



# House of Representatives

General Assembly

**File No. 820**

January Session, 2019

Substitute House Bill No. 7104

*House of Representatives, April 29, 2019*

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING ADOPTION OF THE CONNECTICUT UNIFORM TRUST CODE.***

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

1 Section 1. (NEW) (*Effective January 1, 2020*) This section and sections  
2 2 to 98, inclusive, of this act may be cited as the "Connecticut Uniform  
3 Trust Code".

4 Sec. 2. (NEW) (*Effective January 1, 2020*) (a) Sections 1 to 98, inclusive,  
5 of this act apply to express trusts, whether testamentary or inter vivos,  
6 and to 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 (b) Except as expressly set forth in sections 1 to 98, inclusive, of this  
9 act, sections 1 to 98, inclusive, of this act do not apply to a charitable  
10 trust, as defined in subdivision (5) of section 3 of this act.

11 (c) Sections 1 to 98, inclusive, of this act do not apply to statutory  
12 trusts created pursuant to chapter 615 of the general statutes.

13 (d) No provision of sections 1 to 109, inclusive, of this act, as such  
14 provision may be applied to a trust established pursuant to and in  
15 compliance with 42 USC 1396p(d)(4), as amended from time to time,  
16 shall be interpreted in a manner that is inconsistent with, or that  
17 contravenes, the provisions of federal law; nor shall any court having  
18 jurisdiction over any such trust issue an order, judgment, decree or  
19 ruling, that is inconsistent with, or that contravenes, the provisions of  
20 federal law.

21 Sec. 3. (NEW) (*Effective January 1, 2020*) As used in sections 1 to 98,  
22 inclusive, of this act:

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

25 (2) "Ascertainable standard" means a standard relating to an  
26 individual's health, education, support or maintenance within the  
27 meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue  
28 Code of 1986, or any subsequent corresponding internal revenue code  
29 of the United States, as amended from time to time, as in effect on  
30 January 1, 2020, or as later amended.

31 (3) "Beneficiary" means a person that (A) has a present or future  
32 beneficial interest in a trust, vested or contingent; or (B) in a capacity  
33 other than that of trustee, holds a power of appointment over trust  
34 property. "Beneficiary" does not include an appointee under a power  
35 of appointment until the power is exercised and the trustee has  
36 knowledge of the exercise and the identity of the appointee.

37 (4) "Breach of trust" includes a violation by a trust director or trustee  
38 of a duty imposed on the director or trustee by the terms of the trust,  
39 sections 1 to 98, inclusive, of this act or law of this state other than  
40 sections 1 to 98, inclusive, of this act pertaining to trusts.

41 (5) "Charitable trust" means a trust, or part of a trust, created (A) for  
42 a charitable purpose described in section 26 of this act; and (B) when  
43 property is dedicated for a charitable purpose, whether the dedication

44 is by written instrument, declaration, deed, pledge, judgment or  
45 decree.

46 (6) "Conservator of the estate" means a person appointed by the  
47 court to administer the estate of an adult individual.

48 (7) "Conservator of the person" means a person appointed by the  
49 court to make decisions regarding the support, care, education, health  
50 and welfare of an adult individual and includes a conservator of the  
51 person of an adult, but does not include a guardian ad litem.

52 (8) "Court" means a court of this state having jurisdiction over the  
53 matter pursuant to sections 15 and 16 of this act or a court of another  
54 state having jurisdiction under the law of the other state.

55 (9) "Current beneficiary" means a beneficiary that, on the date the  
56 beneficiary's qualification is determined, is a distributee or permissible  
57 distributee of trust income or principal.

58 (10) "Designated representative" means any person designated as  
59 provided in subsection (a) of section 21 of this act, unless precluded  
60 from acting by the trust instrument or applicable law.

61 (11) "Directed trust" means a trust for which the terms of the trust  
62 grant a power of direction.

63 (12) "Directed trustee" means a trustee that is subject to a trust  
64 director's power of direction.

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

67 (14) "Guardian" means a person appointed by the court pursuant to  
68 part V of chapter 802h of the general statutes.

69 (15) "Inter vivos trust" means a trust that is not a testamentary trust.

70 (16) "Interests of the beneficiaries" means the beneficial interests  
71 provided in the terms of the trust.

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

74 (18) "Mandatory distribution" means distribution of income or  
75 principal that the trustee is required to make to a beneficiary under the  
76 terms of the trust, including a distribution upon termination of the  
77 trust. "Mandatory distribution" does not include a distribution subject  
78 to the exercise of the trustee's discretion, regardless of whether the  
79 terms of the trust (A) include a support or other standard to guide the  
80 trustee in making distribution decisions; or (B) provide that the trustee  
81 may or shall make discretionary distributions, including distributions  
82 pursuant to a support or other standard.

83 (19) "Person" means an individual, corporation, statutory or  
84 business trust, estate, trust, partnership, limited liability company,  
85 association, joint venture, court, government, governmental  
86 subdivision, agency or instrumentality, public corporation or any other  
87 legal or commercial entity.

88 (20) "Power of direction" means a power over a trust granted to a  
89 person by the terms of the trust to the extent the power is exercisable  
90 while the person is not serving as a trustee. "Power of direction"  
91 includes a power over the investment, management or distribution of  
92 trust property or other matters of trust administration, but does not  
93 include the powers described in subsection (b) of section 84 of this act.

94 (21) "Power of withdrawal" means a presently exercisable general  
95 power of appointment other than a power exercisable only upon  
96 consent of the trustee or a person holding an adverse interest.

97 (22) "Property" means anything that may be the subject of  
98 ownership, whether real or personal and whether legal or equitable, or  
99 any interest therein.

100 (23) "Qualified beneficiary" means a beneficiary that, on the date the  
101 beneficiary's qualification is determined: (A) Is a distributee or  
102 permissible distributee of trust income or principal; (B) would be a

103 distributee or permissible distributee of trust income or principal if the  
104 interests of the distributees described in subparagraph (A) of this  
105 subdivision terminated on such date without causing the trust to  
106 terminate; or (C) would be a distributee or permissible distributee of  
107 trust income or principal if the trust terminated on such date.

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

111 (25) "Settlor" means a person, including a testator, that creates or  
112 contributes property to a trust. If more than one person creates or  
113 contributes property to a trust, each person is a settlor of the portion of  
114 the trust property attributable to such person's contribution, except to  
115 the extent another person has the power to revoke or withdraw such  
116 portion and as otherwise provided in section 40 of this act.

117 (26) "Spendthrift provision" means a term of a trust that restrains  
118 both voluntary and involuntary transfer of a beneficiary's interest.

119 (27) "State" means a state of the United States, the District of  
120 Columbia, Puerto Rico, the United States Virgin Islands or any  
121 territory or insular possession subject to the jurisdiction of the United  
122 States, and includes an Indian tribe or band recognized by federal law  
123 or formally acknowledged by a state.

124 (28) "Testamentary trust" means a trust created under a will and,  
125 unless otherwise expressly provided, any trust established pursuant to  
126 an order of the Probate Court.

127 (29) "Trust director" means a person that is granted a power of  
128 direction by the terms of a trust to the extent the power is exercisable  
129 while the person is not serving as a trustee, provided a person is a trust  
130 director whether or not the terms of the trust refer to the person as a  
131 trust director and whether or not the person is a beneficiary or settlor  
132 of the trust.

133 (30) "Trust instrument" means any instrument executed by the

134 settlor, including a will establishing or creating a testamentary trust,  
135 that contains terms of the trust, including any amendments thereto. In  
136 the case of a charitable trust, "trust instrument" means any written  
137 instrument by which property is dedicated for a charitable purpose  
138 described in section 26 of this act.

139 (31) "Trustee" includes an original, additional and successor trustee  
140 and a cotrustee.

141 Sec. 4. (NEW) (*Effective January 1, 2020*) (a) Subject to subsection (b)  
142 of this section, for the purposes of sections 1 to 98, inclusive, of this act,  
143 a person has knowledge of a fact if the person (1) has actual  
144 knowledge of the fact; (2) has received a notice or notification of the  
145 fact; or (3) from all the facts and circumstances known to the person at  
146 the time in question, has reason to know the fact.

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

160 Sec. 5. (NEW) (*Effective January 1, 2020*) (a) Except as provided in the  
161 terms of the trust, sections 1 to 98, inclusive, of this act govern the  
162 duties and powers of a trustee, relations among trustees and the rights  
163 and interests of a beneficiary.

164 (b) The terms of a trust prevail over each provision of sections 1 to  
165 98, inclusive, of this act except: (1) The requirements for creating a

166 trust; (2) the duty of a trustee to act in good faith and in accordance  
167 with the terms and purposes of the trust; (3) the requirement of section  
168 25 of this act that a trust have a purpose that is lawful and not contrary  
169 to public policy; (4) the power of the court to modify or terminate a  
170 trust under sections 31 to 37, inclusive, of this act; (5) the power of the  
171 court under section 45 of this act to require, dispense with, modify or  
172 terminate a bond; (6) the power of the court under section 51 of this act  
173 to adjust a trustee's compensation specified in the terms of the trust  
174 that is unreasonably low or high; (7) the duty under subdivisions (2)  
175 and (3) of subsection (b) of section 63 of this act to notify each qualified  
176 beneficiary of an irrevocable trust who has attained twenty-five years  
177 of age, or the designated representative of the qualified beneficiary, if  
178 any, of the existence of the trust, of the identity of the trustee, and of  
179 the right of the qualified beneficiary to request a trustee's report; (8)  
180 the duty under subsections (a) and (c) of section 63 of this act to  
181 respond to the request of a qualified beneficiary of an irrevocable trust  
182 or the designated representative of the qualified beneficiary, if any, for  
183 a trustee's report and other information reasonably related to the  
184 administration of a trust; (9) the effect of an exculpatory term under  
185 section 73 of this act; (10) the rights under sections 75 to 78, inclusive,  
186 of this act of a person other than a trustee or beneficiary; (11) periods  
187 of limitation for commencing a judicial proceeding; (12) the power of  
188 the court to take the action and exercise the jurisdiction necessary in  
189 the interests of justice; (13) the jurisdiction of the court as provided in  
190 sections 15 and 16 of this act; and (14) the provisions of sections 1 to 83,  
191 inclusive, of this act dealing with judicial supervision of testamentary  
192 trusts.

193       Sec. 6. (NEW) (*Effective January 1, 2020*) The common law of trusts  
194 and principles of equity supplement sections 1 to 109, inclusive, of this  
195 act, except to the extent modified by sections 1 to 109, inclusive, of this  
196 act or another provision of the general statutes. The provisions of  
197 sections 1 to 109, inclusive, of this act expressly applying to charitable  
198 trusts apply only to supplement Connecticut common law of charitable  
199 trusts. No provision in sections 1 to 109, inclusive, of this act or title  
200 45a of the general statutes shall be applied or construed to alter or

201 diminish any charitable interest or purpose or any condition or  
202 restriction related to a charitable interest or purpose.

203       Sec. 7. (NEW) (*Effective January 1, 2020*) The meaning and effect of  
204 the terms of a trust are determined by: (1) The law of the jurisdiction  
205 designated in the terms of the trust, unless the designation of the  
206 jurisdiction's law is contrary to a strong public policy of the  
207 jurisdiction having the most significant relationship to the matter at  
208 issue; or (2) in the absence of a controlling designation in the terms of  
209 the trust, the law of the jurisdiction having the most significant  
210 relationship to the matter at issue.

211       Sec. 8. (NEW) (*Effective January 1, 2020*) (a) Without precluding other  
212 means for establishing a sufficient connection with the designated  
213 jurisdiction, terms of a trust designating the principal place of  
214 administration of the trust are valid and controlling if: (1) A trustee's  
215 principal place of business is located in, or a trustee is a resident of, the  
216 designated jurisdiction; (2) a trust director's principal place of business  
217 is located in, or a trust director is a resident of, the designated  
218 jurisdiction; or (3) all or part of the administration occurs in the  
219 designated jurisdiction.

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

223       (c) Without precluding the right of the court to order, approve or  
224 disapprove a transfer, and except as set forth in subsection (e) of this  
225 section, in furtherance of the duty prescribed in subsection (b) of this  
226 section, a trustee may transfer the trust's principal place of  
227 administration to another state or to a jurisdiction outside of the  
228 United States.

229       (d) A change in the principal place of administration of a trust from  
230 this state to another jurisdiction does not, by itself, deprive the courts  
231 of this state of jurisdiction over the trust.



232 (e) The trustee may not transfer the principal place of  
233 administration of a charitable trust to a jurisdiction outside of the  
234 United States. The trustee of a testamentary trust may not transfer the  
235 principal place of administration without approval of the Probate  
236 Court having jurisdiction over the testamentary trust.

237 (f) The trustee shall notify the qualified beneficiaries of a proposed  
238 transfer of a trust's principal place of administration not less than sixty  
239 days prior to the date of initiating the transfer. The notice of proposed  
240 transfer shall include:

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

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

245 (3) An explanation of the reason for the proposed transfer; and

246 (4) The date on which the proposed transfer is anticipated to occur.

247 (g) In connection with a transfer of the trust's principal place of  
248 administration, the trustee may transfer some or all of the trust  
249 property to a successor trustee designated in the terms of the trust or  
250 appointed pursuant to section 47 of this act.

