1723 Sec. 105. (NEW) (*Effective October 1, 2018*) The provisions of this
1724 section and sections 88 to 104, inclusive, of this act governing the legal
1725 effect, validity or enforceability of electronic records or electronic
1726 signatures, and of contracts formed or performed with the use of such
1727 records or signatures, conform to the requirements of Section 102 of
1728 the Electronic Signatures in Global and National Commerce Act, 15
1729 USC 7002 and supersede, modify and limit the requirements of said
1730 act.

1731 Sec. 106. (NEW) (*Effective October 1, 2018*) This section and sections
1732 107 to 112, inclusive, of this act may be cited as the "Connecticut
1733 Qualified Dispositions in Trust Act".

1734 Sec. 107. (NEW) (*Effective October 1, 2018*) As used in sections 106 to
1735 112, inclusive, of this act:

1736 (1) "Claim" means a right to payment, whether or not the right is
1737 reduced to judgment, liquidated, unliquidated, fixed, contingent,
1738 matured, unmatured, disputed, undisputed, legal equitable, secured or
1739 unsecured.

1740 (2) "Creditor" means, with respect to a transferor, a person who has
1741 a claim.

1742 (3) "Debt" means liability on a claim.

1743 (4) "Disposition" means a transfer, conveyance or assignment of
1744 property, including a change in the legal ownership of property
1745 occurring upon the substitution of one trustee for another or the
1746 addition of one or more new trustees, or the exercise of a power so as
1747 to cause a transfer of property, to a trustee or trustees. "Disposition"
1748 does not include the release or relinquishment of an interest that was
1749 the subject of a qualified disposition.

1750 (5) "Property" includes real property, tangible and intangible
1751 personal property, and interests in real or personal property, tangible
1752 and intangible.

1753 (6) "Qualified disposition" means a disposition by or from a
1754 transferor to a trustee, with or without consideration, by means of a
1755 trust instrument. "Qualified disposition" does not include a
1756 disposition: (A) In derogation of any state or federal agency claim or
1757 right of recovery under Subchapter XIX of Chapter 7 of Title 42 of the
1758 United States Code against a trust established by a transferor or such
1759 transferor's spouse, or (B) in respect to a state or federal agency
1760 treatment of the trust instrument in a determination of a transferor's
1761 eligibility under a state plan under Subchapter XIX of Chapter 7 of
1762 Title 42 of the United States Code.

1763 (7) "Spouse" and "former spouse" means only persons to whom the
1764 transferor was married at, or before, the time the qualified disposition
1765 is made.

1766 (8) "Transferor" means a natural person who, or entity which, as an
1767 owner of property or as a holder of a general power of appointment,
1768 which authorizes the holder to appoint in favor of the holder, the
1769 holder's creditors, the holder's estate or the creditors of the holder's
1770 estate, or as a trustee, directly or indirectly, makes a disposition or
1771 causes a disposition to be made.

1772 (9) "Qualified trustee" means:

1773 (A) Any person, other than the transferor, who in the case of a

1774 natural person, is a resident of this state or who, in all other cases, is a
1775 state or federally chartered bank or trust company having a place of
1776 business in this state, is authorized to engage in a trust business in this
1777 state, and maintains or arranges for custody in this state of some or all
1778 of the property that is the subject of the qualified disposition,
1779 maintains records in this state for the trust on an exclusive or
1780 nonexclusive basis, prepares or arranges for the preparation in this
1781 state of fiduciary income tax returns for the trust, or otherwise
1782 materially participates in this state in the administration of the trust.

1783 (B) "Qualified trustee" does not include either the transferor or any
1784 other natural person who is a nonresident of this state nor an entity
1785 that is not authorized by the law of this state to act as a trustee or
1786 whose activities are not subject to supervision as provided in
1787 subparagraph (A) of this subdivision, provided sections 106 to 112,
1788 inclusive, of this act shall not be construed to preclude a transferor
1789 from appointing one or more advisors, including, but not limited to:

1790 (i) Advisors who have authority under the terms of the trust
1791 instrument to remove and appoint qualified trustees or trust advisors;
1792 and

1793 (ii) Advisors who have authority under the terms of the trust
1794 instrument to direct, consent to or disapprove distributions from the
1795 trust. For purposes of this subparagraph and subparagraph (C) of this
1796 subdivision, "advisor" includes a trust "protector" or any other person
1797 who, in addition to a qualified trustee, holds one or more trust powers.

1798 (C) A person may serve as an advisor, notwithstanding that such
1799 person is the transferor of the qualified disposition, but such a person
1800 may not otherwise serve as advisor of a trust that is a qualified
1801 disposition except with respect to the retention of the veto right
1802 permitted by subparagraph (B) of subdivision (10) of this section.

1803 (D) In the event that a qualified trustee of a trust ceases to meet the
1804 requirements of subparagraph (A) of this subdivision and there
1805 remains no trustee that meets such requirements, such qualified

1806 trustee shall be deemed to have resigned as of the time of such
1807 cessation, and thereupon the successor qualified trustee provided for
1808 in the trust instrument shall become a qualified trustee of the trust, or
1809 in the absence of any successor qualified trustee provided for in the
1810 trust amendment, the Superior Court or the Probate Court, if the trust
1811 is otherwise subject to the jurisdiction of the Probate Court, or with
1812 respect to an inter vivos trust, if the trust is or could be subject to the
1813 jurisdiction of the Probate Court for an accounting pursuant to section
1814 45a-175 of the general statutes, provided such an accounting need not
1815 be required, shall have jurisdiction, upon application of any interested
1816 party, to appoint a successor qualified trustee.

1817 (E) In the case of a disposition to more than one trustee, a
1818 disposition that is otherwise a qualified disposition shall not be treated
1819 as other than a qualified disposition solely because not all of the
1820 trustees are qualified trustees.

1821 (10) "Trust instrument" means an instrument, in writing, appointing
1822 a qualified trustee or qualified trustees for the property that is the
1823 subject of a disposition, which instrument:

1824 (A) Expressly provides that the laws of this state govern the
1825 validity, construction and administration of the trust, provided a
1826 disposition by a trustee who is not a qualified trustee to a trustee who
1827 is a qualified trustee will not fail to qualify as a qualified disposition
1828 solely because the trust instrument does not contain such an express
1829 provision;

1830 (B) Is irrevocable, provided a trust instrument shall not be deemed
1831 revocable due to inclusion in the trust instrument of one or more of the
1832 following:

1833 (i) A transferor's power to veto a distribution from the trust;

1834 (ii) A power of appointment, other than a power to appoint to the
1835 transferor, the transferor's creditors, the transferor's estate or the
1836 creditors of the transferor's estate, exercisable by will or other written

- 1837 instrument of the transferor effective only upon the transferor's death;
- 1838 (iii) The transferor's potential or actual receipt of income, including
1839 rights to such income retained in the trust instrument;
- 1840 (iv) The transferor's potential or actual receipt of income or
1841 principal from a charitable remainder unitrust or charitable remainder
1842 annuity trust as such terms are defined in 26 USC 664, as from time to
1843 time amended; and the transferor's right, at any time and from time to
1844 time by written instrument delivered to the trustee, to release such
1845 transferor's retained interest in such a trust, in whole or in part, in
1846 favor of a charitable organization that has or charitable organizations
1847 that have a succeeding beneficial interest in such trust;
- 1848 (v) The transferor's receipt each year of a percentage, not to exceed
1849 five per cent, specified in the trust instrument of the initial value of the
1850 trust assets on their value determined from time to time pursuant to
1851 the trust instrument or of a fixed amount that, on an annual basis, does
1852 not exceed five per cent of the initial value of the trust assets;
- 1853 (vi) The transferor's potential or actual receipt or use of principal if
1854 such potential or actual receipt or use of principal would be the result
1855 of a qualified trustee's or qualified trustees' acting:
- 1856 (I) In such qualified trustee's or qualified trustees' discretion;
- 1857 (II) Pursuant to a standard that governs the distribution of principal
1858 and does not confer upon the transferor a substantially unfettered
1859 right to the receipt or use of the principal; or
- 1860 (III) At the direction of an advisor described in subdivision (9) of
1861 this section who is acting in such advisor's discretion, or pursuant to a
1862 standard that governs the distribution of principal and does not confer
1863 upon the transferor a substantially unfettered right to the receipt of or
1864 use of principal. For purposes of this subclause, a qualified trustee is
1865 presumed to have discretion with respect to the distribution of
1866 principal unless such discretion is expressly denied to such trustee by
1867 the terms of the trust instrument;

1868 (vii) The transferor's right to remove a trustee or advisor and to
1869 appoint a new trustee or advisor, other than a person who is a related
1870 or subordinate party with respect to the transferor within the meaning
1871 of 26 USC 672(c), as amended from time to time;

1872 (viii) The transferor's potential or actual use of real property held
1873 under a qualified personal residence trust within the meaning of such
1874 term as described in 26 USC 2702(c), as amended from time to time, or
1875 the transferor's possession and enjoyment of a qualified annuity
1876 interest within the meaning of such term as described in 26 CFR
1877 25.2502-5(c)(8), as amended from time to time; and

1878 (ix) The transferor's potential or actual receipt of income or principal
1879 to pay, in whole or in part, income taxes due on income of the trust if
1880 such potential or actual receipt of income or principal is pursuant to a
1881 provision in the trust instrument that expressly provides for the
1882 payment of such taxes and if such potential or actual receipt of income
1883 or principal would be the result of a qualified trustee's or qualified
1884 trustees' acting:

1885 (I) In such qualified trustee's or qualified trustees' discretion; or

1886 (II) At the direction of an advisor described in subdivision (9) of this
1887 section who is acting in such advisor's discretion. Distributions to pay
1888 income taxes made under discretion included in a governing
1889 instrument pursuant to this clause or clause (iii) or (vi) of this
1890 subparagraph may be made by direct payment to the taxing
1891 authorities; and

1892 (C) Provides that the interest of the transferor or other beneficiary in
1893 the trust property or the income therefrom may not be transferred,
1894 assigned, pledged or mortgaged, whether voluntarily or involuntarily,
1895 before the qualified trustee or qualified trustees actually distribute the
1896 property or income therefrom to the beneficiary, and such provision of
1897 the trust instrument shall be deemed to be a restriction on the transfer
1898 of the transferor's beneficial interest in the trust that is enforceable
1899 under applicable nonbankruptcy law within the meaning of 11 USC

1900 541(c)(2), as amended from time to time.

1901 Sec. 108. (NEW) (*Effective October 1, 2018*) A qualified disposition
1902 shall be subject to sections 106 to 112, inclusive, of this act
1903 notwithstanding a transferor's retention of any or all of the powers and
1904 rights described in subparagraph (B) of subdivision (10) of section 107
1905 of this act and the transferor's service as investment advisor pursuant
1906 to subdivision (9) of section 107 of this act. The transferor shall have
1907 only such powers and rights as are conferred by the trust instrument.
1908 Except as permitted by subparagraph (D) of subdivision (9) of section
1909 107 of this act and in subparagraph (B) of subdivision (10) of section
1910 107 of this act, a transferor shall have no rights or authority with
1911 respect to the property that is the subject of a qualified disposition or
1912 the income therefrom, and any agreement or understanding
1913 purporting to grant or permit the retention of any greater rights or
1914 authority shall be void.

1915 Sec. 109. (NEW) (*Effective October 1, 2018*) (a) Notwithstanding any
1916 provision of the general statutes, no action of any kind, including,
1917 without limitation, an action to enforce a judgment entered by a court
1918 or other body having adjudicative authority, shall be brought at law or
1919 in equity for an attachment or other provisional remedy against
1920 property that is the subject of a qualified disposition or for avoidance
1921 of a qualified disposition, unless such action is brought pursuant to the
1922 provisions of section 52-552h of the general statutes. In any such
1923 action, the burden to prove each element by clear and convincing
1924 evidence shall be on the creditor.

1925 (b) Notwithstanding the provisions of section 52-552j of the general
1926 statutes, a creditor may not bring an action under subsection (a) of this
1927 section if:

1928 (1) The creditor's claim against the transferor arose before the
1929 qualified disposition was made, unless the action is brought within
1930 four years after the qualified disposition is made or, if later, within one
1931 year after the qualified disposition was or could reasonably have been
1932 discovered by the creditor; or

1933 (2) The creditor's claim against the transferor arose subsequent to
1934 the qualified disposition, unless the action is brought within four years
1935 after the qualified disposition is made.

1936 (c) For the purposes of sections 106 to 112, inclusive, of this act, a
1937 qualified disposition that is made by means of a disposition by a
1938 transferor who is a trustee shall be deemed to have been made as of the
1939 time the property that is the subject of the qualified disposition was
1940 originally transferred to the transferor, or any predecessor trustee,
1941 making the qualified disposition in a form that conforms with the
1942 requirements set forth in subdivision (10) of section 107 of this act. If a
1943 trustee of an existing trust proposes to make a qualified disposition
1944 pursuant to the provisions of this subsection, but the trust would not
1945 conform to the requirements of subdivision (10) of section 107 of this
1946 act as a result of the original transferor's nonconforming powers of
1947 appointment, then, upon the trustee's delivery to the qualified trustee
1948 of an irrevocable written election to have this subsection apply to the
1949 trust, the nonconforming powers of appointment shall be deemed
1950 modified to the extent necessary to conform with subdivision (10) of
1951 section 107 of this act. For purposes of sections 106 to 112, inclusive, of
1952 this act, the irrevocable written election shall include a description of
1953 the original transferor's powers of appointment as modified together
1954 with the original transferor's written consent thereto, but no such
1955 consent of the original transferor shall be considered a disposition
1956 within the meaning of subdivision (4) of section 107 of this act.

1957 (d) Notwithstanding any provision of the general statutes, a
1958 creditor, including a creditor whose claim arose before or after a
1959 qualified disposition, or any other person shall have only such rights
1960 with respect to a qualified disposition as are provided in this section
1961 and sections 110 and 111 of this act, and no such creditor nor any other
1962 person shall have any claim or cause of action against the trustee, or an
1963 advisor, as described in subdivision (9) of section 107 of this act, of a
1964 trust that is the subject of a qualified disposition, or against any person
1965 involved in the counseling, drafting, preparation, execution or funding
1966 of a trust that is the subject of a qualified disposition.

1967 (e) Notwithstanding any other provision of the general statutes, no
1968 action of any kind, including, without limitation, an action to enforce a
1969 judgment by a court or other body having adjudicative authority, shall
1970 be brought at law or in equity against the trustee, or advisor described
1971 in subdivision (9) of section 107 of this act, of a trust that is the subject
1972 of the qualified disposition, or against any person involved in the
1973 counseling, drafting, preparation, execution or funding of a trust that
1974 is the subject of a qualified disposition, if, as of the date such action is
1975 brought, an action by a creditor with respect to such qualified
1976 disposition would be barred under this section.

1977 (f) If more than one qualified disposition is made by means of the
1978 same trust instrument, then:

1979 (1) The making of a subsequent qualified disposition shall be
1980 disregarded in determining whether a creditor's claim with respect to a
1981 prior qualified disposition is extinguished as provided in subsection
1982 (b) of this section; and

1983 (2) Any distribution to a beneficiary shall be deemed to have been
1984 made from the latest such qualified disposition.

1985 (g) If, in any action brought against a trustee of a trust that is
1986 funded, in whole or in part, by a qualified disposition, a court takes
1987 any action whereby such court declines to apply the law of this state in
1988 determining the validity, construction or administration of such trust,
1989 or the effect of a spendthrift provision thereof, the trustee shall
1990 immediately upon such court's action and without the further order of
1991 any court, cease in all respects to be a trustee of such trust and (1) a
1992 successor trustee shall thereupon succeed as trustee in accordance with
1993 the terms of the trust instrument, or (2) if the trust instrument does not
1994 provide for a successor trustee and the trust would otherwise be
1995 without a trustee, the Superior Court, or the Probate Court having
1996 jurisdiction, upon the application of any beneficiary of such trust, shall
1997 appoint a successor trustee upon such terms and conditions as it
1998 determines to be consistent with the purposes of such trust and the
1999 provisions of this section. Upon the trustee's ceasing to be trustee, such

2000 trustee shall have no power or authority other than to convey the trust
2001 property to the successor trustee named in the trust instrument or
2002 appointed by the Superior Court or the Probate Court having
2003 jurisdiction in accordance with the provisions of this section.

2004 Sec. 110. (NEW) (*Effective October 1, 2018*) Notwithstanding the
2005 provisions of section 109 of this act, sections 106 to 112, inclusive, of
2006 this act shall not apply to defeat a claim brought by:

2007 (1) Any person to whom the transferor is indebted on or before the
2008 date of a qualified disposition on account of an agreement or order of
2009 court for the payment of support or alimony in favor of the transferor's
2010 spouse, former spouse or children, or for a division or distribution of
2011 property in favor of the transferor's spouse or former spouse, but only
2012 to the extent of the debt; or

2013 (2) To any person who suffers death, personal injury or property
2014 damage on or before the date of a qualified disposition by a transferor,
2015 which death, personal injury or property damage is at any time
2016 determined to have been caused in whole or in part by the tortious act
2017 or omission of either the transferor or by another person for whom the
2018 transferor is or was vicariously liable but only to the extent of such
2019 claim against such transferor or other person for whom such transferor
2020 is or was vicariously liable.

2021 Sec. 111. (NEW) (*Effective October 1, 2018*) (a) A qualified disposition
2022 shall be avoided only to the extent necessary to satisfy the transferor's
2023 debt to the creditor at whose instance the disposition had been
2024 avoided, together with any costs, including attorney's fees, that the
2025 court may allow.

2026 (b) In the event any qualified disposition is avoided pursuant to
2027 subsection (a) of this section:

2028 (1) If the court is satisfied that the trustee has not acted in bad faith
2029 in accepting or administering the property that is the subject of the
2030 qualified disposition:

2031 (A) The trustee shall have a first and paramount lien against the
2032 property that is the subject of the qualified disposition in an amount
2033 equal to the entire cost, including attorney's fees, properly incurred by
2034 the trustee in the defense of the action or proceedings to avoid the
2035 qualified disposition;

2036 (B) The qualified disposition shall be avoided subject to the proper
2037 fees, costs, preexisting rights, claims and interest of the trustee and of
2038 any predecessor trustee that has not acted in bad faith; and

2039 (C) For purposes of this subdivision, it shall be presumed that the
2040 trustee did not act in bad faith merely by accepting the property.

2041 (2) If the court is satisfied that a beneficiary of a trust has not acted
2042 in bad faith, the avoidance of the qualified disposition shall be subject
2043 to the right of the beneficiary to retain any distribution made upon the
2044 exercise of a trust power or discretion vested in the trustee of the trust,
2045 which power or discretion was properly exercised prior to the
2046 creditor's commencement of an action to avoid the qualified
2047 disposition. For purposes of this subdivision, it shall be presumed that
2048 the beneficiary, including a beneficiary who is also a transferor of the
2049 trust, did not act in bad faith merely by creating the trust or by
2050 accepting a distribution made in accordance with the terms of the
2051 trust.

2052 (c) A creditor shall have the burden of proving that a trustee or
2053 beneficiary acted in bad faith as set forth in subsection (b) of this
2054 section by clear and convincing evidence except, in the case of a
2055 beneficiary who is also the transferor, the burden on the creditor shall
2056 be to prove that the transferor-beneficiary acted in bad faith by a
2057 preponderance of the evidence. The provisions of this subsection shall
2058 be construed to provide substantive nonprocedural rights under state
2059 law.

2060 (d) For purposes of sections 106 to 111, inclusive, of this act,
2061 attachment, garnishment, sequestration or other legal or equitable
2062 processes shall be permitted only in those circumstances permitted by

2063 the express terms of said sections of this act.

2064 Sec. 112. (NEW) (*Effective October 1, 2018*) The provisions of this
2065 section and sections 107 to 111, inclusive, of this act shall apply to
2066 qualified dispositions made on or after October 1, 2018.

2067 Sec. 113. (NEW) (*Effective October 1, 2018*) (a) Except as otherwise
2068 provided in sections 1 to 112, inclusive, of this act, on October 1, 2018:

2069 (1) Sections 1 to 112, inclusive, of this act apply to all trusts created
2070 before, on or after October 1, 2018;

2071 (2) Sections 1 to 112, inclusive, of this act apply to all judicial
2072 proceedings concerning trusts commenced on or after October 1, 2018;

2073 (3) Sections 1 to 112, inclusive, of this act apply to judicial
2074 proceedings concerning trusts commenced before October 1, 2018,
2075 unless the court finds that application of a particular provision of said
2076 sections of this act would substantially interfere with the effective
2077 conduct of the judicial proceedings or prejudice the rights of the
2078 parties, in which case the particular provision of sections 1 to 112,
2079 inclusive, of this act shall not apply and the superseded law applies;

2080 (4) Any rule of construction or presumption provided in sections 1
2081 to 112, inclusive, of this act applies to trust instruments executed
2082 before October 1, 2018, unless there is a clear indication of a contrary
2083 intent in the terms of the trust;

2084 (5) An act done before October 1, 2018, is not affected by sections 1
2085 to 122, inclusive, of this act;

2086 (6) The ninety-year period specified in subdivision (1) of section 29
2087 of this act shall only apply to trusts that become irrevocable on or after
2088 October 1, 2018;

2089 (7) The provisions of subdivision (4) of subsection (a) of section 43 of
2090 this act shall only apply to revocable trusts of settlors dying on or after
2091 October 1, 2018; and

2092 (8) The provisions of subdivision (2) of subsection (a) of section 70 of
2093 this act and subsections (b) and (c) of section 70 of this act shall only
2094 apply to trusts that become irrevocable on or after October 1, 2018.