251 Sec. 9. (NEW) (*Effective January 1, 2020*) (a) Notice to a person under  
252 sections 1 to 109, inclusive, of this act or the sending of a document to a  
253 person under sections 1 to 109, inclusive, of this act shall be  
254 accomplished in a manner reasonably suitable under the circumstances  
255 and likely to result in receipt of the notice or document. Permissible  
256 methods of notice or for sending a document include first-class mail,  
257 personal delivery, delivery to the person's last known place of  
258 residence or place of business, or, if the person has consented in  
259 advance to receive notices or documents by electronic message, a  
260 properly directed electronic message.

261 (b) Notice otherwise required under sections 1 to 109, inclusive, of

262 this act or a document otherwise required to be sent under sections 1 to  
263 109, inclusive, of this act need not be provided to a person whose  
264 identity or location is unknown to and not reasonably ascertainable by  
265 the trustee.

266 (c) Notice under sections 1 to 109, inclusive, of this act or the  
267 sending of a document under sections 1 to 109, inclusive, of this act  
268 may be waived by the person to be notified or to be sent the document.

269 (d) Notice of a judicial proceeding shall be given as provided in the  
270 applicable rules of court.

271 Sec. 10. (NEW) (*Effective January 1, 2020*) (a) Whenever notice to  
272 qualified beneficiaries of a trust is required under sections 1 to 109,  
273 inclusive, of this act, the trustee shall also give notice to: (1) A  
274 representative designated under section 21 of this act to receive notices  
275 on the beneficiary's behalf; and (2) any other beneficiary who sent the  
276 trustee a request for notice.

277 (b) A charitable organization expressly designated to receive  
278 distributions under the terms of a charitable trust has the rights of a  
279 qualified beneficiary under sections 1 to 109, inclusive, of this act if the  
280 charitable organization, on the date the charitable organization's  
281 qualification is being determined: (1) Is a distributee or permissible  
282 distributee of trust income or principal; (2) would be a distributee or  
283 permissible distributee of trust income or principal upon termination  
284 of the interests of other distributees or permissible distributees then  
285 receiving or eligible to receive distributions; or (3) would be a  
286 distributee or permissible distributee of trust income or principal if the  
287 trust terminated on such date.

288 (c) The Attorney General has the rights of a qualified beneficiary  
289 with respect to a charitable trust if (1) the trust's principal place of  
290 administration in this state; or (2) either the primary charitable  
291 beneficiary or the intended charitable benefit is located in this state.

292 (d) A person appointed to enforce a trust created for (1) the care of

293 an animal under section 45a-489a of the general statutes, as amended  
294 by this act, or (2) another noncharitable purpose as provided in section  
295 29 of this act, has the rights of a qualified beneficiary under sections 1  
296 to 109, inclusive, of this act.

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

302 Sec. 11. (NEW) (*Effective January 1, 2020*) (a) For the purposes of this  
303 section, "interested persons" means persons whose consent would be  
304 required in order to achieve a binding settlement were the settlement  
305 to be approved by the court.

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

309 (c) A nonjudicial settlement agreement is valid only to the extent it  
310 does not violate a material purpose of the trust and includes terms and  
311 conditions that could be properly approved by the court under  
312 sections 1 to 109, inclusive, of this act or other applicable law.

313 (d) Matters that may be resolved by a nonjudicial settlement  
314 agreement include: (1) The interpretation or construction of the terms  
315 of the trust; (2) the approval of a trustee's report or accounting; (3)  
316 direction to a trustee to refrain from performing a particular act or the  
317 grant to a trustee of any necessary or desirable power; (4) the  
318 resignation or appointment of a trustee and the determination of a  
319 trustee's compensation; (5) transfer of a trust's principal place of  
320 administration; and (6) liability of a trustee for an action relating to the  
321 trust.

322 (e) A nonjudicial settlement agreement may not modify or terminate  
323 an irrevocable trust. Such a modification or termination may be

324 accomplished only under the provisions of sections 30 to 37, inclusive,  
325 of this act.

326 (f) An interested person may request the court to approve a  
327 nonjudicial settlement agreement to determine whether the  
328 representation provided pursuant to sections 17 to 21, inclusive, of this  
329 act was adequate and to determine whether the agreement contains  
330 terms and conditions the court could have properly approved.

331 Sec. 12. (NEW) (*Effective January 1, 2020*) A trustee has an insurable  
332 interest in the life of an individual insured under a life insurance  
333 policy that is owned by the trustee or that designates the trust itself as  
334 the owner if, on the date the policy is issued:

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

338 (2) The life insurance proceeds are primarily for the benefit of one or  
339 more trust beneficiaries who have: (A) An insurable interest in the life  
340 of the insured; or (B) a substantial interest engendered by love and  
341 affection in the continuation of the life of the insured and, if not  
342 already included under subdivision (1) of this section, who are: (i)  
343 Related within the third degree or closer, as measured by the law of  
344 this state for determining degrees of relation, either by blood or law, to  
345 the insured; or (ii) stepchildren of the insured.

346 Sec. 13. (NEW) (*Effective January 1, 2020*) (a) A testamentary trust is  
347 subject to continuing judicial supervision.

348 (b) An inter vivos trust is not subject to continuing judicial  
349 supervision.

350 Sec. 14. (NEW) (*Effective January 1, 2020*) (a) If a trustee accepts  
351 trusteeship of a trust having its principal place of administration in this  
352 state or moves the principal place of administration to this state, the  
353 trustee submits personally to the jurisdiction of the courts of this state  
354 regarding any matter involving the trust.

355 (b) With respect to their interests in the trust, the beneficiaries of a  
356 trust having its principal place of administration in this state are  
357 subject to the jurisdiction of the courts of this state regarding any  
358 matter involving the trust. If a beneficiary accepts a distribution from  
359 such a trust, the beneficiary submits personally to the jurisdiction of  
360 the courts of this state regarding any matter involving the trust.

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

364 (d) Notwithstanding the provisions of subsections (a) to (c),  
365 inclusive, of this section, the courts of this state have jurisdiction over  
366 the trustee of a charitable trust if either the primary charitable  
367 beneficiary or the intended charitable benefit is located in this state.

368 Sec. 15. (NEW) (*Effective January 1, 2020*) (a) Except as provided in  
369 subsection (b) of this section, the Probate Courts have sole original  
370 jurisdiction relating to testamentary trusts to:

371 (1) Determine the validity of the will establishing the trust pursuant  
372 to subdivision (2) of subsection (a) of section 45a-98 of the general  
373 statutes, as amended by this act;

374 (2) Compel a trustee to account pursuant to subdivision (6) of  
375 subsection (a) of section 45a-98 of the general statutes, as amended by  
376 this act;

377 (3) Approve a trustee's account pursuant to sections 45a-175 to 45a-  
378 179, inclusive, of the general statutes, as amended by this act, or  
379 proposed final distribution pursuant to section 45a-481 of the general  
380 statutes;

381 (4) With respect to an action that could be reported in a subsequent  
382 account pursuant to sections 45a-175 to 45a-179, inclusive, of the  
383 general statutes, as amended by this act, hear and decide the petition  
384 of (A) a trustee to approve a proposed action, ratify a previously taken  
385 action or provide instructions to address a specific situation, or (B) a

386 beneficiary to compel or prohibit action by a trustee;

387 (5) Approve the settlement of a disputed claim pursuant to section  
388 45a-151 of the general statutes;

389 (6) Approve the sale of personal property pursuant to section 45a-  
390 163 of the general statutes;

391 (7) Approve the sale or mortgage of real property pursuant to  
392 section 45a-164 of the general statutes;

393 (8) Remove or accept the resignation of a trustee pursuant to section  
394 48 of this act or subsection (b) of section 49 of this act;

395 (9) Appoint a successor trustee in the event of a vacancy or  
396 anticipated vacancy pursuant to section 47 of this act;

397 (10) Order a trustee to furnish a probate bond pursuant to section 45  
398 of this act;

399 (11) Assume jurisdiction of a trust pursuant to section 45a-477 of the  
400 general statutes, as amended by this act;

401 (12) Order distribution of a decedent's estate or testamentary trust to  
402 the beneficiaries of an inoperative trust pursuant to section 45a-482 of  
403 the general statutes, as amended by this act;

404 (13) Authorize a trustee to disclaim an interest pursuant to section  
405 45a-579 of the general statutes;

406 (14) Authorize a trustee to combine two or more trusts or divide a  
407 trust into two or more separate trusts pursuant to section 38 of this act;  
408 and

409 (15) Terminate a charitable trust pursuant to section 45a-520 of the  
410 general statutes, as amended by this act.

411 (b) The Superior Court and the Probate Courts have concurrent  
412 original jurisdiction relating to testamentary trusts to:

413 (1) Determine title or rights of possession and use in and to any real,  
414 tangible or intangible property that constitutes or may constitute  
415 property of a trust, including the rights and obligations of a beneficiary  
416 of the trust pursuant to subdivision (3) of subsection (a) of section 45a-  
417 98 of the general statutes, as amended by this act;

418 (2) Determine the validity and construe the meaning and effect of a  
419 trust pursuant to subdivision (4) of subsection (a) of section 45a-98 of  
420 the general statutes, as amended by this act;

421 (3) Apply the doctrine of cy pres or approximation pursuant to  
422 subdivision (5) of subsection (a) of section 45a-98 of the general  
423 statutes, as amended by this act;

424 (4) Recover on a probate bond for breach of fiduciary duty pursuant  
425 to sections 45a-144 and 45a-145 of the general statutes;

426 (5) Reform a trust to qualify for the marital deduction pursuant to  
427 section 45a-485 of the general statutes, as amended by this act;

428 (6) Reform a trust to qualify for the charitable deduction pursuant to  
429 section 45a-519 of the general statutes, as amended by this act;

430 (7) Reform a charitable remainder unitrust pursuant to section 45a-  
431 521 of the general statutes, as amended by this act;

432 (8) Authorize transfer of the principal place of administration of a  
433 trust to another jurisdiction pursuant to section 8 of this act;

434 (9) Modify or terminate a noncharitable trust pursuant to sections  
435 31, 32, 35, 36 and 37 of this act; and

436 (10) Hear and decide a petition for instruction pursuant to  
437 subsection (d) of section 88 of this act.

438 (c) Notwithstanding subsection (a) of this section, the Superior  
439 Court has original jurisdiction relating to testamentary trusts with  
440 respect to:

441 (1) A proceeding relating to a testamentary trust that the court  
442 consolidates with another proceeding involving the same trust over  
443 which the Superior Court has original jurisdiction; and

444 (2) Any matter over which the Superior Court has statutory or  
445 common law jurisdiction or has powers or remedies that are not  
446 available to the Probate Courts.

447 (d) The Superior Court has original jurisdiction over all matters  
448 relating to inter vivos trusts. The Probate Courts have concurrent  
449 original jurisdiction with the Superior Court relating to inter vivos  
450 trusts to:

451 (1) Compel a trustee to account pursuant to subdivision (6) of  
452 subsection (a) of section 45a-98 of the general statutes, as amended by  
453 this act;

454 (2) Approve a trustee's account pursuant to section 45a-175 of the  
455 general statutes, as amended by this act;

456 (3) With respect to an action that could be reported in a subsequent  
457 account pursuant to section 45a-175 of the general statutes, as  
458 amended by this act, hear and decide the petition of a trustee to  
459 approve a proposed action, ratify a previously taken action or provide  
460 instruction to address a specific situation or the petition of a  
461 beneficiary to compel or prohibit an action by a trustee;

462 (4) Remove a trustee pursuant to subsection (b) of section 49 of this  
463 act;

464 (5) Appoint a successor trustee in the event of a vacancy or  
465 anticipated vacancy pursuant to section 47 or 102 of this act and  
466 subsection (g) of section 105 of this act;

467 (6) Recover on a probate bond for breach of fiduciary duty pursuant  
468 to sections 45a-144 and 45a-145 of the general statutes;

469 (7) Authorize a trustee to disclaim an interest pursuant to section



470 45a-579 of the general statutes;

471 (8) Authorize a trustee to combine two or more trusts or divide a  
472 trust into two or more separate trusts pursuant to section 38 of this act;

473 (9) Terminate a charitable trust pursuant to section 45a-520 of the  
474 general statutes, as amended by this act;

475 (10) Determine title or rights of possession and use in and to any  
476 real, tangible or intangible property that constitutes or may constitute  
477 property of a trust, including the rights and obligations of any  
478 beneficiary of the trust pursuant to subdivision (3) of subsection (a) of  
479 section 45a-98 of the general statutes, as amended by this act;

480 (11) Determine the validity and construe the meaning and effect of a  
481 trust pursuant to subdivision (4) of subsection (a) of section 45a-98 of  
482 the general statutes, as amended by this act;

483 (12) Apply the doctrine of cy pres or approximation pursuant to  
484 subdivision (5) of subsection (a) of section 45a-98 of the general  
485 statutes, as amended by this act;

486 (13) Reform a trust to achieve the settlor's tax objectives pursuant to  
487 section 37 of this act;

488 (14) Authorize transfer of the principal place of administration of a  
489 trust to another jurisdiction pursuant to section 8 of this act;

490 (15) Modify or terminate a noncharitable trust pursuant to sections  
491 31, 32, 35, 36 and 37 of this act; and

492 (16) Hear and decide a petition for instruction pursuant to  
493 subsection (d) of section 88 of this act.

494 (e) With respect to a matter over which the court has jurisdiction,  
495 the court may hear and decide a trustee's request for instructions or for  
496 approval of action or a party's request to compel or prohibit an action  
497 by a trustee.

498 Sec. 16. (NEW) (*Effective January 1, 2020*) (a) Process for a proceeding  
499 in the Superior Court concerning a trust shall be returnable as  
500 provided in chapter 890 of the general statutes.

501 (b) A petition to commence a proceeding in a Probate Court  
502 concerning a testamentary trust shall be filed with:

503 (1) The court that admitted the settlor's will to probate; or

504 (2) If the trust was established pursuant to a court order, the court  
505 that issued the order or the court to which the trust was subsequently  
506 transferred pursuant to rules of procedure adopted by the Supreme  
507 Court under section 45a-78 of the general statutes.

508 (c) A petition to commence a proceeding in a Probate Court  
509 concerning an inter vivos trust shall be filed with the court for the  
510 probate district:

511 (1) Where the principal place of administration of the trust is  
512 located;

513 (2) Where a trustee or successor trustee resides or has a place of  
514 business;

515 (3) Where a trust asset is maintained or evidence of intangible  
516 property held by the trust is situated;

517 (4) Where the settlor resides;

518 (5) If the settlor is deceased, where the settlor's will was admitted to  
519 probate or that granted administration of the settlor's estate, or where  
520 the settlor resided immediately before death; or

521 (6) If a trust has no trustee, where a beneficiary resides or, if the  
522 beneficiary is not an individual, where the beneficiary has a place of  
523 business.

524 Sec. 17. (NEW) (*Effective January 1, 2020*) (a) Notice to a person who  
525 may represent and bind another person under this section and sections

526 18 to 21, inclusive, of this act has the same effect as if notice were given  
527 directly to the other person.

528 (b) The consent of a person who may represent and bind another  
529 person under this section and sections 18 to 21, inclusive, of this act is  
530 binding on the person represented unless the person represented  
531 objects to the representation before the consent would otherwise have  
532 become effective.

533 (c) Except as provided in section 41 of this act, a person that,  
534 pursuant to this section and sections 18 to 21, inclusive, of this act, may  
535 represent a settlor who lacks capacity may receive notice and give a  
536 binding consent on the settlor's behalf.

537 (d) A settlor may not represent and bind a beneficiary under this  
538 section with respect to the termination or modification of a trust under  
539 sections 31 and 32 of this act.

540 (e) This section and sections 18 to 21, inclusive, of this act, shall  
541 apply to all judicial proceedings and all nonjudicial settlements,  
542 agreements or actions (1) under sections 1 to 109, inclusive, of this act;  
543 and (2) under any other provisions of the general statutes pertaining to  
544 trust matters. As used in this subsection, "trust matters" means (A) any  
545 property or interest in property held as part of a trust; (B) actions by or  
546 against a trust or by or against the trustee of the trust, in its capacity as  
547 trustee; (C) proceedings for the interpretation of a document creating a  
548 trust or other instrument pursuant to which property is held by a  
549 trustee; (D) accountings, whether intermediate or final, of any trustee;  
550 and (E) any other matter concerning the administration of a trust. Any  
551 reference to a trust in this section and sections 45a-487b to 45a-487f,  
552 inclusive, of the general statutes includes both testamentary and inter  
553 vivos trusts.

554 (f) As used in this section, "represent" shall not be construed to  
555 permit a person who has not been admitted as an attorney pursuant to  
556 section 51-80 of the general statutes to serve as legal counsel for any  
557 other person in any matter arising under sections 1 to 109, inclusive, of

558 this act.

559       Sec. 18. (NEW) (*Effective January 1, 2020*) To the extent there is no  
560 conflict of interest between the holder of a power of appointment and a  
561 person represented with respect to the particular question or dispute:  
562 (1) The sole holder or all coholders of a power of appointment,  
563 whether or not presently exercisable, represent the potential  
564 appointees; and (2) the sole holder or all coholders of a power of  
565 revocation or a general power of appointment, including one in the  
566 form of a power of amendment, represent the takers in default of the  
567 exercise of the power.

568       Sec. 19. (NEW) (*Effective January 1, 2020*) (a) To the extent there is no  
569 conflict of interest between the representative and the person  
570 represented or among those being represented with respect to a  
571 particular question or dispute: (1) A conservator of the estate may  
572 represent and bind the estate that the conservator controls; (2) a  
573 conservator of the person or guardian of an adult with intellectual  
574 disability may, with court approval, represent and bind the conserved  
575 person if a conservator of the estate has not been appointed; (3) an  
576 agent having authority to do so may represent and bind the principal;  
577 (4) a trustee may represent and bind the beneficiaries of the trust; (5)  
578 an executor or administrator of a decedent's estate may represent and  
579 bind persons interested in the estate; and (6) if a guardian of the estate  
580 has not been appointed, a parent of a minor may represent and bind  
581 the parent's minor or unborn child.

582       (b) Unless otherwise represented, a minor, an incapacitated or  
583 unborn individual, or a person whose identity or location is unknown  
584 and not reasonably ascertainable, may be represented by and bound  
585 by another person having a substantially identical interest with respect  
586 to the particular question or dispute, but only to the extent there is no  
587 conflict of interest between the representative and the person being  
588 represented.

589       Sec. 20. (NEW) (*Effective January 1, 2020*) (a) If the court determines  
590 that an interest is not represented pursuant to sections 17 to 21,

591 inclusive, of this act, or that the otherwise available representation may  
592 be inadequate, the court may appoint a guardian ad litem to receive  
593 notice, give consent, and otherwise represent, bind and act on behalf of  
594 a minor, an incapacitated or unborn individual, or a person whose  
595 identity or location is unknown. A guardian ad litem may be  
596 appointed to represent several persons or interests.

597 (b) A guardian ad litem may act on behalf of the individual  
598 represented with respect to any matter arising under sections 1 to 109,  
599 inclusive, of this act, whether or not a judicial proceeding concerning  
600 the trust is pending.

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

604 Sec. 21. (NEW) (*Effective January 1, 2020*) (a) The trust instrument  
605 may (1) designate one or more persons other than the settlor to  
606 represent and bind a beneficiary that is not a charity and to receive a  
607 notice, information, an accounting or a report on behalf of the  
608 beneficiary; or (2) authorize a person or persons, other than a trustee of  
609 the trust or the settlor, to designate one or more persons to represent  
610 and bind a beneficiary that is not a charity and receive any notice,  
611 information, accounting or report.

612 (b) Except as otherwise provided in sections 1 to 98, inclusive, of  
613 this act, a designated representative may not represent and bind a  
614 beneficiary while the person is serving as trustee.

615 (c) Except as otherwise provided in sections 1 to 98, inclusive, of this  
616 act, a designated representative may not represent and bind another  
617 beneficiary if the person designated also is a beneficiary, unless:

618 (1) The person was named by the settlor; or

619 (2) The person is the beneficiary's spouse or a grandparent or  
620 descendant of a grandparent of the beneficiary or the beneficiary's  
621 spouse.

622 (d) A designated representative is not liable to the beneficiary  
623 whose interests are represented, or to anyone claiming through that  
624 beneficiary, for any actions or omissions to act made in good faith.

625 Sec. 22. (NEW) (*Effective January 1, 2020*) A trust may be created by:  
626 (1) Transfer of property to another person as trustee during the  
627 settlor's lifetime, by deed or otherwise, or by will or other disposition  
628 taking effect upon the settlor's death; (2) declaration by the owner of  
629 property that the owner holds identifiable property as trustee; (3)  
630 exercise of a power of appointment or distribution in favor of a trustee;  
631 (4) transfer of property pursuant to a statute or judgment that requires  
632 property to be administered in the manner of an express trust,  
633 including, but not limited to, (A) a trust created by the guardian of the  
634 estate of a minor or by the conservator of an estate; or (B) a trust  
635 described in 42 USC 1396p(d)(4), as amended from time to time; or (5)  
636 court order.

637 Sec. 23. (NEW) (*Effective January 1, 2020*) (a) A trust is created only if:

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

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

640 (3) The trust has a definite beneficiary or is (A) a charitable trust; (B)  
641 a trust for the care of an animal, as provided in section 45a-489a of the  
642 general statutes, as amended by this act; or (C) a trust for a  
643 noncharitable purpose under section 29 of this act; and

644 (4) The trustee has duties to perform.

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

647 (c) A power in a trustee to select a beneficiary from an indefinite  
648 class is valid. If the power is not exercised within a reasonable time,  
649 the power fails and the property subject to the power passes to the  
650 persons who would have taken the property had the power not been  
651 conferred. With respect to a charitable trust, if no default beneficiary is

652 named in the trust instrument, the property subject to the power  
653 passes to one or more charitable purposes or beneficiaries that the  
654 court selects. The selection shall be consistent with the settlor's  
655 intention to the extent it can be ascertained.

656 (d) The settlor's power to create or contribute to a trust may be  
657 exercised by (1) an agent under a power of attorney only to the extent  
658 expressly authorized to create or contribute property to a trust; or (2) a  
659 conservator of the estate as authorized by the court.

660 (e) A charitable trust is created if the donor makes a gift with a  
661 charitable intent.

662 Sec. 24. (NEW) (*Effective January 1, 2020*) An inter vivos trust is  
663 validly created if its creation complies with (1) the law of the  
664 jurisdiction in which the trust instrument was executed; or (2) the law  
665 of the jurisdiction in which, at the time of creation: (A) The settlor was  
666 domiciled, had a place of abode or was a national; (B) a trustee was  
667 domiciled or had a place of business; or (C) any trust property was  
668 located.

669 Sec. 25. (NEW) (*Effective January 1, 2020*) A trust may be created only  
670 to the extent its purposes are lawful and not contrary to public policy.

671 Sec. 26. (NEW) (*Effective January 1, 2020*) (a) A charitable trust may  
672 be created for the relief of poverty, the advancement of education or  
673 religion, the promotion of health, governmental or municipal purposes  
674 or other purposes the achievement of which are beneficial to the  
675 community consistent with the provisions of sections 45a-514 and 47-2  
676 of the general statutes.

677 (b) If the terms of a charitable trust do not indicate a particular  
678 charitable purpose or beneficiary and if the trustee is not given  
679 discretion to select the charitable beneficiaries consistent with the  
680 provisions of section 45a-515 of the general statutes, the court may  
681 select one or more charitable purposes or beneficiaries. The selection  
682 shall be consistent with the settlor's intention to the extent it can be

683 ascertained.

684 (c) The settlor of a charitable trust, or a person designated by the  
685 settlor who would not otherwise have standing, may maintain a  
686 proceeding to enforce the trust only to the extent specified in the trust  
687 instrument.

688 (d) If a charitable trust whose purposes are set forth in a trust  
689 instrument is converted to a corporation, limited liability company,  
690 benefit corporation or other entity, the governing instrument of the  
691 new entity shall recite the charitable purposes of the original trust  
692 instrument.

693 Sec. 27. (NEW) (*Effective January 1, 2020*) A trust or a provision of a  
694 trust is void to the extent its creation was induced by fraud, duress or  
695 undue influence.

696 Sec. 28. (NEW) (*Effective January 1, 2020*) Except as required by any  
697 provision of the general statutes other than sections 1 to 109, inclusive,  
698 of this act, a trust need not be evidenced by a written trust instrument,  
699 but the creation and terms of an oral trust, other than a charitable trust,  
700 may be established only by clear and convincing evidence.

701 Sec. 29. (NEW) (*Effective January 1, 2020*) Except as otherwise  
702 provided in the general statutes, the following rules apply to a trust  
703 created pursuant to this section:

704 (1) A trust may be created for a noncharitable purpose without a  
705 definite or definitely ascertainable beneficiary or for a noncharitable  
706 but otherwise valid purpose to be selected by the trustee. The trust  
707 may not be enforced for more than ninety years. The ninety-year  
708 period specified in this subdivision applies only to trusts that become  
709 irrevocable on or after January 1, 2020.

710 (2) A trust authorized by this section may be enforced by a person  
711 appointed in the terms of the trust or, if no person is appointed, by a  
712 person appointed by the court.



713 (3) Property of a trust authorized by this section may be applied  
714 only to its intended use, except to the extent the court determines that  
715 the value of the trust property exceeds the amount required for the  
716 intended use. Except as otherwise provided in the terms of the trust,  
717 property not required for the intended use shall be distributed to (A)  
718 the settlor, if then living; or (B) if the settlor is not living, to the settlor's  
719 successors in interest.

720 Sec. 30. (NEW) (*Effective January 1, 2020*) (a) In addition to the  
721 methods of termination prescribed by sections 31, 32 and 35 of this act,  
722 a noncharitable trust terminates to the extent the trust is revoked or  
723 expires pursuant to its terms.

724 (b) A charitable trust may be terminated only in accordance with the  
725 provisions of section 33 or 34 of this act or section 45a-520 of the  
726 general statutes, as amended by this act.

727 (c) A proceeding to approve or disapprove a proposed modification  
728 or termination of a trust under sections 31 to 37, inclusive, of this act or  
729 trust combination or division under section 38 of this act may be  
730 commenced by a trustee or beneficiary. The settlor of a charitable trust  
731 or a person designated by the settlor who would not otherwise have  
732 standing may maintain a proceeding to modify the trust under section  
733 33 or 34 of this act if the trust instrument expressly grants the settlor or  
734 the person the right to do so.