2095 (b) If a right is acquired, extinguished or barred upon the expiration
2096 of a prescribed period that has commenced to run under any provision
2097 of the general statutes, other than sections 1 to 112, inclusive, of this act
2098 before October 1, 2018, such provision of the general statutes continues
2099 to apply to the right even if such provision has been repealed or
2100 superseded.

2101 Sec. 114. Section 45a-490 of the general statutes is repealed and the
2102 following is substituted in lieu thereof (*Effective October 1, 2018*):

2103 (a) Sections 45a-490 to 45a-496, inclusive, may be cited as the
2104 ["Uniform Statutory Rule Against Perpetuities"] "Maximum Duration
2105 of Trusts".

2106 (b) Sections 45a-491 to 45a-496, inclusive, apply to all trusts created
2107 on or after October 1, 1989, and before October 1, 2018.

2108 Sec. 115. Section 45a-495 of the general statutes is repealed and the
2109 following is substituted in lieu thereof (*Effective October 1, 2018*):

2110 (a) Except as extended by subsection (b) of this section, sections
2111 [45a-490 to 45a-496, inclusive, apply to a nonvested property interest or
2112 a power of appointment that is created on or after October 1, 1989. For
2113 purposes of this section, a nonvested property interest or a power of
2114 appointment created by the exercise of a power of appointment is
2115 created when the power is irrevocably exercised or when a revocable
2116 exercise becomes irrevocable] 45a-491 to 45a-495, inclusive, shall apply
2117 to a nonvested property interest or a power of appointment that is
2118 created on or after October 1, 1989, and before October 1, 2018. For
2119 purposes of this section, a nonvested property interest or a power of
2120 appointment created by the exercise of a power of appointment is
2121 created when the power is irrevocably exercised or when a revocable
2122 exercise becomes irrevocable.

2123 (b) If a nonvested property interest or a power of appointment was
2124 created before October 1, 1989, and is determined in a judicial
2125 proceeding, commenced on or after October 1, 1989, to violate this
2126 state's rule against perpetuities as that rule existed before October 1,
2127 1989, a court upon the petition of an interested person may reform the
2128 disposition in the manner that most closely approximates the
2129 transferor's manifested plan of distribution and is within the limits of
2130 the rule against perpetuities applicable when the nonvested property
2131 interest or power of appointment was created.

2132 Sec. 116. (NEW) (*Effective October 1, 2018*) The common law rule
2133 against perpetuities shall not apply to any nonvested property interest
2134 or power of appointment created after October 1, 2018, if the trustee or
2135 other person to whom the power is properly granted or delegated, has
2136 the power under the governing instrument, applicable statute or
2137 common law, to sell, mortgage or lease property for any period of time
2138 beyond the period that is required for an interest created under the
2139 governing instrument to vest in order to be valid had the trust been
2140 subject to section 45a-491 of the general statutes. If no person holds
2141 such powers, sections 45a-490 to 45a-496, inclusive, of the general
2142 statutes, as amended by this act, shall apply to that nonvested property
2143 interest or power of appointment.

2144 Sec. 117. Section 45a-482 of the general statutes is repealed and the
2145 following is substituted in lieu thereof (*Effective October 1, 2018*):

2146 When the facts at the time of distribution from an estate to a trust or
2147 from a testamentary trust to a successive trust are such that no trust
2148 would be operative under the terms of the instrument creating such
2149 trust or successive trust because of the death of the life tenant, or
2150 because the beneficiary has reached a stipulated age, or if such trust
2151 would qualify for termination under section [45a-484] 35 of this act, or
2152 for any other reason, the fiduciary of such estate or prior trust may
2153 distribute, with the approval of the court of probate having
2154 jurisdiction, directly from the estate or prior trust to the remaindermen
2155 of such trust, the corpus of such trust and any income earned during

2156 the period of estate administration or administration of the prior trust
2157 and distributable to such remaindermen, without the interposition of
2158 the establishment of such trust or successive trust. If distribution is
2159 based on the fact that the trust would qualify for termination under
2160 section [45a-484] section 35 of this act, reasonable notice shall be
2161 provided to all beneficiaries who are known and in being and who
2162 have vested or contingent interests in the trust.

2163 Sec. 118. Section 52-321 of the general statutes is repealed and the
2164 following is substituted in lieu thereof (*Effective October 1, 2018*):

2165 [Except as provided in sections 52-321a and 52-352b:

2166 (a) If property has been given to trustees to pay over the income to
2167 any person, without provision for accumulation or express
2168 authorization to the trustees to withhold the income, and the income
2169 has not been expressly given for the support of the beneficiary or his
2170 family, the income shall be liable in equity to the claims of all creditors
2171 of the beneficiary.

2172 (b) Any creditor of the beneficiary who has secured a judgment
2173 against the beneficiary may bring an action against him and serve the
2174 trustees with garnishee process, and the court to which the action is
2175 returnable may direct the trustees to pay over the net income derived
2176 from the trust estate to the judgment creditor, as the income may
2177 accrue, until the creditor's debt is satisfied.

2178 (c) The court having jurisdiction over the fund may make such an
2179 order for payment pursuant to subsection (b) when the beneficiary is a
2180 nonresident of this state, as well as when the beneficiary is a resident,
2181 but in the case of a nonresident beneficiary notice shall be given to the
2182 nonresident of the action against him as provided in section 52-87. The
2183 nonresidence of the beneficiary shall not deprive the court of authority
2184 to make such an order.

2185 (d) If any such trust has been expressly provided to be for the
2186 support of the beneficiary or his family, a court of equity having

2187 jurisdiction may make such order regarding the surplus, if any, not
2188 required for the support of the beneficiary or his family, as justice and
2189 equity may require.

2190 (e) The defendant trustee in any such action] In any action brought
2191 by a creditor of a beneficiary of a trust to enforce a judgment against
2192 the beneficiary in which the defendant trustee is served with garnishee
2193 process, the trustee shall be entitled to charge in the administration
2194 account of the trust such expenses and disbursements as the court to
2195 which the action is brought determines to be reasonable and proper.

2196 Sec. 119. Section 45a-474 of the general statutes is repealed and the
2197 following is substituted in lieu thereof (*Effective October 1, 2018*):

2198 When a will, trust agreement or other instrument establishing a
2199 trust fails to provide for the contingency of the trustee's refusal to
2200 accept the trust or the trustee's resignation, death or incapacity, the
2201 Probate Court for the district within which the estate is situated, or,
2202 when the trust has been created by will, in the district having
2203 jurisdiction of such will, may, on the happening of any such
2204 contingency, appoint some suitable person to fill such vacancy, taking
2205 from him a probate bond, unless in the case of a will it is otherwise
2206 provided therein. [, in which case the provisions of section 45a-473
2207 shall apply.] The court may appoint a successor trustee of an inter
2208 vivos trust before such contingency has occurred if the court finds that
2209 a vacancy in the office of trustee is likely to occur. The court shall
2210 specify the conditions that the successor trustee of such inter vivos
2211 trust must satisfy before becoming trustee. In the event of a vacancy in
2212 the office of trustee of such inter vivos trust, the successor trustee may
2213 assume the office immediately upon satisfying the conditions set forth
2214 in the court's order without further court action.

2215 Sec. 120. Sections 45a-473, 45a-484 and 45a-487 to 45a-487f, inclusive,
2216 of the general statutes are repealed. (*Effective October 1, 2018*)

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2018</i> | New section |
| Sec. 2 | <i>October 1, 2018</i> | New section |
| Sec. 3 | <i>October 1, 2018</i> | New section |
| Sec. 4 | <i>October 1, 2018</i> | New section |
| Sec. 5 | <i>October 1, 2018</i> | New section |
| Sec. 6 | <i>October 1, 2018</i> | New section |
| Sec. 7 | <i>October 1, 2018</i> | New section |
| Sec. 8 | <i>October 1, 2018</i> | New section |
| Sec. 9 | <i>October 1, 2018</i> | New section |
| Sec. 10 | <i>October 1, 2018</i> | New section |
| Sec. 11 | <i>October 1, 2018</i> | New section |
| Sec. 12 | <i>October 1, 2018</i> | New section |
| Sec. 13 | <i>October 1, 2018</i> | New section |
| Sec. 14 | <i>October 1, 2018</i> | New section |
| Sec. 15 | <i>October 1, 2018</i> | New section |
| Sec. 16 | <i>October 1, 2018</i> | New section |
| Sec. 17 | <i>October 1, 2018</i> | New section |
| Sec. 18 | <i>October 1, 2018</i> | New section |
| Sec. 19 | <i>October 1, 2018</i> | New section |
| Sec. 20 | <i>October 1, 2018</i> | New section |
| Sec. 21 | <i>October 1, 2018</i> | New section |
| Sec. 22 | <i>October 1, 2018</i> | New section |
| Sec. 23 | <i>October 1, 2018</i> | New section |
| Sec. 24 | <i>October 1, 2018</i> | New section |
| Sec. 25 | <i>October 1, 2018</i> | New section |
| Sec. 26 | <i>October 1, 2018</i> | New section |
| Sec. 27 | <i>October 1, 2018</i> | New section |
| Sec. 28 | <i>October 1, 2018</i> | New section |
| Sec. 29 | <i>October 1, 2018</i> | New section |
| Sec. 30 | <i>October 1, 2018</i> | New section |
| Sec. 31 | <i>October 1, 2018</i> | New section |
| Sec. 32 | <i>October 1, 2018</i> | New section |
| Sec. 33 | <i>October 1, 2018</i> | New section |
| Sec. 34 | <i>October 1, 2018</i> | New section |
| Sec. 35 | <i>October 1, 2018</i> | New section |
| Sec. 36 | <i>October 1, 2018</i> | New section |
| Sec. 37 | <i>October 1, 2018</i> | New section |
| Sec. 38 | <i>October 1, 2018</i> | New section |