735 (d) The trustee is a necessary party in any proceeding under sections  
736 31 to 38, inclusive, of this act. The trustee may appeal any order, denial  
737 or decree under sections 31 to 38, inclusive, of this act.

738 Sec. 31. (NEW) (*Effective January 1, 2020*) (a) If the court finds that  
739 the settlor, the trustee and all beneficiaries consent to the modification  
740 or termination of a noncharitable irrevocable trust, the court may  
741 approve the modification or termination even if the modification or  
742 termination is inconsistent with a material purpose of the trust. A  
743 settlor's power to consent to a trust's modification or termination may  
744 be exercised by (1) an agent under a power of attorney only to the

745 extent expressly authorized by the power of attorney or the terms of  
746 the trust; or (2) the settlor's conservator with the approval of the court  
747 supervising the conservatorship. This subsection does not apply to  
748 irrevocable trusts created before, or revocable trusts that become  
749 irrevocable before, January 1, 2020.

750 (b) A noncharitable irrevocable trust may be (1) terminated upon  
751 consent of all of the beneficiaries if the court concludes that  
752 continuance of the trust is not necessary to achieve any material  
753 purpose of the trust; and (2) modified upon consent of all of the  
754 beneficiaries if the court concludes that modification is not inconsistent  
755 with a material purpose of the trust.

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

758 (d) Upon termination of a trust under subsection (a) or (b) of this  
759 section, the trustee shall distribute the trust property as agreed by the  
760 beneficiaries and approved by the court.

761 (e) If not all of the beneficiaries consent to a proposed modification  
762 or termination of the trust under subsection (a) or (b) of this section,  
763 the modification or termination may be approved by the court if the  
764 court is satisfied that:

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

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

769 (f) Notwithstanding the provisions of this section, the court may not  
770 terminate an irrevocable trust established pursuant to 42 USC  
771 1396p(d)(4)(A) or (C), as amended from time to time. The court may  
772 approve a proposed modification of the terms of such trust to ensure  
773 compliance with the requirements of federal law or to modify any  
774 individual's contingent beneficial interest that is available only after  
775 repayment to this state or another state for (1) medical assistance

776 provided; and (2) all claims for which this state would have claims  
777 against the estate of the deceased beneficiary that have not previously  
778 been paid or reimbursed.

779 Sec. 32. (NEW) (*Effective January 1, 2020*) (a) The court may modify  
780 the administrative or dispositive terms of a trust, subject to sections 33  
781 and 34 of this section, or terminate a noncharitable trust if, because of  
782 circumstances not anticipated by the settlor, modification or  
783 termination will further the purposes of the trust. To the extent  
784 practicable, the modification shall be made in accordance with the  
785 settlor's probable intention.

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

789 (c) Upon termination of a trust under this section, the trustee shall  
790 distribute the trust property in a manner consistent with the purposes  
791 of the trust as directed by the court.

792 (d) In this section, "circumstances not anticipated by the settlor"  
793 does not include a change in the corporate identity of a trustee.

794 (e) Notwithstanding the provisions of this section, the court may not  
795 terminate an irrevocable trust established pursuant to 42 USC  
796 1396p(d)(4)(A) or (C), as amended from time to time. The court may  
797 modify the terms of such a trust to ensure compliance with the  
798 requirements of federal law or to modify any individual's contingent  
799 beneficial interest that is available only after repayment to this state or  
800 another state for (1) medical assistance provided; and (2) all claims for  
801 which this state would have claims against the estate of the deceased  
802 beneficiary that have not previously been paid or reimbursed.

803 Sec. 33. (NEW) (*Effective January 1, 2020*) Except as otherwise  
804 provided in section 34 of this act, if a particular charitable purpose  
805 becomes unlawful, impracticable, impossible to achieve or wasteful: (1)  
806 The trust does not fail, in whole or in part; (2) the trust property does

807 not revert to the settlor or the settlor's successors in interest; and (3) the  
808 court may apply cy pres to modify or terminate the trust by directing  
809 that the trust property be applied or distributed, in whole or in part, in  
810 a manner consistent with the settlor's charitable purposes.

811 Sec. 34. (NEW) (*Effective January 1, 2020*) A provision in the terms of  
812 a charitable trust that would result in distribution of the trust property  
813 to a noncharitable beneficiary prevails over the power of the court  
814 under section 33 of this act to apply cy pres to modify or terminate the  
815 trust only if, when the provision takes effect: (1) Except as provided in  
816 section 45a-505 of the general statutes, the trust property is to revert to  
817 the settlor and the settlor is living; or (2) fewer than twenty-one years  
818 have elapsed since the date of the trust's creation.

819 Sec. 35. (NEW) (*Effective January 1, 2020*) (a) After thirty days' notice  
820 to the qualified beneficiaries and such other beneficiaries as the trustee  
821 deems reasonable, the trustee of a noncharitable inter vivos trust  
822 consisting of trust property having a total value less than two hundred  
823 thousand dollars may terminate the trust if the trustee concludes that  
824 the value of the trust property is insufficient to justify the cost of  
825 administration. The provisions of this subsection shall not apply to a  
826 trust established pursuant to 42 USC 1396p(d)(4)(A) or (C), as  
827 amended from time to time.

828 (b) The court may modify or terminate a noncharitable testamentary  
829 or inter vivos trust or remove the trustee of the trust and appoint a  
830 different trustee if it determines that the value of the trust property is  
831 insufficient to justify the cost of administration relative to the material  
832 purposes of the trust. Notwithstanding the provisions of this  
833 subsection, the court may not terminate a testamentary or inter vivos  
834 trust established pursuant to 42 USC 1396p(d)(4)(A) or (C), as  
835 amended from time to time. The court may only modify a trust  
836 established pursuant to 42 USC 1396p(d)(4)(A) or (C), as amended  
837 from time to time to ensure compliance with the requirements of  
838 federal law or to modify any individual's contingent beneficial interest  
839 that is available only after repayment to this state or another state for

840 (1) medical assistance provided; and (2) all claims for which this state  
841 would have claims against the estate of the deceased beneficiary that  
842 have not previously been paid or reimbursed. The provisions of this  
843 subsection providing for repayment of medical assistance to the state  
844 for trusts established under 42 USC 1396p(d)(4)(A) or (C), as amended  
845 from time to time are presumed to be a material purpose of the trust.

846 (c) Upon termination of a trust under this section, the trustee shall  
847 distribute the trust property: (1) In a manner consistent with the  
848 purposes of the trust; or (2) if the termination is approved by the court,  
849 as directed by the court after considering the material purposes of the  
850 trust.

851 (d) The provisions of this section do not apply to an easement for  
852 conservation or preservation.

853 Sec. 36. (NEW) (*Effective January 1, 2020*) The court may reform the  
854 terms of a noncharitable trust, even if unambiguous, to conform the  
855 terms to the settlor's intention if it is proved by clear and convincing  
856 evidence what the settlor's intention was and that the terms of the trust  
857 were affected by a mistake of fact or law, whether in expression or  
858 inducement.

859 Sec. 37. (NEW) (*Effective January 1, 2020*) To achieve the settlor's tax  
860 objectives, the court may modify the terms of a trust in a manner that  
861 is not contrary to the settlor's probable intention. The court may  
862 provide that the modification has retroactive effect.

863 Sec. 38. (NEW) (*Effective January 1, 2020*) (a) After thirty days' notice  
864 to the qualified beneficiaries, the trustee of an inter vivos trust may  
865 combine two or more trusts into a single trust or divide a trust into two  
866 or more separate trusts, if the result does not impair rights of a  
867 beneficiary or adversely affect achievement of the purposes of the  
868 trust.

869 (b) The trustee of a testamentary trust, with court approval, may  
870 combine the trust with another trust or divide the trust into two or

871 more separate trusts if the result does not impair rights of a beneficiary  
872 or adversely affect achievement of the purposes of the trust.

873       Sec. 39. (NEW) (*Effective January 1, 2020*) Trust property is not  
874 subject to personal obligations of the trustee, even if the trustee  
875 becomes insolvent or bankrupt.

876       Sec. 40. (NEW) (*Effective January 1, 2020*) (a) For all purposes under  
877 this section and section 39 of this act, a creditor of a beneficiary, other  
878 than a creditor of the settlor if the settlor is a beneficiary of the trust,  
879 may not attach or compel a distribution of property that is subject to:

880       (1) A power of withdrawal held by the beneficiary if the value of the  
881 property subject to the power does not exceed the greater of the  
882 amount specified in Section 2041(b)(2) or 2514(e) of the Internal  
883 Revenue Code of 1986, or any subsequent corresponding internal  
884 revenue code of the United States, as amended from time to time, and  
885 the regulations thereunder, or Section 2503(b) of said Internal Revenue  
886 Code and the regulations thereunder, in each case as in effect on  
887 January 1, 2020;

888       (2) A power, whether mandatory or discretionary, held by the  
889 trustee of the trust, including a power held by the beneficiary as the  
890 sole trustee or a cotrustee of the trust, to make distributions to or for  
891 the benefit of the beneficiary, if the power is exercisable by the trustee  
892 only in accordance with an ascertainable standard relating to such  
893 beneficiary's individual health, education, support or maintenance  
894 within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the  
895 Internal Revenue Code of 1986, or any subsequent corresponding  
896 internal revenue code of the United States, as amended from time to  
897 time, and the regulations thereunder, as in effect on January 1, 2020; or

898       (3) A power, whether mandatory or discretionary, held by the  
899 trustee of the trust, including a power held by the beneficiary as the  
900 sole trustee or a cotrustee of the trust, to make distributions to or for  
901 the benefit of a person who the beneficiary has an obligation to  
902 support, if the power is exercisable by the trustee only in accordance

903 with an ascertainable standard relating to such person's individual  
904 health, education, support or maintenance within the meaning of  
905 Section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of  
906 1986, or any subsequent corresponding internal revenue code of the  
907 United States, as amended from time to time, and the regulations  
908 thereunder, as in effect on January 1, 2020.

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

913 (c) This section and section 39 of this act do not apply to statutory  
914 trusts created pursuant to chapter 615 of the general statutes to the  
915 extent inconsistent with the terms of said chapter.

916 Sec. 41. (NEW) (*Effective January 1, 2020*) (a) Unless the terms of a  
917 trust expressly provide that the trust is irrevocable, the settlor may  
918 revoke or amend the trust. This subsection shall not apply to (1) a trust  
919 created under an instrument executed before January 1, 2020; (2)  
920 charitable pledges; or (3) other charitable gifts in which the charitable  
921 interest has otherwise vested.

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

929 (c) With respect to a revocable trust:

930 (1) The settlor may revoke or amend the trust by substantial  
931 compliance with a method provided in the terms of the trust.

932 (2) If the terms of the trust do not provide a method to revoke or  
933 amend the trust, or the method provided in the terms is not expressly

934 made exclusive, the settlor may revoke or amend the trust by (A)  
935 executing a later will or codicil that has been admitted to probate and  
936 that expressly refers to the trust or expressly devises specifically  
937 identified items of real or personal property that would otherwise have  
938 passed according to the terms of the trust; or (B) any other method  
939 manifesting clear and convincing evidence of the settlor's intent,  
940 provided (i) a written revocable trust may be amended only by a later  
941 written instrument; and (ii) a written revocable trust may be revoked  
942 only by a later written instrument or by the burning, cancellation,  
943 tearing or obliteration of the revocable trust by the settlor or by some  
944 person in the settlor's presence and at the settlor's direction.

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

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

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

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

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

964 Sec. 42. (NEW) (*Effective January 1, 2020*) (a) To the extent a trust is



965 revocable by a settlor, a trustee may follow a direction of the settlor  
966 that is contrary to the terms of the trust. To the extent a trust is  
967 revocable by a settlor in conjunction with a person other than a trustee  
968 or person holding an adverse interest, the trustee may follow a  
969 direction from the settlor and the other person holding the power to  
970 revoke even if the direction is contrary to the terms of the trust.

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

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

977 Sec. 43. (NEW) (*Effective January 1, 2020*) (a) A person may  
978 commence a judicial proceeding to contest the validity of a trust that  
979 was revocable at the settlor's death within the earlier of:

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

981 (2) One hundred twenty days after the date on which the trustee  
982 sent the person a copy of the trust instrument and a notice informing  
983 the person of the trust's existence, of the trustee's name and address,  
984 and of the time allowed for commencing a proceeding. The trustee  
985 may provide the documentation and information set forth in this  
986 subdivision to (A) all persons who would be entitled to notice of the  
987 application for probate of a will or administration of an intestate estate  
988 or to notice of the admission of a will to probate or the granting of  
989 letters of administration; and (B) the beneficiaries of the trust and all  
990 persons whose interests are, in the opinion of the trustee, adversely  
991 affected by the trust. The provisions of this subdivision shall not apply  
992 to a person if notice is sent to the designated representative for the  
993 person but not to the person.