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| Sec. 39 | <i>October 1, 2018</i> | New section |
| Sec. 40 | <i>October 1, 2018</i> | New section |
| Sec. 41 | <i>October 1, 2018</i> | New section |
| Sec. 42 | <i>October 1, 2018</i> | New section |
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| Sec. 71 | <i>October 1, 2018</i> | New section |
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| Sec. 80 | <i>October 1, 2018</i> | New section |
| Sec. 81 | <i>October 1, 2018</i> | New section |
| Sec. 82 | <i>October 1, 2018</i> | New section |
| Sec. 83 | <i>October 1, 2018</i> | New section |
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| Sec. 86 | <i>October 1, 2018</i> | New section |
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| Sec. 88 | <i>October 1, 2018</i> | New section |
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| Sec. 102 | <i>October 1, 2018</i> | New section |
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| Sec. 105 | <i>October 1, 2018</i> | New section |
| Sec. 106 | <i>October 1, 2018</i> | New section |
| Sec. 107 | <i>October 1, 2018</i> | New section |
| Sec. 108 | <i>October 1, 2018</i> | New section |
| Sec. 109 | <i>October 1, 2018</i> | New section |
| Sec. 110 | <i>October 1, 2018</i> | New section |
| Sec. 111 | <i>October 1, 2018</i> | New section |
| Sec. 112 | <i>October 1, 2018</i> | New section |
| Sec. 113 | <i>October 1, 2018</i> | New section |
| Sec. 114 | <i>October 1, 2018</i> | 45a-490 |
| Sec. 115 | <i>October 1, 2018</i> | 45a-495 |
| Sec. 116 | <i>October 1, 2018</i> | New section |
| Sec. 117 | <i>October 1, 2018</i> | 45a-482 |
| Sec. 118 | <i>October 1, 2018</i> | 52-321 |
| Sec. 119 | <i>October 1, 2018</i> | 45a-474 |
| Sec. 120 | <i>October 1, 2018</i> | Repealer section |

Statement of Legislative Commissioners:

In Section 2, "provided" was changed to "except" for clarity; in Sec. 3(18) "5" was changed to "91" for accuracy; in Sec. 4, "individual" was changed to "employee" for consistency; in Sec. 85(a) "or said office" was added after "person" for accuracy; in Sec. 93, "91" was changed to "92" for accuracy; in Sec. 107(9), "Qualified person" was changed to "Qualified trustee" for consistency with the defined term; and in Sec. 110(2), "tortuous" was changed to "tortious" for accuracy.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: See Below

Municipal Impact: None

Explanation

The bill establishes numerous rules on creating, modifying, terminating, and enforcing trusts. To the extent the bill affects Medicaid eligibility for certain individuals, it could impact related Department of Social Services (DSS) expenditures and federal reimbursement.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 397****AN ACT CONCERNING ADOPTION OF THE UNIFORM TRUST CODE, THE CONNECTICUT UNIFORM DIRECTED TRUST ACT AND THE CONNECTICUT QUALIFIED DISPOSITIONS IN TRUST ACT.**

TABLE OF CONTENTS:

SUMMARY§§ 1-12 — CONNECTICUT UNIFORM TRUST CODE (TRUST CODE):
GENERAL PROVISIONS

Establishes the code's scope; defines terms; provides that the code is a set of default rules that a trust can override, with exceptions; and addresses several other matters, such as methods of providing notice and nonjudicial settlement agreements

§§ 13-16 — TRUST CODE: JUDICIAL PROCEEDINGS

Provides that testamentary trusts, and not inter vivos trusts, are subject to continuing judicial supervision; addresses jurisdiction and venue over trust-related court matters

§§ 17-21 & 120 — TRUST CODE: REPRESENTATION

Establishes rules for representation, such as when a fiduciary may represent and bind a trust beneficiary

§§ 22-38 & 120 — TRUST CODE: CREATION, VALIDITY,
MODIFICATION, AND TERMINATION OF A TRUST

Establishes methods for creating, modifying, or terminating a trust, including both general and specific rules for different types of trusts

§§ 39-46 — TRUST CODE: CREDITOR'S CLAIMS; SPENDTHRIFT AND
DISCRETIONARY TRUSTS

Sets rules for spendthrift provisions and for when creditors of the settlor and beneficiaries can reach the trust's property

§§ 47-50 — TRUST CODE: REVOCABLE TRUSTS

Sets rules for revocable trusts, including when they can be revoked or amended and distribution upon the settlor's death

§§ 51-59 & 120 — TRUST CODE: OFFICE OF TRUSTEE

Establishes standards for several trustee-related matters, such as accepting the trusteeship, resignation or other vacancies, and compensation

§§ 60-74 & 120 — TRUST CODE: DUTIES AND POWERS OF TRUSTEE

Establishes trustees' duties on matters such as loyalty and avoiding conflicts of interest, recordkeeping, and reporting to beneficiaries; sets forth the general and specific authority of trustees

[§§ 75-86 — TRUST CODE: LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH TRUSTEE](#)

Establishes when a trustee is liable to a beneficiary or certain other parties and sets related requirements

[§§ 86 & 87 — TRUST CODE: MISCELLANEOUS PROVISIONS](#)

Addresses uniformity of interpretation and severability

[§§ 88-105 — CONNECTICUT UNIFORM DIRECTED TRUST ACT](#)

Outlines the powers and obligations of parties administering directed trusts (i.e., trusts in which a person other than a trustee has a power over the trust's administration)

[§§ 106-112 — CONNECTICUT QUALIFIED DISPOSITIONS IN TRUST ACT](#)

Sets up a framework for creating self-settled asset protection trusts, the assets of which (1) creditors generally cannot reach and (2) the grantor may still benefit personally from

[§ 113 — APPLICABILITY](#)

Establishes rules for the bill's applicability, such as that it generally applies to all trusts no matter when created

[§§ 114-116 — CHANGES TO THE RULE AGAINST PERPETUITIES](#)

Limits the application of the common law and statutory rules against perpetuities; changes the name of the Uniform Statutory Rule Against Perpetuities

SUMMARY

This bill establishes numerous rules on creating, modifying, terminating, and enforcing trusts (§§ 1-87). A trust, generally speaking, is an arrangement in which one person, called the trustee, holds money or other property for the benefit of another person, called the beneficiary. The trustee owes certain duties to the beneficiary with regard to safeguarding, managing, and disposing of the trust property and income according to the terms of the trust. The person who creates the trust is called the settlor.

With some exceptions, the bill establishes default rules that the terms of a trust can override. Among several other topics, the bill addresses the trustee's duties, powers, and liability; the rights of creditors; revocable trusts (in which the settlor retains the authority to amend or revoke the trust); representation of beneficiaries or other parties; and establishing a trust's principal place of administration.

The bill outlines the powers and obligations of parties administering directed trusts, which are trusts in which a person other than a trustee has a power over some aspect of the trust's administration. Among other things, the bill addresses trust directors' and directed trustees' fiduciary duties (§§ 88-105).

It sets up a framework for creating self-settled asset protection trusts, which are irrevocable trusts, the assets of which (1) creditors generally cannot reach and (2) the grantor may still benefit personally from (§§ 106-112).

The bill makes changes to the rule against perpetuities, including generally limiting the statutory rule's application to trusts created before October 1, 2018 (§§ 114-116).

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2018

§§ 1-12 — CONNECTICUT UNIFORM TRUST CODE (TRUST CODE): GENERAL PROVISIONS

Establishes the code's scope; defines terms; provides that the code is a set of default rules that a trust can override, with exceptions; and addresses several other matters, such as methods of providing notice and nonjudicial settlement agreements

Scope and Definitions (§§ 2 & 3)

The bill applies to:

1. express trusts, whether testamentary (i.e., created under a will) or inter vivos (i.e., non-testamentary trusts);
2. trusts created under a statute or court order requiring a trust to be administered as an express trust; and
3. charitable trusts (i.e., a trust, or portion of one, created for a charitable purpose when property is dedicated for that purpose).

It does not apply to statutory trusts created under the existing Connecticut Statutory Trust Act (CGS § 34-500 et seq.).

Knowledge of Facts; Methods and Waiver of Notice (§§ 4 & 9)

The bill sets standards for (1) determining when a person has knowledge of a fact involving a trust and (2) the manner for a trustee or someone else to provide required notices or documents. Among other things, it:

1. provides that an organization has notice or knowledge of a fact from the time (a) an employee responsible for acting for the trust received the information or (b) it would have been brought to the employee's attention if the organization had exercised reasonable diligence;
2. requires that notices or documents be sent in a reasonably suitable manner likely to result in their receipt, such as first-class mail or personal delivery; and
3. allows the intended recipient to waive receipt of a notice or document.

Default and Mandatory Rules (§ 5)

Except as the trust otherwise provides, the bill governs (1) trustees' duties and powers, (2) relations among trustees, and (3) beneficiaries' rights and interests.

It generally allows the terms of a trust to override the bill's provisions, with 11 enumerated exceptions. These exceptions include, among other things, (1) requirements for creating a trust; (2) the trustee's duty to act in good faith; (3) certain court powers, such as to modify or terminate a trust under certain circumstances; and (4) the effect of a spendthrift provision. (See § 5(b) of the bill for the complete list of exceptions.)

Common Law, Principles of Equity, and Governing Law (§§ 6 & 7)

The bill specifies that the common law (judge-made law) of trusts and principles of equity supplement its provisions, except to the extent the bill or a statute modifies them.

It requires that the meaning of a trust's terms be determined by the law of (1) the jurisdiction the trust designates, unless the designation is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter or (2) in the absence of such a designation, the jurisdiction having the most significant relationship to the matter.

Principal Place of Administration (§ 8)

The bill establishes a non-exhaustive list of standards under which a trust's designation of its principal place of administration is valid (e.g., if the trustee lives or works there). It provides that a trustee is under a continuing duty to administer the trust at a location appropriate to its purposes and administration and the beneficiaries' interests.

With some exceptions, the bill allows trustees to transfer the administration of trusts to other states or foreign jurisdictions. It requires court approval to transfer testamentary trusts and prohibits the transfer of charitable trusts to jurisdictions outside the country.

Before transferring a trust's principal place of administration, the bill requires a trustee to provide at least 60 days' notice, with specified information, to the qualified beneficiaries. A trustee's transfer authority terminates if a qualified beneficiary timely objects. Under the bill, "qualified beneficiaries" are those who (1) are currently eligible to receive a trust distribution or (2) would be eligible upon termination of the trust or current qualified beneficiaries' interests.

Others Treated as Qualified Beneficiaries (§ 10)

Under the bill, if a trustee is required to send a notice to the trust's qualified beneficiaries, the trustee must also give notice to any other beneficiary who requests it.

Additionally, the bill grants the rights of a qualified beneficiary to:

1. a charitable organization that the trust expressly designated to receive distributions, if certain conditions are met;

2. the attorney general, with respect to charitable trusts administered in Connecticut; and
3. a person appointed to enforce a (a) trust created for an animal's care or (b) noncharitable trust without an ascertainable beneficiary (see § 29).

Nonjudicial Settlement Agreements (§ 11)

The bill generally allows interested persons to enter into binding nonjudicial settlement agreements for matters involving inter vivos trusts. Such an agreement is valid only if it (1) does not violate a material purpose of the trust and (2) includes terms that a court could properly approve.

The bill specifies matters that may be resolved in this way, such as (1) interpreting a trust's terms or (2) a trustee's liability for a trust-related action. It does not allow a settlement agreement to modify or terminate an irrevocable trust.

It allows an interested person to request that a court approve the agreement and determine whether (1) the agreement contains terms the court can properly approve and (2) adequate representation was provided (see §§ 17-21 below).

Insurable Interest of Trustee (§ 12)

The bill establishes the conditions under which a trustee has an insurable interest in the life of someone insured under a life insurance policy owned by the trustee or the trust. Generally, this applies if the insured is the settlor or someone in whom the settlor has an insurable interest. The insurance proceeds must primarily benefit trust beneficiaries that (1) have an insurable interest in the insured's life or (2) are certain family members of the insured.

§§ 13-16 — TRUST CODE: JUDICIAL PROCEEDINGS

Provides that testamentary trusts, and not inter vivos trusts, are subject to continuing judicial supervision; addresses jurisdiction and venue over trust-related court matters

Role of Court in Administration of Trust (§ 13)

The bill provides that (1) an inter vivos trust is not subject to continuing judicial supervision and (2) a testamentary trust is subject to such supervision until its administration is transferred to another state pursuant to other Connecticut law.

Personal and Subject Matter Jurisdiction and Venue (§§ 14-16)

Under the bill, a trustee submits to the personal jurisdiction of Connecticut's courts regarding any trust matter by (1) accepting the trusteeship of a trust having its principal place of administration in this state or (2) moving the trust to this state. Beneficiaries of a trust administered in Connecticut are subject to the jurisdiction of the state's courts regarding any trust matter.

The bill specifies that subject matter jurisdiction and venue for a proceeding under the bill are determined by other Connecticut law.

§§ 17-21 & 120 —TRUST CODE: REPRESENTATION

Establishes rules for representation, such as when a fiduciary may represent and bind a trust beneficiary

Basic Effect (§ 17)

Under the bill, (1) notice to a person's representative has the same effect as if the person was directly notified and (2) a representative's consent is binding unless the represented person objects before the consent takes effect. The bill generally allows a person representing a settlor who lacks capacity to give binding consent on the settlor's behalf.

Notwithstanding any other law, the bill's representation provisions apply to all judicial proceedings and all nonjudicial settlements or actions. It specifies that a non-attorney cannot serve as someone's legal counsel.

Fiduciaries and Other Representatives (§§ 18-21 & 120)

The bill requires the holders of a power of appointment to represent the appointee unless there is a conflict of interest between them. It sets a similar requirement for holders of a power of revocation or general power of appointment to represent the takers in default.

Additionally, unless there is a conflict of interest, the bill establishes the following conditions for representing and binding parties and estates:

1. conservators, guardians, agents, trustees, and estate executors and administrators may represent and bind another party or estate, as applicable;
2. a parent may represent and bind his or her minor or unborn child, if a conservator or guardian has not been appointed; and
3. unless otherwise represented, minors, incapacitated or unborn persons, or those whose identity is unknown and not reasonably ascertainable, may be represented and bound by another person having a substantially identical interest.

For the latter, if any such person is not represented or the available representation is inadequate, a court may appoint a guardian ad litem (GAL) for the person. In making any decisions, the GAL may consider general benefit accruing to the living members of the person's family.

The bill also repeals current laws on these matters, which contain generally similar provisions (CGS §§ 45a-487a to 487f).

§§ 22-38 & 120 — TRUST CODE: CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF A TRUST

Establishes methods for creating, modifying, or terminating a trust, including both general and specific rules for different types of trusts

Methods of Creating a Trust; Oral Trusts (§§ 22 & 28)

The bill allows a trust to be created by:

1. transferring property to someone else as trustee during the settlor's lifetime, or by will or other disposition that takes effect upon the settlor's death;
2. the property owner's declaration that he or she holds identifiable property as trustee;
3. exercising a power of appointment in favor of a trustee;

4. transferring property under a statute or court judgment requiring property to be administered as an express trust; or
5. court order.

Under the bill, unless another law requires otherwise, a trust need not be in writing, but the creation of an oral trust and its terms must be established by clear and convincing evidence.

Requirements for Creation; Purposes; Void Trusts (§§ 23, 25, & 27)

Under the bill, a trust is created only if the:

1. settlor has capacity and indicates an intention to do so;
2. trustee has duties to perform; and
3. trust has a definite beneficiary or is a charitable trust, trust for the care of an animal, or trust for non-charitable purposes that meets the bill's requirements (see § 29).

The bill allows a trustee to select a beneficiary from an indefinite class, but that authority fails if it is not exercised within a reasonable time.

It allows a trust to be created only to the extent its purposes are lawful and not contrary to public policy. It makes a trust or trust provision void if its creation was induced by fraud, duress, or undue influence.

Trusts Created in Other Jurisdictions (§ 24)

Under the bill, an inter vivos trust is valid if its creation complies with the law of the jurisdiction (1) where it was executed or (2) in which, upon its creation:

1. the settlor was domiciled, had a residence, or was a national;
2. a trustee was domiciled or had a business; or

3. any trust property was located.

Charitable Purposes; Enforcement (§ 26)

The bill authorizes a charitable trust to be created to relieve poverty; advance education or religion; promote health, governmental, or municipal purposes; or for other purposes that benefit the community. The settlor of a charitable trust may enforce it in court only if he or she expressly retained that right in the trust.

If a charitable trust does not indicate a particular charitable purpose or beneficiary, and if the trustee is not given discretion to select the beneficiaries, the court may select them. The court must do this consistent with the settlor's intent to the extent it can be determined.

Noncharitable Trust Without an Ascertainable Beneficiary (§ 29)

The bill allows a trust to be created for (1) general but noncharitable purposes or (2) specific noncharitable purposes the trustee selects. Such a trust may be enforced for up to 90 years by someone appointed in the trust or, if none, a court-appointed person. The trust's property may be applied only to its intended use, unless the court determines that the property's value exceeds the amount required for that use. Unless the trust provides otherwise, property not required for the intended use must be distributed to the settlor.

These provisions apply except as otherwise provided in existing law, including the law on trusts for an animal's care (CGS § 45a-489a).

Modification or Termination (§ 30)

Under the bill:

1. a charitable trust terminates only in accordance with existing law's requirements (see CGS § 45a-520) and
2. a noncharitable trust terminates if it is revoked or expires, no trust purpose remains to be achieved, or its purposes have become unlawful, contrary to public policy, or impossible to

achieve.

A trustee or beneficiary, or the attorney general for a charitable trust, may bring a court proceeding to approve or disapprove a modification, termination, combination, or division. A charitable trust's settlor may bring a proceeding to modify the trust if he or she expressly retained that right.

Modification or Termination by Consent (§ 31)

The bill sets standards for terminating or modifying trusts with consent of the qualified beneficiaries, with or without the settlor's consent. For example, for noncharitable irrevocable trusts:

1. if the settlor and all qualified beneficiaries consent, the court can approve a modification or termination even if it is inconsistent with the trust's material purpose, and
2. if the trustee and all qualified beneficiaries consent, the court can approve such an action only if it is not inconsistent with the material purpose and settlor's probable intent.

Upon the termination, the trustee must distribute the property as the beneficiaries agree.

To approve such a modification or termination when the trustee but not all beneficiaries consent, the court must find, among other things, that the interests of non-consenting beneficiaries will be protected.

Modification or Termination Due to Unanticipated Circumstances (§ 32)

The bill allows a court to:

1. modify or terminate a noncharitable trust if doing so would further the trust's purposes, due to circumstances not anticipated by the settlor, or
2. modify a trust's administrative terms if continuing the existing terms would be impracticable, wasteful, or impair the trust's

administration.

Upon the termination, the trustee must distribute the property in a manner consistent with the trust's purposes.

Cy Pres (§§ 33 & 34)

Generally, the bill provides that if a particular charitable purpose becomes impossible, impracticable, or illegal, the court may apply the common law "cy pres" doctrine to modify the trust, by directing the property to be distributed in a manner consistent with the settlor's purposes. In certain circumstances, it provides that a charitable trust's provision that would distribute the property to a noncharitable beneficiary prevails over the court's power to apply cy pres.

Modification or Termination of Uneconomic Trust (§§ 35 & 120)

Under certain conditions, the bill allows a trustee to terminate a noncharitable trust valued at under \$200,000 if the property's value or character does not justify the cost of administration. If the trust is testamentary, court approval is required. The bill also allows courts to modify or terminate a trust, or replace the trustee, for trusts valued at under \$200,000. In any such case, the trustee must distribute the property in a manner consistent with the trust's purposes.

The bill also repeals a law which contains generally similar provisions on the termination of trusts valued at under \$50,000 (CGS § 45a-484).

Reformation to Correct Mistakes (§ 36)

Under the bill, a court may reform a trust's terms to conform to the settlor's intention if it is proved by clear and convincing evidence what the intention was and that there was a mistake of fact or law.

Modification to Achieve Settlor's Tax Objectives (§ 37)

The bill authorizes a court to modify a trust to achieve the settlor's tax objectives in a manner that is not contrary to the settlor's probable intention. The court may make the modification retroactive.

Combination and Division (§ 38)

The bill allows a trustee, after notifying current beneficiaries, to combine multiple trusts or divide a trust into separate trusts, if it does not impair any beneficiary's rights or the trust's purposes.

§§ 39-46 — TRUST CODE: CREDITOR'S CLAIMS; SPENDTHRIFT AND DISCRETIONARY TRUSTS

Sets rules for spendthrift provisions and for when creditors of the settlor and beneficiaries can reach the trust's property

Rights of Beneficiary's Creditor or Assignee (§§ 39 & 46)

Generally, to the extent a beneficiary's trust interest is not subject to a spendthrift provision (see § 40) and except as provided below, the bill allows courts to authorize a beneficiary's creditor or assignee to reach that interest by attaching present or future distributions to, or for the benefit of, the beneficiary. The court may limit relief as is appropriate under the circumstances.

The bill prohibits trustees of charitable trusts, or persons holding and administering endowment or institutional funds, from mortgaging or otherwise encumbering certain assets that were funded by charitable gifts. It prohibits creditors, receivers, or bankruptcy trustees from attaching such funds to (1) pay a charitable beneficiary's debt or (2) include the asset in the receivership or bankruptcy estate.

The bill also prohibits a beneficiary's creditor, other than a settlor's creditor if the settlor is also a beneficiary, from attaching or compelling a distribution of property that is subject to a power of withdrawal or power to make distributions in three specific situations (see § 46(a)). For example, the prohibition applies if the beneficiary holds a power of withdrawal and the property's value does not exceed the greater of certain amounts specified in relevant portions of the federal tax code in effect on October 1, 2018.

Under the bill, a beneficiary holding such a power may not be treated as a settlor of the trust during the period the power may be exercised or upon the power's lapse, release, or waiver.

Spendthrift Provisions (§§ 40 & 41)

A “spendthrift provision” allows the settlor to restrain the transfer of a beneficiary’s interest. The bill specifies that a spendthrift provision is valid only if it restrains both voluntary and involuntary transfers. A restraint on voluntary transfers includes requiring the beneficiary to obtain someone else’s consent before a transfer. Under the bill, spendthrift provisions are valid even if a beneficiary is a trustee.