994 (b) Upon the death of the settlor of a trust that was revocable at the  
995 settlor's death, the trustee may proceed to distribute the trust property

996 in accordance with the terms of the trust. The trustee is not subject to  
997 liability for doing so unless: (1) The trustee knows of a pending judicial  
998 proceeding contesting the validity of the trust; (2) a potential  
999 contestant has notified the trustee of a possible judicial proceeding to  
1000 contest the trust and a judicial proceeding is commenced not later than  
1001 sixty days after the date on which the contestant sent the notification;  
1002 or (3) the trustee failed to give notice in accordance with section 63 of  
1003 this act.

1004 (c) If the court determines that a distribution to a beneficiary of a  
1005 trust is invalid, the beneficiary is liable to return the distribution  
1006 received.

1007 Sec. 44. (NEW) (*Effective January 1, 2020*) (a) Except as provided in  
1008 subsection (c) of this section, a person designated as trustee accepts the  
1009 trusteeship: (1) By substantially complying with a method of  
1010 acceptance provided in the terms of the trust; (2) if the terms of the  
1011 trust do not provide a method or the method provided in the terms is  
1012 not expressly made exclusive, by accepting delivery of the trust  
1013 property, exercising powers or performing duties as trustee, or  
1014 otherwise indicating acceptance of the trusteeship; or (3) in the case of  
1015 a testamentary trust, filing an acceptance of trust in the court with  
1016 jurisdiction over the trust.

1017 (b) A person designated as trustee who has not yet accepted the  
1018 trusteeship may reject the trusteeship. A designated trustee who does  
1019 not accept the trusteeship within a reasonable period after knowing of  
1020 the designation is deemed to have rejected the trusteeship.

1021 (c) A person designated as trustee, without accepting the  
1022 trusteeship, may: (1) Act to preserve the trust property if, within a  
1023 reasonable period after acting, the person sends a rejection of the  
1024 trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a  
1025 qualified beneficiary; and (2) inspect or investigate trust property (A)  
1026 to determine potential liability under state or federal environmental or  
1027 other law; or (B) for any other purpose.

1028       Sec. 45. (NEW) (*Effective January 1, 2020*) (a) A trustee shall give  
1029 bond to secure performance of the trustee's duties only if the court  
1030 finds that a bond (1) is needed to protect the interests of the  
1031 beneficiaries; or (2) is required by the terms of the trust and, in the case  
1032 of noncharitable trusts, the court has not dispensed with the  
1033 requirement of a bond.

1034       (b) The court may specify the amount of a bond, its liabilities and  
1035 whether sureties are necessary. Except in the case of a charitable trust,  
1036 the court may modify or terminate a bond at any time.

1037       (c) In addition to the requirements of this section, a testamentary  
1038 trustee that is a foreign corporation shall comply with section 45a-206  
1039 of the general statutes.

1040       Sec. 46. (NEW) (*Effective January 1, 2020*) (a) Cotrustees who are  
1041 unable to reach a unanimous decision may act by majority decision.

1042       (b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees  
1043 may act for the trust.

1044       (c) Subject to the provisions of section 91 of this act, a cotrustee shall  
1045 participate in the performance of a trustee's function unless the  
1046 cotrustee is unavailable to perform the function because of absence,  
1047 illness, disqualification under other law or other temporary incapacity  
1048 or the cotrustee has properly delegated the performance of the  
1049 function to another trustee.

1050       (d) If a cotrustee is unavailable to perform duties because of  
1051 absence, illness, disqualification under other law or other temporary  
1052 incapacity, and prompt action is necessary to achieve the purposes of  
1053 the trust or to avoid injury to the trust property, the remaining  
1054 cotrustee or a majority of the remaining cotrustees may act for the  
1055 trust.

1056       (e) A trustee may delegate to a cotrustee the performance of any  
1057 function other than a function that the terms of the trust expressly  
1058 require to be performed by the trustees jointly. Unless a delegation

1059 was irrevocable, a delegating trustee may revoke a delegation  
1060 previously made.

1061 (f) Except as provided in subsection (g) of this section, a trustee who  
1062 does not join in an action of another trustee is not liable for the action.

1063 (g) Subject to the provisions of section 91 of this act, a trustee shall  
1064 exercise reasonable care to: (1) Prevent a cotrustee from committing a  
1065 serious breach of trust; and (2) compel a cotrustee to redress a serious  
1066 breach of trust.

1067 (h) A dissenting trustee who joins in an action at the direction of the  
1068 majority of the trustees and who notified any cotrustee of the dissent at  
1069 or before the time of the action is not liable for the action unless the  
1070 action is a serious breach of trust.

1071 Sec. 47. (NEW) (*Effective January 1, 2020*) (a) A vacancy in a  
1072 trusteeship occurs if: (1) A person designated as trustee rejects the  
1073 trusteeship; (2) a person designated as trustee cannot be identified or  
1074 does not exist; (3) a trustee resigns; (4) a trustee is disqualified or  
1075 removed; (5) a trustee dies; or (6) a conservator is appointed for an  
1076 individual serving as trustee.

1077 (b) If one or more cotrustees remain in office, a vacancy in a  
1078 trusteeship of a noncharitable trust need not be filled, unless otherwise  
1079 required by the terms of the trust. A vacancy in a trusteeship shall be  
1080 filled if the trust has no remaining trustee. A vacancy in a trusteeship  
1081 of a charitable trust shall be filled, unless otherwise excused by the  
1082 terms of the trust.

1083 (c) A vacancy in a trusteeship required to be filled shall be filled in  
1084 the following order of priority: (1) By a person designated in the terms  
1085 of the trust to act as successor trustee or appointed according to a  
1086 procedure specified in the terms and, in the case of a testamentary  
1087 trust, appointed by the Probate Court; (2) in the case of a  
1088 noncharitable, inter vivos trust, by a person appointed by unanimous  
1089 agreement of the qualified beneficiaries; or (3) by a person appointed

1090 by the court.

1091 (d) Whether or not a vacancy in a trusteeship exists or is required to  
1092 be filled, the court may appoint an additional trustee or special  
1093 fiduciary whenever the court considers the appointment necessary for  
1094 the administration of the trust.

1095 Sec. 48. (NEW) (*Effective January 1, 2020*) (a) A trustee of an inter  
1096 vivos trust may resign (1) without court approval upon giving not less  
1097 than thirty days' notice to the qualified beneficiaries, the settlor, if  
1098 living, and all cotrustees; or (2) with the approval of the court.

1099 (b) A trustee of a testamentary trust may resign with the approval of  
1100 the court.

1101 (c) In approving a resignation pursuant to subsection (b) of this  
1102 section, the court may issue orders and impose conditions reasonably  
1103 necessary for the protection of the trust property, the beneficiaries and  
1104 the other trustees, and may issue such other orders as law and equity  
1105 may require.

1106 (d) Any liability of a trustee, former trustee or of any sureties on  
1107 such trustee's bond for acts or omissions of such trustee is not  
1108 discharged or affected by such trustee's resignation.

1109 Sec. 49. (NEW) (*Effective January 1, 2020*) (a) The settlor of a  
1110 noncharitable trust, the settlor of a charitable trust who has expressly  
1111 retained the right to do so, the Attorney General in the case of a  
1112 charitable trust, a cotrustee, a beneficiary or the surety on the trustee's  
1113 probate bond, may request the court to remove a trustee, or a trustee  
1114 may be removed by the court on its own initiative.

1115 (b) Subject to subsection (a) of this section, the court may remove a  
1116 trustee if:

1117 (1) The trustee becomes incapable of executing or neglects to  
1118 perform the trustee's duties, wastes the trust assets, fails to furnish an  
1119 additional or substitute probate bond ordered by the court, or has

1120 committed any other serious breach of trust;

1121 (2) Lack of cooperation among cotrustees substantially impairs  
1122 administration of the trust;

1123 (3) Because of unfitness, unwillingness or persistent failure of the  
1124 trustee to administer the trust effectively, the court determines that  
1125 removal of the trustee best serves the interests of the beneficiaries; or

1126 (4) There has been a substantial change of circumstances or removal  
1127 is requested by all of the qualified beneficiaries and the court finds that  
1128 (A) removal of the trustee best serves the interests of all of the  
1129 beneficiaries and is not inconsistent with a material purpose of the  
1130 trust; and (B) a suitable cotrustee or successor trustee is available. The  
1131 court may not remove a successor corporate fiduciary in a manner that  
1132 discriminates against state banks or national banking associations. No  
1133 consolidated state bank or national banking association and no  
1134 receiving state bank or national banking association may be removed  
1135 solely because it is a successor fiduciary, as defined in section 45a-245a  
1136 of the general statutes.

1137 Sec. 50. (NEW) (*Effective January 1, 2020*) (a) Unless a cotrustee  
1138 remains in office or the court otherwise orders, and until the trust  
1139 property is delivered to a successor trustee or other person entitled to  
1140 it, a trustee who has resigned or been removed has the duties of a  
1141 trustee and the powers necessary to protect the trust property.

1142 (b) A trustee who has resigned or been removed shall proceed  
1143 expeditiously to deliver the trust property within the trustee's  
1144 possession to the cotrustee, successor trustee or other person entitled  
1145 to it.

1146 (c) All suits in favor of or against the original trustee shall survive to  
1147 and may be prosecuted by or against the person appointed to succeed  
1148 such trustee.

1149 Sec. 51. (NEW) (*Effective January 1, 2020*) (a) If the terms of a trust do  
1150 not specify the trustee's compensation, a trustee is entitled to

1151 compensation that is reasonable under the circumstances.

1152 (b) If the terms of a trust specify the trustee's compensation, the  
1153 trustee is entitled to be compensated as specified, but the court may  
1154 allow more or less compensation if: (1) The duties of the trustee are  
1155 substantially different from those contemplated when the trust was  
1156 created; or (2) the compensation specified by the terms of the trust  
1157 would be unreasonably low or high.

1158 Sec. 52. (NEW) (*Effective January 1, 2020*) (a) A trustee is entitled to  
1159 be reimbursed out of the trust property, with interest as appropriate,  
1160 for: (1) Expenses that were properly incurred in the defense or  
1161 administration of the trust, unless the trustee is determined to have  
1162 committed a breach of trust; and (2) to the extent necessary to prevent  
1163 unjust enrichment of the trust, expenses that were not properly  
1164 incurred in the administration of the trust.

1165 (b) If a trustee advances money to protect the trust, the trustee has a  
1166 lien against the trust property to secure reimbursement of the money  
1167 with reasonable interest.

1168 Sec. 53. (NEW) (*Effective January 1, 2020*) Upon acceptance of a  
1169 trusteeship, the trustee shall administer the trust (1) in good faith; (2)  
1170 in accordance with its terms and purposes, settlor's intent and the  
1171 interests of the beneficiaries; and (3) in accordance with sections 1 to  
1172 109, inclusive, of this act.

1173 Sec. 54. (NEW) (*Effective January 1, 2020*) (a) A trustee shall  
1174 administer trust assets solely in the interests of the beneficiaries  
1175 consistent with the settlor's intent.

1176 (b) Subject to the rights of persons dealing with or assisting the  
1177 trustee as provided in section 77 of this act, a sale, encumbrance or  
1178 other transaction involving the investment or management of trust  
1179 property entered into by the trustee for the trustee's own personal  
1180 account or which is otherwise affected by a conflict between the  
1181 trustee's fiduciary and personal interests is voidable by a beneficiary

1182 affected by the transaction unless: (1) The transaction was authorized  
1183 by the terms of the trust; (2) the transaction was approved by the court;  
1184 (3) the beneficiary did not commence a judicial proceeding within the  
1185 time allowed by section 70 of this act; (4) the beneficiary consented to  
1186 the trustee's conduct, ratified the transaction or released the trustee as  
1187 provided in section 74 of this act; or (5) the transaction involves a  
1188 contract entered into or claim acquired by the trustee before the person  
1189 became or contemplated becoming trustee.

1190 (c) A sale, encumbrance or other transaction involving the  
1191 investment or management of trust property is presumed to be  
1192 affected by a conflict between personal and fiduciary interests if it is  
1193 entered into by the trustee with: (1) The trustee's spouse; (2) the  
1194 trustee's descendants, sibling, parents or their spouses; (3) an agent or  
1195 attorney of the trustee; or (4) a corporation or other person or  
1196 enterprise in which the trustee, or a person that owns a significant  
1197 interest in an entity that is acting as the trustee, has an interest that  
1198 may affect the trustee's best judgment.

1199 (d) If a transaction between a trustee and a beneficiary which does  
1200 not concern trust property but (1) which occurs during the existence of  
1201 the trust or while the trustee retains significant influence over the  
1202 beneficiary; and (2) from which the trustee obtains an advantage, the  
1203 transaction is voidable by the beneficiary unless the trustee establishes  
1204 that the transaction was fair to the beneficiary.

1205 (e) If a trustee engages in a transaction in the trustee's individual  
1206 capacity and not concerning trust property and if the transaction  
1207 concerns an opportunity properly belonging to the trust, the  
1208 transaction is a conflict between the personal and fiduciary interests of  
1209 the trustee.

1210 (f) If a transaction and any investment made pursuant to the  
1211 transaction complies with the Connecticut Uniform Prudent Investor  
1212 Act, sections 45a-541 to 45a-541l, inclusive, of the general statutes is in  
1213 the best interests of the beneficiaries and is not prohibited by the  
1214 governing instrument, the following transactions are not presumed to



1215 be affected by a conflict of interest between a trustee's personal and  
1216 fiduciary interests, provided: (1) An investment by a trustee in  
1217 securities of an investment company or investment trust to which the  
1218 trustee, or its affiliate, provides services in a capacity other than as  
1219 trustee; (2) an investment by a trustee in an insurance contract  
1220 purchased from an insurance agency is owned by, or affiliated with,  
1221 the trustee or its affiliate; and (3) the placing of securities transactions  
1222 by a trustee through a securities broker that is a part of the same  
1223 company as the trustee is owned by the trustee or is affiliated with the  
1224 trustee.