The bill prohibits a beneficiary from transferring an interest in violation of a valid spendthrift provision. It also prohibits, except as otherwise provided in the bill, a beneficiary’s creditor or assignee from reaching the interest or a trustee’s distribution before the beneficiary receives it.

Under the bill, spendthrift provisions are enforceable against the beneficiary’s former spouse. But even for trusts containing a spendthrift provision, if a beneficiary’s child has a court judgment against the beneficiary for support, the bill allows the child to obtain a court order attaching present and future distributions. The child may do this only if the distributions can be made for the beneficiary’s support under the trust.

Discretionary Trusts; Effect of Standard (§ 42)

Under the bill, whether or not the trust contains a spendthrift provision, a beneficiary’s creditor generally may not compel a distribution that is subject to the trustee’s discretion, even if (1) the discretion is expressed through a distribution standard or (2) the trustee has abused the discretion. But, if a trustee has not complied with a standard or has abused his or her discretion, the court may:

1. order a distribution to satisfy a judgment against the beneficiary for child support and
2. direct the trustee to pay the child only an equitable amount, but no more than what the trustee would have been required to distribute for the beneficiary had the trustee complied.

The bill does not limit a beneficiary's existing right to maintain a judicial proceeding against a trustee for such actions.

Creditor's Claim Against Settlor (§ 43)

The bill sets rules for when a settlor's creditors can reach the trust's assets. These rules apply regardless of whether the trust contains a spendthrift provision and except as provided in the bill's provisions on qualified dispositions.

Under the bill, (1) a revocable trust's property is subject to claims of the settlor's creditors during the settlor's lifetime and (2) for irrevocable trusts, creditors may generally reach the maximum amount that can be distributed to or for the settlor. But the bill establishes certain exceptions, such as permitting the court to limit a creditor's award for a special needs trust created under specified federal law. Specifically, after notifying the creditor and the state, the court may limit the creditor's award to appropriate relief under the circumstances, after considering the beneficiary's needs.

The bill also sets rules for when a holder of a power of withdrawal is treated in the same manner as a settlor.

Overdue Distribution (§ 44)

The bill generally allows, whether or not a trust contains a spendthrift provision, a beneficiary's creditor or assignee to reach a mandatory distribution of income or principal, including a distribution upon the trust's termination. A creditor or assignee may do this if the trustee did not make the distribution to the beneficiary within a reasonable time after the mandated date.

Personal Obligations of Trustee (§ 45)

The bill specifies that trust property is not subject to the trustee's personal obligations, even if the trustee becomes insolvent or bankrupt.

§§ 47-50 — TRUST CODE: REVOCABLE TRUSTS

Sets rules for revocable trusts, including when they can be revoked or amended and distribution upon the settlor's death

Capacity of Settlor (§ 47)

The bill specifies that the capacity a person needs to create, amend, revoke, or add property to a revocable trust, or to direct the trustee's actions, is the same as the capacity needed to make a will (i.e., be an adult of sound mind).

Revocation or Amendment (§ 48)

The bill generally gives the settlor the right to revoke or amend a trust, unless the trust expressly provides otherwise. But this does not apply to (1) trusts created before October 1, 2018, (2) charitable pledges, or (3) other charitable gifts in which the interest has vested.

The bill establishes several related rules, such as providing that:

1. a settlor may revoke or amend a revocable trust by substantial compliance with a method the trust provides;
2. if a trust does not provide a method, a settlor may revoke or amend it by (a) executing a later will or codicil that meets certain criteria or (b) any other method showing clear and convincing evidence of the settlor's intent, subject to certain conditions; and
3. upon revocation, the trustee must deliver the property as the settlor directs.

The bill also addresses related issues, such as establishing a process for revoking or amending a trust created or funded by multiple settlors.

Under the bill, if a trustee does not know that a trust was revoked or amended, he or she is not liable to the settlor for actions taken on the assumption that it was still in effect.

Additionally, a special needs trust created under specified federal law is irrevocable if the trust prohibits revocation, even if the settlor's

estate or heirs are named as the remainder beneficiaries upon the settlor's death.

Settlor's Powers; Powers of Withdrawal (§ 49)

Under the bill, if a trust is revocable by the settlor alone, or in some cases, the settlor and other specified persons (e.g., someone other than the trustee), a trustee may follow their directions that are contrary to the trust's terms. If a settlor has capacity to revoke a trust, the beneficiaries' rights are subject to the settlor's control, and the trustee's duties are owed exclusively to the settlor.

During the period the power to revoke may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust with respect to the property subject to the power.

Action Contesting Trust's Validity; Distribution (§ 50)

The bill allows a person (e.g., a beneficiary) to file a lawsuit contesting the validity of a trust that was revocable at the settlor's death within the earlier of (1) one year after the death or (2) 60 days after the trustee sent the person a copy of the trust instrument and a notice with certain related information.

Upon the death of the trust's settlor, the trustee may distribute the trust property in accordance with the trust's terms. The trustee is not liable for doing so except in certain circumstances (e.g., if the trustee knows of a pending judicial proceeding contesting the trust's validity). A beneficiary of a trust that is deemed invalid is liable to return any distribution he or she received.

§§ 51-59 & 120 — TRUST CODE: OFFICE OF TRUSTEE

Establishes standards for several trustee-related matters, such as accepting the trusteeship, resignation or other vacancies, and compensation

Accepting or Declining Trusteeship (§ 51)

Under the bill, a person designated as trustee accepts the role by substantially complying with the trust's acceptance method, or if none, by accepting delivery of the trust property, exercising trustee powers or duties, or otherwise indicating acceptance. For

testamentary trusts, the person must file an acceptance in court.

The bill allows a person designated as trustee to reject it. Failure to accept within a reasonable time is deemed a rejection. Without accepting the trusteeship, a person designated as trustee may (1) act to preserve the trust property under certain conditions and (2) inspect the trust property to determine potential liability issues.

Trustee's Bond (§§ 52 & 120)

The bill requires the trustee to give a bond only if the court finds it is needed to protect the beneficiaries' interests or the trust requires it and, for noncharitable trusts, the court has not dispensed with the requirement. The court may (1) specify the amount of a bond, its liabilities, and whether sureties are necessary and (2) except for charitable trusts, modify or terminate a bond at any time.

Testamentary trustees that are foreign corporations must also comply with the law requiring them to appoint the secretary of the state as agent for service of process (see CGS § 45a-206).

The bill repeals the current requirement that, for trustees appointed by a testator to execute a trust created by a will, the probate court require a bond, unless the will provides otherwise (CGS § 45a-473).

Co-Trustees (§ 53)

The bill sets rules for co-trustees. For example, it (1) allows them to act by majority decision, (2) specifies when a co-trustee may delegate functions to another co-trustee, and (3) requires a co-trustee to participate in the performance of trustee functions unless he or she is unavailable (e.g., due to illness) or has delegated the function.

Under the bill, a trustee who does not join in an action of another trustee is generally not liable for the action. But the bill requires each trustee to exercise reasonable care to (1) prevent a co-trustee from committing a serious breach of trust and (2) compel a co-trustee to redress such a breach. A dissenting trustee who joins in an action at the direction of the majority and who timely notified any co-trustee of

the dissent is not liable for the action unless it is a serious breach.

Vacancy; Appointment of Successor (§ 54)

Under the bill, unless the trust requires it, if at least one co-trustee remains in office, a vacancy in a trusteeship need not be filled. But a vacancy must be filled if (1) there is no remaining trustee or (2) it is a charitable trust, unless the trust's terms excuse the vacancy.

The bill (1) establishes the order of priority for filling a vacancy and (2) even if there is no vacancy, allows a court to appoint an additional trustee or special fiduciary if the court deems it necessary.

Resignation or Removal of Trustee (§§ 55 & 56)

The bill allows trustees to resign without court approval, by providing at least 30 days' notice to certain parties. It also allows trustees of testamentary trusts to resign without providing such notice, with court approval. In the latter case, the court may impose conditions to protect the property, beneficiaries, and other trustees. Resignation does not discharge any liability of the trustee.

The bill specifies which parties have the right to ask the court to remove a trustee (e.g., the beneficiaries, or in the case of a charitable trust, the attorney general) and also allows the court to remove a trustee on its own initiative. A court may remove a trustee for, among other things, a serious breach of trust or lack of cooperation among co-trustees that substantially impairs its administration.

Delivery of Property by Former Trustee (§ 57)

The bill requires a trustee who has resigned or been removed to continue to protect the property, unless a co-trustee remains or the court orders otherwise, until the property is delivered to a successor trustee or other person entitled to it. A trustee who has resigned or been removed must expeditiously deliver the property to the co-trustee, successor trustee, or other person entitled to it.

Trustee Compensation; Reimbursement of Expenses (§§ 58 & 59)

The bill gives a trustee the right to compensation that is

reasonable under the circumstances if the trust does not specify the compensation. When a trust specifies the compensation, the trustee is entitled to it, except the court may allow a different amount if (1) the trustee's duties are substantially different from those contemplated when the trust was created or (2) the specified compensation is unreasonably low or high.

The bill establishes when a trustee has the right to be reimbursed out of the trust property, with interest, for expenses. In addition, an advance by the trustee of money to protect the trust creates a lien against the trust property to secure reimbursement with reasonable interest.

§§ 60-74 & 120 — TRUST CODE: DUTIES AND POWERS OF TRUSTEE

Establishes trustees' duties on matters such as loyalty and avoiding conflicts of interest, recordkeeping, and reporting to beneficiaries; sets forth the general and specific authority of trustees

Duty to Administer Trust; Prudent Administration; Impartiality; Property Protection (§§ 60, 62-63, & 66)

The bill requires a trustee to administer the trust in good faith and according to its terms and purposes, the settlor's intent, the beneficiaries' interests, and the bill's provisions. A trustee must administer the trust as a prudent person would.

A trustee must take reasonable steps to control and protect the trust property. If there are multiple beneficiaries, the trustee must act impartially in investing, managing and distributing the trust property.

Duty of Loyalty (§ 61)

The bill requires a trustee to administer the trust assets solely in the beneficiaries' interests consistent with the settlor's intent. It sets several related rules regarding trustee conflicts of interest.

Under the bill, a transaction affected by a conflict between the trustee's fiduciary and personal interests is generally voidable by an affected beneficiary, subject to certain exceptions. The transaction is not voidable if, for example, (1) it was authorized by the trust's terms

or approved by the court or (2) the beneficiary consented. The bill establishes conditions under which a transaction is presumed to present a conflict (e.g., if the trustee enters the transaction with certain close family members).

Certain transactions between the trustee and beneficiary not involving the trust property are voidable, unless the trustee establishes that the transaction was fair to the beneficiary. It is a conflict for a trustee, in his or her personal capacity, to enter a transaction not involving the trust property if it concerns an opportunity properly belonging to the trust.

The bill provides that certain types of investments are not presumed to present a conflict of interest if they comply with the existing prudent investor law, are in the best interests of the beneficiaries, and are not prohibited by the trust. If the trust is the sole owner of a business, the trustee must select directors or other managers who will manage it in the best interests of the beneficiaries.

The bill specifies that it does not prevent certain transactions if fair to the beneficiaries, such as (1) paying reasonable compensation to the trustee or (2) depositing trust money in a financial service institution operated by the trustee.

The bill allows a court to appoint a special fiduciary to decide whether any proposed transaction would violate these conflict of interest provisions.

Delegation by Trustee (§ 64)

The bill allows trustees to delegate duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee must exercise reasonable care in doing so and must periodically monitor the agent's actions. If the trustee complies with these requirements, he or she is not liable for the agent's actions.

By accepting the delegated functions, the agent is subject to

Connecticut law and owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

Awarding of Costs and Attorney's Fees (§ 65)

The bill allows courts, in a proceeding relating to a trust's administration, to award costs and reasonable attorney's fees to be paid by another party or from the trust.

Recordkeeping and Identification of Trust Property (§ 67)

The bill requires a trustee to (1) keep adequate records, (2) keep trust property separate from his or her own property, and (3) cause the trust property to be designated so that the trust's interest, if feasible, appears in records maintained by someone other than a trustee or beneficiary.

It authorizes a trustee to invest as a whole the property of separate trusts, if he or she keeps records that clearly indicate the respective interests.

Enforcement and Defense of Claims (§ 68)

The bill requires a trustee to take reasonable steps to enforce trust claims and to defend claims against the trust.

Collecting Trust Property (§ 69)

The bill requires a trustee to take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee, and to redress a known breach of trust by a former trustee.

Duty to Inform and Report (§ 70)

The bill requires a trustee to (1) keep the qualified beneficiaries reasonably informed about the trust's administration and the material facts necessary for them to protect their interests and (2) promptly respond to their requests for the trustee's reports and other related information. This does not apply if disclosure would be unreasonable under the circumstances.

The bill requires a trustee to:

1. upon a qualified beneficiary's request, promptly provide a copy of the trust instrument;
2. within 60 days after accepting a trusteeship, notify the qualified beneficiaries and provide his or her contact information; and
3. within 60 days after learning that an irrevocable trust was created or that a trust became irrevocable, notify the current beneficiaries of the trust's existence, the settlor's identity, the right to request a copy, and the right to the trustee's reports.

The trustee's report must include information on the trust property, liabilities, disbursements, trustee compensation, and trust assets (including market values, if feasible). The trustee must send the report annually and upon the trust's termination, to the distributees and to other qualified beneficiaries who request it.

Beneficiaries may waive their right to trustee's reports or other such information. Court approval of a trustee's report forecloses claims by those notified of the proceeding as to matters disclosed in the report.

Discretionary Powers; Tax Savings (§§ 71 & 120)

The bill requires the trustee to exercise a discretionary power in good faith and in accordance with the trust's terms and purposes, the settlor's intentions, and the beneficiaries' interests. This applies regardless of the breadth of discretion that the trust grants to the trustee.

Unless the terms of the trust expressly provide otherwise, the following limitations and prohibitions apply:

1. 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 for the trustee's personal benefit, may exercise the power only in accordance with an ascertainable standard relating to the trustee's health, education, support, or

maintenance within the meaning established in the federal estate and gift tax laws and

2. 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.

A power that is limited or prohibited as described above, may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited.

Under the bill, the limitations and prohibitions do not apply to:

1. a power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in the federal estate and gift tax laws, was previously allowed;
2. any trust during any period that the settlor may revoke or amend it; or
3. a trust if contributions to it qualify for the annual exclusion for a minor's trust under the federal tax laws.

The bill repeals current law on similar matters (e.g., limiting when a trustee is deemed to possess discretionary power to distribute trust income or principal to himself or herself)(CGS § 45a-487).

General and Specific Powers of Trustee (§§ 72 & 73)

The bill allows a trustee, without court authorization and subject to the bill's fiduciary duties, to exercise powers conferred by the trust and, except as limited by the trust:

1. all powers over the trust property which an unmarried competent owner has over individually owned property,
2. any other powers appropriate to properly invest, manage, and distribute the property, and
3. any other powers conferred by the bill.

Without limiting this general authority, the bill authorizes a trustee to perform 26 categories of actions, such as to:

1. collect trust property and accept or reject additions to it from a settlor or any other person;
2. acquire or sell property, for cash or on credit, at public or private sale;
3. exchange, partition, or otherwise change the character of trust property;
4. borrow money and mortgage or pledge trust property for a period within or extending beyond the trust's duration; and
5. with respect to an interest in a business, continue the business and take any action that may be taken by shareholders, members, or property owners (e.g., merger or dissolution).

(Please refer to § 73(a) of the bill for the complete list.)

The bill's specifically enumerated powers do not apply to charitable trusts to the extent that such powers would authorize the trustee to deviate from a stated charitable purpose or violate a restricted gift.

Distribution Upon Termination (§ 74)

The bill allows the trustee of an inter vivos trust, upon its total or partial termination, to send a distribution proposal to the qualified beneficiaries. Their right to object to the proposal ends in 30 days if the trustee notifies them of that right and the deadline.

When a trust terminates, the trustees must expeditiously distribute the property to the persons entitled to it, but he or she may retain a reasonable reserve to pay debts, expenses, and taxes.

A beneficiary may release a trustee from liability for a breach of trust, but the release is invalid if (1) it was induced by the trustee's improper conduct or (2) the beneficiary did not know his or her rights

or the material facts about the breach.

§§ 75-86 — TRUST CODE: LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH TRUSTEE

Establishes when a trustee is liable to a beneficiary or certain other parties and sets related requirements

Breach of Trust (§ 75)

The bill makes a trustee's violation of a duty he or she owes to a beneficiary a breach of trust.

Damages in Absence of Breach (§ 76)

Under the bill, even if the trustee did not commit a breach, he or she owes the affected beneficiary any profit the trustee made arising from the trust's administration. The trustee is not liable to a beneficiary for a loss in the value of trust property or for not making a profit, unless he or she committed a breach.

Limitation on Action Against Trustee (§ 77)

The bill allows a beneficiary to bring a lawsuit against a trustee for a breach up to one year after the beneficiary was sent a report adequately disclosing the potential claim and informing the beneficiary of the one-year limit. Under the bill, a report adequately discloses the existence of a potential claim if it provides sufficient information so that the beneficiary knows of the potential claim or should have inquired about it.

If the beneficiary did not receive such a report, he or she may bring the claim up to two years after the earlier of (1) the trustee's removal, resignation, or death or (2) the termination of the trust or the beneficiary's interest in it.

Reliance on Trust Instrument (§ 78)

Under the bill, a trustee is not liable to a beneficiary for a breach of trust for acting in reasonable reliance on the trust's terms.

Event Affecting Administration or Distribution (§ 79)

Under the bill, a trustee who exercises reasonable care to ascertain

the happening of an event affecting the trust's administration or distribution is not liable for a loss resulting from lack of knowledge. These events include marriage, divorce, performing educational requirements, or death.

Exculpation of Trustee (§ 80)

The bill makes a trust's term relieving a trustee's liability for a breach unenforceable to the extent it (1) relieves liability for a breach committed in bad faith or with reckless indifference to the trust's purposes or beneficiaries' interests or (2) was inserted due to the trustee's abuse of a fiduciary or confidential relationship to the settlor. The bill specifies when such a term drafted by the trustee, or caused to be drafted by the trustee, is deemed an abuse of such relationship.

Beneficiary's Consent, Release, or Ratification (§ 81)

Under the bill, a trustee is not liable for breach of trust if the beneficiary consented to the conduct, released the trustee from liability, or ratified the transaction, unless (1) the consent, release, or ratification was improperly induced or (2) the beneficiary did not know of his or her rights or of the material facts about the breach.

Limitation on Personal Liability of Trustee (§ 82)

Under the bill, unless the contract provides otherwise, a trustee is not personally liable for a contract properly entered into in a fiduciary capacity while administering the trust, if he or she disclosed the fiduciary capacity in the contract.

A trustee is personally liable for torts committed while administering the trust, or obligations arising from owning or controlling the trust property, only if the trustee is personally at fault. The bill specifies that other laws could limit this liability.

The bill allows the trustee to be sued in his or her fiduciary capacity for claims based on such a contract, tort, or obligation, even if the trustee is not personally liable.

Interest as General Partner (§ 83)

Under the bill, unless the contract imposes personal liability, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable for a contract entered into by the partnership after the trust acquires the interest, if he or she disclosed the fiduciary capacity in a specified manner. A trustee who holds an interest as a general partner is not personally liable for the partnership's torts or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

But neither immunity applies if the trustee holds a partnership interest in a capacity other than trustee, or if the interest is held by the trustee's spouse or certain other family members.

If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for the partnership's contracts and obligations as if he or she was a general partner.

Protection of Person Dealing with Trustee (§ 84)

Under the bill, someone other than a beneficiary is protected from liability if he or she in good faith assists a trustee, or in good faith and for value, deals with a trustee without knowing that the trustee is improperly exercising his or her powers.

Among other things, the bill provides similar protection to someone who assists or deals with a former trustee without knowing that the trusteeship has terminated.

The bill specifies that comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the bill's protections.

Certification of Trust (§ 85)

Instead of furnishing a copy of the trust instrument to someone other than a beneficiary, the bill allows the trustee to furnish a certification of trust containing specified information (e.g., the date the trust instrument was executed, the settlor's identity, and the trustee's powers). A certification does not have to contain the trust's

dispositive terms. A recipient may require the trustee to furnish certain excerpts from the instrument.

Among other provisions, the bill provides that someone who:

1. acts in reliance upon a certification without knowing that its representations are incorrect is not liable for doing so, and may assume the existence of the facts contained in the certification;
2. in good faith, enters into a transaction in reliance upon a certification may enforce the transaction against the trust property as if the representations were correct; and
3. makes a demand for the full trust instrument is liable for damages if the court determines that he or she did not act in good faith in demanding it.

§§ 86 & 87 — TRUST CODE: MISCELLANEOUS PROVISIONS

Addresses uniformity of interpretation and severability

The bill directs that, in applying and construing this uniform act, consideration be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

It also provides that its provisions are severable (i.e., if a provision is held invalid, the other provisions are not affected).

§§ 88-105 — CONNECTICUT UNIFORM DIRECTED TRUST ACT

Outlines the powers and obligations of parties administering directed trusts (i.e., trusts in which a person other than a trustee has a power over the trust's administration)

The bill outlines the powers and obligations of parties administering directed trusts, which are trusts in which a person other than a trustee has a power over some aspect of the trust's administration. Under the bill, this power over a trust held by a nontrustee is called the "power of direction." A "trust director" holds this power. A trustee that is subject to this power is a "directed trustee."