1225 (g) In voting shares of stock or in exercising powers of control over  
1226 similar interests in other forms of enterprise, the trustee shall act in the  
1227 best interests of the beneficiaries consistent with the intentions of the  
1228 settlor. If the trust is the sole owner of a corporation or other form of  
1229 enterprise, the trustee shall elect or appoint directors or other  
1230 managers who will manage the corporation or enterprise in the best  
1231 interests of the beneficiaries.

1232 (h) The provisions of this section do not preclude the following  
1233 transactions, if fair to the beneficiaries: (1) An agreement between a  
1234 trustee and a beneficiary relating to the appointment or compensation  
1235 of the trustee; (2) payment of reasonable compensation to the trustee;  
1236 (3) a transaction between a trust and another trust, decedent's estate or  
1237 conservatorship of which the trustee is a fiduciary or in which a  
1238 beneficiary has an interest; (4) a deposit of trust money in a regulated  
1239 financial service institution operated by the trustee; or (5) an advance  
1240 by the trustee of money for the protection of the trust.

1241 (i) The court may appoint a special fiduciary to make a decision  
1242 with respect to any proposed transaction that may violate the  
1243 provisions of this section if entered into by the trustee.

1244 Sec. 55. (NEW) (*Effective January 1, 2020*) If a trust has two or more  
1245 beneficiaries, the trustee shall act impartially in investing, managing  
1246 and distributing the trust property, giving due regard to the  
1247 beneficiaries' respective interests.

1248       Sec. 56. (NEW) (*Effective January 1, 2020*) A trustee shall administer  
1249 the trust as a prudent person would, by considering the purposes,  
1250 terms, distributional requirements and other circumstances of the  
1251 trust. In satisfying this standard, the trustee shall exercise reasonable  
1252 care, skill and caution.

1253       Sec. 57. (NEW) (*Effective January 1, 2020*) (a) A trustee may delegate  
1254 duties and powers that a prudent trustee of comparable skills could  
1255 properly delegate to an agent under the circumstances. The trustee  
1256 shall exercise reasonable care, skill and caution in:

1257       (1) Selecting an agent for the delegation;

1258       (2) Establishing the scope and terms of the delegation, consistent  
1259 with the purposes and terms of the trust; and

1260       (3) Periodically reviewing the agent's actions to monitor the agent's  
1261 performance and compliance with the terms of the delegation.

1262       (b) In performing a delegated function, an agent owes a duty to the  
1263 trust to exercise reasonable care to comply with the terms of the  
1264 delegation.

1265       (c) A trustee who complies with subsection (a) of this section is not  
1266 liable to the beneficiaries or to the trust for an action of the agent to  
1267 whom the function was delegated.

1268       (d) By accepting a delegation of powers or duties from the trustee of  
1269 a trust that is subject to the law of this state, an agent submits to the  
1270 jurisdiction of the courts of this state.

1271       Sec. 58. (NEW) (*Effective January 1, 2020*) The settlor of an irrevocable  
1272 trust shall not be deemed to have a beneficial interest in such trust  
1273 merely because the trustee is authorized under the trust instrument or  
1274 any other provision of law to (1) pay or reimburse the settlor for any  
1275 tax on trust income or trust principal that is payable by the settlor  
1276 under the law imposing such tax; or (2) pay any such tax directly to the  
1277 taxing authorities. No creditor of the settlor of an irrevocable trust

1278 shall be entitled to reach any trust property based on the discretionary  
1279 powers described in this section.

1280 Sec. 59. (NEW) (*Effective January 1, 2020*) A trustee shall take  
1281 reasonable steps to take control of and protect the trust property.

1282 Sec. 60. (NEW) (*Effective January 1, 2020*) (a) A trustee shall keep  
1283 adequate records of the administration of the trust.

1284 (b) A trustee shall keep trust property separate from the trustee's  
1285 own property.

1286 (c) Except as provided in subsection (d) of this section, a trustee  
1287 shall cause the trust property to be designated so that the interest of  
1288 the trust, to the extent feasible, appears in records maintained by a  
1289 party other than a trustee or beneficiary.

1290 (d) If the trustee maintains records clearly indicating the respective  
1291 interests, a trustee may invest as a whole the property of two or more  
1292 separate trusts.

1293 Sec. 61. (NEW) (*Effective January 1, 2020*) A trustee shall take  
1294 reasonable steps to enforce claims of the trust and to defend claims  
1295 against the trust.

1296 Sec. 62. (NEW) (*Effective January 1, 2020*) A trustee shall take  
1297 reasonable steps to compel a former trustee or other person to deliver  
1298 trust property to the trustee and to redress a breach of trust known to  
1299 the trustee to have been committed by a former trustee.

1300 Sec. 63. (NEW) (*Effective January 1, 2020*) (a) A trustee shall keep the  
1301 qualified beneficiaries of the trust reasonably informed about the  
1302 administration of the trust and of the material facts necessary for the  
1303 beneficiaries to protect their interests. A trustee shall promptly  
1304 respond to a beneficiary's request for information reasonably related to  
1305 the administration of the trust.

1306 (b) A trustee: (1) Upon request of a beneficiary, shall promptly

1307 furnish to the beneficiary a copy of the relevant portions of the trust  
1308 instrument; (2) within sixty days after accepting a trusteeship, shall  
1309 notify the qualified beneficiaries of the acceptance and of the trustee's  
1310 name, address and telephone number; and (3) within sixty days after  
1311 the date on which the trustee acquires knowledge of the creation of an  
1312 irrevocable trust, or the date on which the trustee acquires knowledge  
1313 that a formerly revocable trust has become irrevocable, whether by the  
1314 death of the settlor or otherwise, shall notify the qualified beneficiaries  
1315 of the trust's existence, of the identity of the settlor or settlors, of the  
1316 right to request a copy of the trust instrument, and of the right to a  
1317 trustee's report as provided in subsection (c) of this section.

1318 (c) A trustee shall send a report to the current beneficiaries, and to  
1319 other qualified beneficiaries who request it, at least annually and at the  
1320 termination of the trust. Upon a vacancy in a trusteeship, unless a  
1321 cotrustee remains in office, the former trustee shall send a report to the  
1322 current beneficiaries and to other qualified beneficiaries who request  
1323 it. An executor, administrator or conservator may send the report on  
1324 behalf of a deceased or incapacitated trustee. The report may be formal  
1325 or informal, but shall include information relating to the trust  
1326 property, liabilities, receipts and disbursements, including the amount  
1327 of the trustee's compensation, a listing of the trust assets and, if  
1328 feasible, their respective market values.

1329 (d) A beneficiary of a trust may petition the court for an accounting  
1330 by the trustee. The court may grant the petition of: (1) A qualified  
1331 beneficiary of testamentary trust, if the court finds that an account is  
1332 necessary to protect the interests of a beneficiary; (2) any other  
1333 beneficiary of a testamentary trust, if the court finds that the same  
1334 standard applicable to an inter vivos trust as set forth in subsection (c)  
1335 of section 45a-175 of the general statutes, as amended by this act, is  
1336 satisfied; and (3) a beneficiary of an inter vivos trust, if the court finds  
1337 the standard set forth in subsection (c) of section 45a-175 of the general  
1338 statutes, as amended by this act, is satisfied.

1339 (e) Nothing in subsection (c) of this section limits the power of the

1340 court in an accounting proceeding to determine which beneficiaries are  
1341 entitled to a copy of the accounting and to receive notice of the  
1342 proceedings.

1343 (f) Nothing in subsection (c) or (g) of this section limits a trustee's  
1344 obligations under 45a-177 of the general statutes, as amended by this  
1345 act.

1346 (g) A beneficiary may waive the right to trustee's reports or other  
1347 information otherwise required to be furnished under this section. A  
1348 beneficiary, with respect to future reports and other information, may  
1349 withdraw a waiver previously given.

1350 (h) The provisions of subsections (b) and (c) of this section do not  
1351 apply to an irrevocable trust created before January 1, 2020, or to a  
1352 revocable trust that becomes irrevocable before January 1, 2020.

1353 (i) Judicial approval of a trustee's report forecloses claims as to those  
1354 given notice of the proceeding as to matters disclosed in the report.

1355 (j) The representation provisions of sections 17 to 21, inclusive, of  
1356 this act apply with respect to all rights of any beneficiary under this  
1357 section. Notice or information provided to a designated representative  
1358 under section 21 of this act shall satisfy the trustee's duty to provide  
1359 information or notice required under sections 1 to 109, inclusive, of this  
1360 act.

1361 Sec. 64. (NEW) (*Effective January 1, 2020*) (a) Notwithstanding the  
1362 breadth of discretion granted to a trustee in the terms of the trust,  
1363 including the use of terms such as "absolute", "sole" or "uncontrolled",  
1364 the trustee shall exercise a discretionary power in good faith and in  
1365 accordance with the terms and purposes of the trust, settlor's intent  
1366 and the interests of the beneficiaries.

1367 (b) Subject to subsection (d) of this section, and unless the terms of  
1368 the trust expressly indicate that a provision in this subsection does not  
1369 apply:

1370 (1) A person, other than a settlor, who is a beneficiary and trustee of  
1371 a trust that confers on the trustee a power to make discretionary  
1372 distributions to or for the trustee's personal benefit, may exercise the  
1373 power only in accordance with an ascertainable standard relating to  
1374 the trustee's individual health, education, support or maintenance  
1375 within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the  
1376 Internal Revenue Code of 1986, or any subsequent corresponding  
1377 internal revenue code of the United States, as amended from time to  
1378 time; and

1379 (2) A trustee may not exercise a power to make discretionary  
1380 distributions to satisfy a legal obligation of support that the trustee  
1381 personally owes another person.

1382 (c) A power to make discretionary distributions, the exercise of  
1383 which is limited or prohibited by subsection (b) of this section, may be  
1384 exercised by a majority of the remaining trustees whose exercise of  
1385 such power is not so limited or prohibited. If the exercise of the power  
1386 by all trustees is so limited or prohibited, the court may appoint a  
1387 special fiduciary with authority to exercise the power.

1388 (d) Subsection (b) of this section does not apply to: (1) A power held  
1389 by the settlor's spouse who is the trustee of a trust for which a marital  
1390 deduction, as described in Section 2056(b)(5) or 2523(e) of the Internal  
1391 Revenue Code of 1986, or any subsequent corresponding internal  
1392 revenue code of the United States, as amended from time to time, was  
1393 previously allowed; (2) a trust during any period that the trust may be  
1394 revoked or amended by its settlor; or (3) a trust, if contributions to the  
1395 trust qualify for the annual exclusion under Section 2503(c) of said  
1396 Internal Revenue Code.

1397 Sec. 65. (NEW) (*Effective January 1, 2020*) (a) A trustee, without  
1398 authorization by the court, may exercise: (1) Powers conferred by the  
1399 terms of the trust; and (2) except as limited by the terms of the trust,  
1400 (A) all powers over the trust property which an unmarried competent  
1401 owner has over individually owned property; (B) any other powers  
1402 appropriate to achieve the proper investment, management and

1403 distribution of the trust property; and (C) any other power conferred  
1404 by sections 1 to 109, inclusive, of this act.

1405 (b) The exercise of a power is subject to the fiduciary duties  
1406 prescribed by sections 53 to 67, inclusive, of this act.

1407 Sec. 66. (NEW) (*Effective January 1, 2020*) (a) Without limiting the  
1408 authority conferred by section 65 of this act, and except as otherwise  
1409 prohibited by law or by the terms of the trust instrument, a trustee  
1410 may:

1411 (1) Collect trust property and accept or reject additions to the trust  
1412 property from a settlor or any other person;

1413 (2) Acquire or sell property, for cash or on credit, at public or  
1414 private sale;

1415 (3) Exchange, partition or otherwise change the character of trust  
1416 property;

1417 (4) Deposit trust money in an account in a regulated financial  
1418 service institution;

1419 (5) Borrow money, with or without security, and mortgage or  
1420 pledge trust property for a period within or extending beyond the  
1421 duration of the trust;

1422 (6) With respect to an interest in a proprietorship, partnership,  
1423 limited liability company, business trust, corporation or other form of  
1424 business or enterprise, continue the business or other enterprise and  
1425 take any action that may be taken by shareholders, members or  
1426 property owners, including merging, dissolving or otherwise changing  
1427 the form of business organization or contributing additional capital;

1428 (7) With respect to stocks or other securities, exercise the rights of an  
1429 absolute owner, including the right to (A) vote or give proxies to vote,  
1430 with or without power of substitution, or enter into or continue a  
1431 voting trust agreement; (B) hold a security in the name of a nominee or

1432 in other form without disclosure of the trust so that title may pass by  
1433 delivery; (C) pay calls, assessments and other sums chargeable or  
1434 accruing against the securities, and sell or exercise stock subscription  
1435 or conversion rights; and (D) deposit the securities with a depository  
1436 or other regulated financial service institution;

1437 (8) With respect to an interest in real property, construct or make  
1438 ordinary or extraordinary repairs to, alterations to or improvements in  
1439 buildings or other structures, demolish improvements, raze existing or  
1440 erect new party walls or buildings, subdivide or develop land,  
1441 dedicate land to public use or grant public or private easements, and  
1442 make or vacate plats and adjust boundaries;

1443 (9) Enter into a lease for any purpose as lessor or lessee, including a  
1444 lease or other arrangement for exploration and removal of natural  
1445 resources, with or without the option to purchase or renew, for a  
1446 period within or extending beyond the duration of the trust;

1447 (10) Grant an option involving a sale, lease or other disposition of  
1448 trust property or acquire an option for the acquisition of property,  
1449 including an option exercisable beyond the duration of the trust, and  
1450 exercise an option so acquired;

1451 (11) Insure the property of the trust against damage or loss and  
1452 insure the trustee, the trustee's agents and beneficiaries against liability  
1453 arising from the administration of the trust;

1454 (12) Abandon or decline to administer property of no value or of  
1455 insufficient value to justify its collection or continued administration;

1456 (13) With respect to possible liability for violation of environmental  
1457 law, (A) inspect or investigate property the trustee holds or has been  
1458 asked to hold, or property owned or operated by an organization in  
1459 which the trustee holds or has been asked to hold an interest, for the  
1460 purpose of determining the application of environmental law with  
1461 respect to the property; (B) take action to prevent, abate or otherwise  
1462 remedy any actual or potential violation of any environmental law



1463 affecting property held directly or indirectly by the trustee, whether  
1464 taken before or after the assertion of a claim or the initiation of  
1465 governmental enforcement; (C) decline to accept property into trust or  
1466 disclaim any power with respect to property that is or may be  
1467 burdened with liability for violation of environmental law; (D)  
1468 compromise claims against the trust which may be asserted for an  
1469 alleged violation of environmental law; and (E) pay the expense of any  
1470 inspection, review, abatement or remedial action to comply with  
1471 environmental law;

1472 (14) Pay or contest a claim, settle a claim by or against the trust, and  
1473 release, in whole or in part, a claim belonging to the trust;

1474 (15) Pay taxes, assessments, compensation of the trustee and of  
1475 employees and agents of the trust, and other expenses incurred in the  
1476 administration of the trust;

1477 (16) Exercise elections with respect to federal, state and local taxes;

1478 (17) Select a mode of payment under any employee benefit or  
1479 retirement plan, annuity or life insurance payable to the trustee,  
1480 exercise rights thereunder, including exercise of the right to  
1481 indemnification for expenses and against liabilities, and take  
1482 appropriate action to collect the proceeds;

1483 (18) Make loans out of trust property, including loans to a  
1484 beneficiary on terms and conditions the trustee considers to be fair and  
1485 reasonable under the circumstances, with the trustee having a lien on  
1486 future distributions for repayment of such loans;

1487 (19) Pledge trust property to guarantee loans made by others to the  
1488 beneficiary;

1489 (20) Appoint a trustee to act in another jurisdiction with respect to  
1490 trust property located in the other jurisdiction, confer upon the  
1491 appointed trustee all of the powers and duties of the appointing  
1492 trustee, require the appointed trustee to furnish security and remove  
1493 any trustee so appointed;

1494 (21) Pay an amount distributable to a beneficiary who is under a  
1495 legal disability or who the trustee reasonably believes is incapacitated,  
1496 by: (A) Paying it directly to the beneficiary or applying it for the  
1497 beneficiary's benefit; (B) paying it to the beneficiary's conservator of  
1498 the estate or guardian of the estate; (C) if the beneficiary does not have  
1499 a conservator of the estate or guardian of the estate, paying it to an  
1500 adult relative or other person having legal or physical care or custody  
1501 of the beneficiary, to be expended on the beneficiary's behalf; or (D)  
1502 managing it as a separate fund on the beneficiary's behalf, subject to  
1503 the beneficiary's continuing right to withdraw the distribution;

1504 (22) On distribution of trust property or the division or termination  
1505 of a trust, make distributions in divided or undivided interests,  
1506 allocate particular assets in proportionate or disproportionate shares,  
1507 value the trust property for such purposes and adjust for resulting  
1508 differences in valuation;

1509 (23) Resolve a dispute concerning the interpretation of the trust or  
1510 its administration by mediation, arbitration or other procedure for  
1511 alternative dispute resolution;

1512 (24) Prosecute or defend an action, claim or judicial proceeding in  
1513 any jurisdiction to protect trust property and the trustee in the  
1514 performance of the trustee's duties;

1515 (25) Sign and deliver contracts and other instruments that are useful  
1516 to achieve or facilitate the exercise of the trustee's powers;

1517 (26) On termination of the trust, exercise the powers appropriate to  
1518 wind up administration of the trust and distribute the trust property to  
1519 the persons entitled to it; and

1520 (27) Exercise all powers appropriate to achieve the proper  
1521 investment, management, preservation and distribution of a digital  
1522 asset held in the trust estate whether the trustee, the grantor or a third  
1523 party is the original or a successor user of the digital asset. This  
1524 subdivision shall be construed in accordance with the Connecticut

1525 Revised Uniform Fiduciary Access to Digital Assets Act, as said act is  
1526 in effect from time to time during the administration of the trust. The  
1527 custodian of each digital asset held in the trust, whether public or  
1528 private, shall divulge to the trustee with respect to the asset: (A) Any  
1529 electronically stored information; (B) the content of all electronic  
1530 communications sent or received by the original and successor user;  
1531 and (C) any record or other information stored by the custodian on a  
1532 remote-computing service.

1533 (b) The powers in subsection (a) of this section do not apply to a  
1534 charitable trust to the extent that their exercise would give the trustee  
1535 the authority to deviate from a stated charitable purpose or violate a  
1536 restricted gift. A trustee of a charitable trust and a person holding and  
1537 administering an endowment fund or an institutional fund, both as  
1538 defined in section 45a-535a of the general statutes, shall not mortgage,  
1539 hypothecate, pledge, use as collateral or otherwise encumber any of  
1540 the following assets of such charitable trust, endowment fund or  
1541 institutional fund, if the source of the asset was a charitable gift: (1)  
1542 Funds for which expenditures are restricted by the settlor for a  
1543 purpose other than the general purposes of a charity or institution; and  
1544 (2) the principal or corpus of a charitable trust or institutional fund for  
1545 which such principal or corpus is restricted to investment or  
1546 endowment purposes.

1547 (c) The provisions of this section apply to any trust whether  
1548 established before, on or after January 1, 2020, except that no power is  
1549 conferred by this section to any trust established before January 1,  
1550 2020, if the trust instrument reflects an intent to disallow the exercise of  
1551 the power.

1552 Sec. 67. (NEW) (*Effective January 1, 2020*) (a) Upon termination or  
1553 partial termination of a trust, the trustee may send to the qualified  
1554 beneficiaries a proposal for distribution. If the proposal informed the  
1555 beneficiary of the right to object and of the time allowed for objection,  
1556 the right of any beneficiary, to whom the trustee has sent the proposal,  
1557 to object to the proposed distribution terminates if the beneficiary does

1558 not notify the trustee of an objection not later than thirty days after the  
1559 date on which the proposal was sent.

1560 (b) Upon the occurrence of an event terminating or partially  
1561 terminating a trust, the trustee shall proceed expeditiously to  
1562 distribute the trust property to the persons entitled to it, subject to the  
1563 right of the trustee to retain a reasonable reserve for the payment of  
1564 debts, expenses and taxes.

1565 (c) A release by a beneficiary of a trustee from liability for breach of  
1566 trust is invalid to the extent: (1) It was induced by improper conduct of  
1567 the trustee; or (2) the beneficiary, at the time of the release, did not  
1568 know of the beneficiary's rights or of the material facts relating to the  
1569 breach.

1570 (d) The provisions of this section do not apply to testamentary  
1571 trusts.

1572 Sec. 68. (NEW) (*Effective January 1, 2020*) A violation by a trustee of a  
1573 duty the trustee owes to a beneficiary is a breach of trust.

1574 Sec. 69. (NEW) (*Effective January 1, 2020*) (a) A trustee is accountable  
1575 to an affected beneficiary for any profit made by the trustee arising  
1576 from administration of the trust, even absent a breach of trust.

1577 (b) Absent a breach of trust, a trustee is not liable to a beneficiary for  
1578 a loss or depreciation in the value of trust property or for not having  
1579 made a profit.

1580 Sec. 70. (NEW) (*Effective January 1, 2020*) (a) A beneficiary may not  
1581 commence a proceeding against a trustee for breach of trust more than  
1582 one year after the date on which the beneficiary or a representative of  
1583 the beneficiary was sent a report that adequately disclosed the  
1584 existence of a potential claim for breach of trust and informed the  
1585 beneficiary of the time allowed for commencing a proceeding.

1586 (b) A report adequately discloses the existence of a potential claim  
1587 for breach of trust if it provides sufficient information so that the

1588 beneficiary or representative knows of the potential claim or should  
1589 have inquired into its existence.

1590 (c) If subsection (a) of this section does not apply, a judicial  
1591 proceeding by a beneficiary against a trustee for breach of trust shall  
1592 be commenced not later than three years after the first to occur of: (1)  
1593 The removal, resignation or death of the trustee; (2) the termination of  
1594 the beneficiary's interest in the trust; or (3) the termination of the trust.

1595 (d) In a proceeding involving a charitable trust, any notice that is  
1596 required to be given to the Attorney General shall include a copy of the  
1597 trust instrument.

1598 (e) The provisions of this section do not apply to testamentary  
1599 trusts.

1600 Sec. 71. (NEW) (*Effective January 1, 2020*) A trustee who acts in  
1601 reasonable reliance on the terms of the trust as expressed in the trust  
1602 instrument is not liable to a beneficiary for a breach of trust to the  
1603 extent the breach resulted from the reliance.

1604 Sec. 72. (NEW) (*Effective January 1, 2020*) If an event, including  
1605 marriage, divorce, performance of educational requirements or death  
1606 affects administration or distribution of a trust, a trustee who has  
1607 exercised reasonable care to ascertain the happening of the event is not  
1608 liable for a loss resulting from the trustee's lack of knowledge.

1609 Sec. 73. (NEW) (*Effective January 1, 2020*) (a) A term of a trust  
1610 relieving a trustee of liability for breach of trust is unenforceable to the  
1611 extent that it: (1) Relieves the trustee of liability for breach of trust  
1612 committed in bad faith or with reckless indifference to the purposes of  
1613 the trust or the interests of the beneficiaries; or (2) was inserted as the  
1614 result of an abuse by the trustee of a fiduciary or confidential  
1615 relationship to the settlor.

1616 (b) Except for terms intended to provide protection for carrying out  
1617 a stated trust purpose, an exculpatory term drafted or caused to be  
1618 drafted by the trustee is invalid as an abuse of a fiduciary or

1619 confidential relationship unless the trustee proves that the exculpatory  
1620 term is fair under the circumstances and that its existence and contents  
1621 were adequately communicated to the settlor.

1622       Sec. 74. (NEW) (*Effective January 1, 2020*) (a) A trustee is not liable to  
1623 a beneficiary for breach of trust if the beneficiary consented to the  
1624 conduct constituting the breach, released the trustee from liability for  
1625 the breach or ratified the transaction constituting the breach, unless: (1)  
1626 The consent, release or ratification of the beneficiary was induced by  
1627 improper conduct of the trustee; or (2) at the time of the consent,  
1628 release or ratification, the beneficiary did not know of the beneficiary's  
1629 rights or of the material facts relating to the breach.

1630       (b) The liability of a trustee of a testamentary trust is not governed  
1631 by the provisions of this section.

1632       Sec. 75. (NEW) (*Effective January 1, 2020*) (a) Except as otherwise  
1633 provided in the contract, a trustee is not personally liable on a contract  
1634 properly entered into in the trustee's fiduciary capacity in the course of  
1635 administering the trust if the trustee in the contract disclosed the  
1636 fiduciary capacity.

1637       (b) Except as otherwise limited by the general statutes, the trustee is  
1638 personally liable for torts committed in the course of administering a  
1639 trust or for obligations arising from ownership or control of trust  
1640 property, including liability for violation of environmental law, only if  
1641 the trustee is personally at fault.

1642       (c) A claim may be asserted in a judicial proceeding against the  
1643 trustee in the trustee's fiduciary capacity, whether or not the trustee is  
1644 personally liable for the claim, if the claim is based on (1) a contract  
1645 entered into by a trustee in the trustee's fiduciary capacity, (2) an  
1646 obligation arising from ownership or control of trust property, or (3) a  
1647 tort committed in the course of administering a trust.

1648       Sec. 76. (NEW) (*Effective January 1, 2020*) (a) Except as provided in  
1649 subsection (c) of this section or unless personal liability is imposed in

1650 the contract, a trustee who holds an interest as a general partner in a  
1651 general or limited partnership is not personally liable on a contract  
1652 entered into by the partnership after the trust's acquisition of the  
1653 interest if the fiduciary capacity was disclosed in the contract or in a  
1654 statement previously filed pursuant to the Uniform Partnership Act,  
1655 sections 34-300 to 34-399, inclusive, of the general statutes or the  
1656 Uniform Limited Partnership Act, sections 34-9 to 34-38u, inclusive, of  
1657 the general statutes.