Among other things, the bill's provisions address:

1. trust directors' and directed trustees' fiduciary duties,
2. information sharing between directed trustees and trust directors,
3. the procedure a directed trustee can follow to request clarification from a court as to the trustee's duties,
4. settlors' option to subject certain co-trustees to the requirements applicable to directed trustees under the Connecticut Uniform Directed Trust Act, rather than the requirements that apply under the trust code (§ 98);
5. bringing suit against a trust director for breach of trust,
6. how the trust code (i.e., §§ 1-87) applies to trust directors, and
7. the interplay between the bill's provisions and the federal Electronic Signatures in Global and National Commerce Act (§§ 104 & 105).

The bill's provisions apply to trusts administered in Connecticut, regardless of whether they are created before or after the provisions' effective date (i.e., October 1, 2018). But with respect to trusts in effect on October 1, 2018, the provisions apply only to decisions made or actions taken after (1) that date or (2) the date that the trust becomes principally administered in Connecticut, whichever applies (§ 89).

Definitions (§ 3)

Under the bill, a trust director, directed trustee, or settlor can be an individual, estate, business organization, government entity, or other similar entity (hereinafter "person").

Trust Director. A nontrustee with power over some aspect of a trust is the "trust director." Under the bill, a person can be a trust director even if (1) the trust does not use the term or (2) the person is a beneficiary or settlor. (Generally, a person that creates, or contributes property to, the trust is the "settlor.")

Directed Trustee. A directed trustee is a trustee who is subject to

the trust director's power of direction.

Power of Direction. These powers over a trust, granted by the terms of the trust to a trust director, can only be exercised by a nontrustee. "Power of direction" may include power over the investment, management, or distribution of trust property or administration of trust matters (e.g., power to direct a trustee's investment). But certain powers are excluded, including the nonfiduciary power of appointment, a settlor's power to revoke a trust, and powers held in a nonfiduciary capacity to achieve a settlor's tax objectives (see § 91).

Trust Director's Powers (§ 92)

Powers. Unless the terms of the trust provide otherwise, a trust director may exercise any further power that is appropriate to the trust director's exercise of express powers granted by a trust's terms (e.g., employing a professional to assist in the exercise of powers; suing a directed trustee who does not comply with the director's instructions).

Under the bill, trust directors with joint powers must act by majority decision.

Trust Director's Duties (§§ 93, 94, & 102)

Fiduciary Duties (§ 94). The bill generally makes trust directors fiduciaries by imposing the same fiduciary duties on them that apply to trustees in a similar position or circumstance (e.g., a director with the power to make investments must act prudently, in the sole interest of the beneficiary). The bill establishes minimum duties, but a trust's terms can impose additional duties.

Other Duties (§ 93). The bill specifically applies to trust directors all the rules applicable to a trustee in a like position and under similar circumstances in two situations: one involving a charitable interest in a trust and the other a Medicaid reimbursement requirement.

Applicable Uniform Trust Code Provisions (§ 102). The bill requires trust directors to comply with certain provisions of the trust

code (i.e., §§ 1-87). Specifically, trust directors must comply with provisions on:

1. acceptance of a trusteeship (see § 51),
2. performance bonds (see § 52),
3. vacancy and appointment of a successor (see § 54),
4. resignation (see § 55),
5. removal (see § 56), and
6. reasonable compensation (see § 58).

Trust Director's Liability (§§ 99-101)

Under the bill, an action against a trust director for breach of trust must be commenced within the same timeframe applicable to an action against a trustee in a similar position or circumstance (see § 77, above). And directors may assert the same defenses that a trustee in a similar position or circumstance may assert (e.g., release or ratification by beneficiary).

Under the bill, by accepting appointment as a trust director of a trust subject to the bill's provisions, the director submits to personal jurisdiction of Connecticut's courts, with respect to matters relating to the director's powers and duties.

Directed Trustee's Duties (§ 95)

Under the bill, a directed trustee (1) must take reasonable action to comply with a trust director's exercise or nonexercise of power, unless compliance would be willful misconduct, and (2) is not liable for complying with a trust director's instruction.

Additionally, the bill:

1. imposes limits on a trust director's ability to release a trustee or another director from liability (e.g., when the release was obtained through improper conduct);
2. specifies that a trustee may petition the court to clarify the

trustee's duties; and

3. specifies that a trust's terms may impose additional duties on a trustee.

Information Sharing (§§ 96 & 97)

The bill generally requires trustees and trust directors to keep one another informed and answer queries to the extent the relayed information is reasonably related to each party's powers or obligations. Trustees and directors that act in reliance on such information are shielded from liability for breach of trust, unless they engage in willful misconduct.

The bill specifies that it does not require trustees to (1) monitor a trust director or (2) inform or give advice to a settlor, beneficiary, trustee, or trust director when the trustee might have acted differently than the director. Likewise, trust directors do not have either of these obligations with respect to trustees or other directors. If either a trust director or directed trustee chooses to monitor, inform, or give advice, the director or trustee does not assume a continuing obligation to do so.

Uniformity (§ 103)

The bill requires anyone applying or construing the uniform provisions in the Connecticut Uniform Directed Trust Act to give consideration to the need to promote uniformity among the states that have adopted the uniform provisions.

§§ 106-112 — CONNECTICUT QUALIFIED DISPOSITIONS IN TRUST ACT

Sets up a framework for creating self-settled asset protection trusts, the assets of which (1) creditors generally cannot reach and (2) the grantor may still benefit personally from

The bill sets up a framework for creating self-settled asset protection trusts (APT), which are irrevocable trusts, the assets of which (1) creditors generally cannot reach and (2) the grantor may still benefit personally from. (A self-settled trust is an irrevocable trust that includes the settlor as a beneficiary.)

Under the bill, grantors (i.e., “transferors”) can make “qualified dispositions” of real property, tangible and intangible personal property, and interests in property to a “qualified trustee,” establishing an APT. A disposition is not “qualified” if, among other things, it is made to circumvent state or federal Medicaid laws.

The bill’s provisions cover, among other things:

1. requirements for creating an APT;
2. a grantor’s rights to APT property and income;
3. allowable creditor claims, including when and to what extent an APT can be nullified;
4. how multiple dispositions to the same instrument are treated;
5. the procedure for appointing successor trustees; and
6. protection for attorneys, trustees, and others involved in creating or administering an APT.

The bill’s provisions apply to qualified dispositions made on or after October 1, 2018 (i.e., the bill’s effective date).

EFFECTIVE DATE: October 1, 2018

Qualifying as an APT

The bill establishes criteria an APT must meet to qualify for protection under the bill’s provisions. Generally, an APT must:

1. expressly state that Connecticut law governs the validity, construction, and administration of the trust;
2. contain a spendthrift clause;
3. be irrevocable (the bill specifies various circumstances that do not make an APT revocable); and
4. appoint a qualified trustee, other than the grantor.

Grantors

The trust instrument must specify the grantor’s powers and rights.

The bill lists the powers a grantor may retain under the trust instrument, including the power to veto distributions from the trust. The bill also establishes parameters for grantors' retention of an APT's principal and income. Among other rights, the grantor may retain the right to:

1. receive income,
2. receive principal as a result of the trustee's exercise of discretion or compliance with an ascertainable standard (including action resulting from a trust advisor's direction), and
3. annually receive up to 5% of the value of trust property.

Qualified Trustees

Under the bill, a qualified trustee cannot be the grantor. A qualified trustee must be a (1) Connecticut resident (in the case of a natural person) or (2) state or federally chartered bank or trust company with a place of business in Connecticut, authorized to engage in a trust business. Qualified trustees must maintain some or all of the APT property in Connecticut and meet certain recordkeeping and administrative requirements.

Trust Advisors

Under the bill, a grantor may appoint one or more trust advisors (e.g., trust protectors) who (1) need not qualify as a qualified trustee; (2) may remove and appoint qualified trustees; and (3) may have the power to direct, consent to, or disapprove trust distributions.

Grantors that serve as advisors may only retain the right to veto distributions.

Claims Against Trust Property

The bill generally establishes rules that protect APTs from creditors' claims, including a statute of limitations for claims against trust property. Under the bill, certain types of claims may be brought, including claims brought under the Fraudulent Transfer Act and claims resulting from:

1. the grantor's breach of an agreement or court order concerning child support or alimony and
2. death, injury, or property damage for which the grantor is liable.

§ 113 — APPLICABILITY

Establishes rules for the bill's applicability, such as that it generally applies to all trusts no matter when created

The bill establishes rules for applicability of the foregoing provisions (§§ 1-112). For example, unless the bill provides otherwise, it applies to:

1. all trusts created before, on, or after October 1, 2018;
2. all judicial proceedings concerning trusts begun on or after October 1, 2018; and
3. judicial proceedings concerning trusts begun before October 1, 2018, except that if the court finds that applying a particular provision would substantially interfere with the proceeding or prejudice the parties' rights, such provision would not apply.

Among other things, the bill specifies that any act done before October 1, 2018 is not affected by the bill.

§§ 114-116 — CHANGES TO THE RULE AGAINST PERPETUITIES

Limits the application of the common law and statutory rules against perpetuities; changes the name of the Uniform Statutory Rule Against Perpetuities

The common law rule against perpetuities provides that a future interest in property must vest, if at all, within 21 years after the death of a person who was alive when the interest was created. Connecticut's statutory rule, which modifies the common law rule, creates a vesting period of the later of (1) 90 years or (2) 21 years after the death of an individual alive at the time the interest was created (CGS § 45a-491). Generally, if the interest does not vest within these periods, it is void. (The law provides exceptions to the statutory rule (CGS § 45a-494).)

The bill generally limits the application of the statutory rule to trusts created before October 1, 2018, specifically nonvested property interests and any power of appointment created before that date (but see below for an exception). (Under existing law and the bill, the statutory rule applies only to interests and powers created after October 1, 1989.)

Additionally, under the bill, neither the common law nor statutory rule apply to a nonvested property interest or power of appointment that is created after October 1, 2018 if the trustee or other person to whom the power is properly granted or delegated has authority to sell, mortgage, or lease property for a period of time that would invalidate the interest had the trust been subject to the statutory rule. Thus, these interests remain valid even if they do not vest (or fail to vest) within the rules' prescribed periods. However, if no person holds these powers, then the bill applies the statutory rule to the nonvested interest or power of appointment. (Presumably, the common law rule applies to interests created on October 1, 2018.)

The bill also changes the name of the statutory rule (i.e., CGS §§ 45a-490 to -496) from the Uniform Statutory Rule Against Perpetuities to the "Maximum Duration of Trusts" rule.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (04/04/2018)