1658 (b) Except as otherwise provided in subsection (c) of this section, a  
1659 trustee who holds an interest as a general partner is not personally  
1660 liable for torts committed by the partnership or for obligations arising  
1661 from ownership or control of the interest unless the trustee is  
1662 personally at fault.

1663 (c) The immunity provided by this section does not apply if an  
1664 interest in the partnership is held by the trustee in a capacity other  
1665 than that of trustee or is held by the trustee's spouse or one or more of  
1666 the trustee's descendants, siblings or parents, or the spouse of any of  
1667 them.

1668 (d) If the trustee of a revocable trust holds an interest as a general  
1669 partner, the settlor is personally liable for contracts and other  
1670 obligations of the partnership as if the settlor were a general partner.

1671 Sec. 77. (NEW) (*Effective January 1, 2020*) (a) A person other than a  
1672 beneficiary who in good faith assists a trustee, or who in good faith  
1673 and for value deals with a trustee, without knowledge that the trustee  
1674 is exceeding or improperly exercising the trustee's powers, is protected  
1675 from liability as if the trustee properly exercised the power.

1676 (b) A person other than a beneficiary who in good faith deals with a  
1677 trustee is not required to inquire into the extent of the trustee's powers  
1678 or the propriety of their exercise.

1679 (c) A person who in good faith delivers assets to a trustee need not  
1680 ensure the proper application of such assets.

1681 (d) A person other than a beneficiary who in good faith assists a  
1682 former trustee, or who in good faith and for value deals with a former  
1683 trustee, without knowledge that the trusteeship has terminated, is  
1684 protected from liability as if the former trustee were still a trustee.

1685 (e) Comparable protective provisions of other laws relating to  
1686 commercial transactions or transfer of securities by fiduciaries prevail  
1687 over the protection provided by this section.

1688 Sec. 78. (NEW) (*Effective January 1, 2020*) (a) Instead of furnishing a  
1689 copy of the trust instrument to a person other than a beneficiary or, in  
1690 the case of a charitable trust, the Attorney General's office, the trustee  
1691 may furnish to the person a certification of trust containing the  
1692 following information: (1) That the trust exists and the date the trust  
1693 instrument was executed; (2) the identity of the settlor; (3) the identity  
1694 and address of the currently acting trustee; (4) the powers of the  
1695 trustee; (5) the revocability or irrevocability of the trust and the  
1696 identity of any person holding a power to revoke the trust; (6) the  
1697 authority of cotrustees to sign or otherwise authenticate and whether  
1698 all or less than all are required in order to exercise powers of the  
1699 trustee; (7) the trust's taxpayer identification number; and (8) the  
1700 manner of taking title to trust property.

1701 (b) A certification of trust may be signed or otherwise authenticated  
1702 by any trustee.

1703 (c) A certification of trust shall state that the trust has not been  
1704 revoked, modified or amended in any manner that would cause the  
1705 representations contained in the certification of trust to be incorrect.

1706 (d) A certification of trust need not contain the dispositive terms of a  
1707 trust.

1708 (e) A recipient of a certification of trust may require the trustee to  
1709 furnish copies of those excerpts from the original trust instrument and  
1710 later amendments which designate the trustee and confer upon the  
1711 trustee the power to act in the pending transaction.



1712 (f) A person who acts in reliance upon a certification of trust  
1713 without knowledge that the representations contained in the  
1714 certification are incorrect is not liable to any person for so acting and  
1715 may assume without inquiry the existence of the facts contained in the  
1716 certification. Knowledge of the terms of the trust may not be inferred  
1717 solely from the fact that a copy of all or part of the trust instrument is  
1718 held by the person relying upon the certification.

1719 (g) A person who in good faith enters into a transaction in reliance  
1720 upon a certification of trust may enforce the transaction against the  
1721 trust property as if the representations contained in the certification  
1722 were correct.

1723 (h) A person making a demand for the trust instrument in addition  
1724 to a certification of trust or excerpts is liable for damages, including  
1725 legal fees and costs, if the court determines that the person did not act  
1726 in good faith in demanding the trust instrument.

1727 (i) This section does not limit the right of a person to obtain a copy  
1728 of the trust instrument in a judicial proceeding concerning the trust  
1729 and does not limit the right of the Attorney General to notice under  
1730 subsection (d) of section 70 of this act.

1731 Sec. 79. (NEW) (*Effective January 1, 2020*) In applying and construing  
1732 the uniform provisions of sections 1 to 80, inclusive, of this act,  
1733 consideration shall be given to the need to promote uniformity of the  
1734 law with respect to the subject matter among states that enact the  
1735 uniform provisions.

1736 Sec. 80. (NEW) (*Effective January 1, 2020*) If any provision of this  
1737 section or sections 1 to 79, inclusive, of this act or its application to any  
1738 person or circumstances is held invalid, the invalidity does not affect  
1739 other provisions or applications of this section or sections 1 to 79,  
1740 inclusive, of this act which can be given effect without the invalid  
1741 provision or application, and to this end the provisions of this section  
1742 and sections 1 to 79, inclusive, of this act are severable.

1743       Sec. 81. (NEW) (*Effective January 1, 2020*) This section and sections 82  
1744 to 98, inclusive, of this act may be cited as the "Connecticut Uniform  
1745 Directed Trust Act".

1746       Sec. 82. (NEW) (*Effective January 1, 2020*) Sections 81 to 98, inclusive,  
1747 of this act apply to a trust, whenever created, that has its principal  
1748 place of administration in this state, subject to the following rules:

1749       (1) If the trust was created before January 1, 2020, sections 81 to 98,  
1750 inclusive, of this act apply only to a decision or action occurring on or  
1751 after January 1, 2020.

1752       (2) If the principal place of administration of the trust is changed to  
1753 this state on or after January 1, 2020, sections 81 to 98, inclusive, of this  
1754 act apply only to a decision or action occurring on or after the date of  
1755 the change.

1756       Sec. 83. (NEW) (*Effective January 1, 2020*) The common law and  
1757 principles of equity supplement sections 81 to 98, inclusive, of this act,  
1758 except to the extent modified by sections 81 to 98, inclusive, of this act  
1759 or law of this state other than this act.

1760       Sec. 84. (NEW) (*Effective January 1, 2020*) (a) As used in this section,  
1761 "power of appointment" means a power that enables a person acting in  
1762 a nonfiduciary capacity to designate a recipient of an ownership  
1763 interest in or another power of appointment over trust property.

1764       (b) Sections 81 to 98, inclusive, of this act do not apply to a:

1765       (1) Power of appointment;

1766       (2) Power to appoint or remove a trustee or trust director;

1767       (3) Power of a settlor over a trust to the extent the settlor has a  
1768 power to revoke the trust;

1769       (4) Power of a beneficiary over a trust to the extent the exercise or  
1770 nonexercise of the power affects the beneficial interest of:

1771 (A) The beneficiary; or

1772 (B) Another beneficiary represented by the beneficiary under  
1773 sections 17 to 21, inclusive, of this act with respect to the exercise or  
1774 nonexercise of the power; or

1775 (5) Power over a trust if:

1776 (A) The terms of the trust provide that the power is held in a  
1777 nonfiduciary capacity; and

1778 (B) The power is held in a nonfiduciary capacity to achieve the  
1779 settlor's tax objectives under the Internal Revenue Code of 1986, or any  
1780 subsequent corresponding internal revenue code of the United States,  
1781 as amended from time to time.

1782 (c) Unless the terms of a trust provide otherwise, a power granted to  
1783 a person to designate a recipient of an ownership interest in or power  
1784 of appointment over trust property which is exercisable while the  
1785 person is not serving as a trustee is a power of appointment and not a  
1786 power of direction.

1787 Sec. 85. (NEW) (*Effective January 1, 2020*) (a) Subject to section 86 of  
1788 this act, the terms of a trust may grant a power of direction to a trust  
1789 director.

1790 (b) Unless the terms of a trust provide otherwise: (1) A trust director  
1791 may exercise any further power appropriate to the exercise or  
1792 nonexercise of a power of direction granted to the director under  
1793 subsection (a) of this section; and (2) trust directors with joint powers  
1794 shall act by majority decision.

1795 Sec. 86. (NEW) (*Effective January 1, 2020*) A trust director is subject to  
1796 the same rules as a trustee in a like position and under similar  
1797 circumstances in the exercise or nonexercise of a power of direction or  
1798 further power under subdivision (1) of subsection (b) of section 85 of  
1799 this act regarding:

1800 (1) A payback provision in the terms of a trust necessary to comply  
1801 with the reimbursement requirements of 42 USC 1396p(d)(4)(A), as  
1802 amended from time to time; and

1803 (2) A charitable interest in the trust, including notice regarding the  
1804 interest to the Attorney General.

1805 Sec. 87. (NEW) (*Effective January 1, 2020*) (a) Subject to the provisions  
1806 of subsection (b) of this section, with respect to a power of direction or  
1807 further power under subdivision (1) of subsection (b) of section 85 of  
1808 this act:

1809 (1) A trust director has the same fiduciary duty and liability in the  
1810 exercise or nonexercise of the power:

1811 (A) If the power is held individually, as a sole trustee in a like  
1812 position and under similar circumstances; or

1813 (B) If the power is held jointly with a trustee or another trust  
1814 director, as a cotrustee in a like position and under similar  
1815 circumstances; and

1816 (2) The terms of the trust may vary the director's duty or liability to  
1817 the same extent the terms of the trust could vary the duty or liability of  
1818 a trustee in a like position and under similar circumstances.

1819 (b) Unless the terms of a trust provide otherwise, if a trust director is  
1820 licensed, certified, or otherwise authorized or permitted by law other  
1821 than sections 81 to 98, inclusive, of this act to provide health care in the  
1822 ordinary course of the director's business or practice of a profession, to  
1823 the extent the director acts in that capacity, the director has no duty or  
1824 liability under sections 81 to 98, inclusive, of this act.

1825 (c) The terms of a trust may impose a duty or liability on a trust  
1826 director in addition to the duties and liabilities under this section.

1827 Sec. 88. (NEW) (*Effective January 1, 2020*) (a) Subject to the provisions  
1828 of subsection (b) of this section, a directed trustee shall take reasonable

1829 action to comply with a trust director's exercise or nonexercise of a  
1830 power of direction or further power under subdivision (1) of  
1831 subsection (b) of section 85 of this act and the trustee is not liable for  
1832 the action.

1833 (b) A directed trustee shall not comply with a trust director's  
1834 exercise or nonexercise of a power of direction or further power under  
1835 subdivision (1) of subsection (b) of section 85 of this act to the extent  
1836 that by complying the trustee would engage in wilful misconduct.

1837 (c) An exercise of a power of direction under which a trust director  
1838 may release a trustee or another trust director from liability for breach  
1839 of trust is not effective if: (1) The breach involved the trustee's or other  
1840 director's wilful misconduct; (2) the release was induced by improper  
1841 conduct of the trustee or other director in procuring the release; or (3)  
1842 at the time of the release, the director did not know the material facts  
1843 relating to the breach.

1844 (d) A directed trustee that has reasonable doubt about its duty  
1845 under this section may petition the court for instructions and the court  
1846 shall have jurisdiction to provide such instructions.

1847 (e) The terms of a trust may impose a duty or liability on a directed  
1848 trustee in addition to the duties and liabilities under this section.

1849 Sec. 89. (NEW) (*Effective January 1, 2020*) (a) Subject to the provisions  
1850 of section 90 of this act, a trustee shall provide information to a trust  
1851 director to the extent the information is reasonably related to: (1) The  
1852 powers or duties of the trustee; and (2) the powers or duties of the  
1853 director.

1854 (b) Subject to the provisions of section 90 of this act, a trust director  
1855 shall provide information to a trustee or another trust director to the  
1856 extent the information is reasonably related to: (1) The powers or  
1857 duties of the director; and (2) the powers or duties of the trustee or  
1858 other director.

1859 (c) A trustee that acts in reliance on information provided by a trust

1860 director is not liable for a breach of trust to the extent the breach  
1861 resulted from the reliance, unless by so acting the trustee engages in  
1862 wilful misconduct.

1863 (d) A trust director that acts in reliance on information provided by  
1864 a trustee or another trust director is not liable for a breach of trust to  
1865 the extent the breach resulted from the reliance, unless by so acting the  
1866 trust director engages in wilful misconduct.

1867 Sec. 90. (NEW) (*Effective January 1, 2020*) (a) Unless the terms of a  
1868 trust provide otherwise: (1) A trustee does not have a duty to: (A)  
1869 Monitor a trust director; or (B) inform or give advice to a settlor,  
1870 beneficiary, trustee or trust director concerning an instance in which  
1871 the trustee might have acted differently than the director; and (2) by  
1872 taking an action described in subdivision (1) of this subsection, a  
1873 trustee does not assume the duty excluded in said subdivision.

1874 (b) Unless the terms of a trust provide otherwise: (1) A trust director  
1875 does not have a duty to: (A) Monitor a trustee or another trust director;  
1876 or (B) inform or give advice to a settlor, beneficiary, trustee or another  
1877 trust director concerning an instance in which the director might have  
1878 acted differently than a trustee or another trust director; and (2) by  
1879 taking an action described in subdivision (1) of this subsection, a trust  
1880 director does not assume the duty excluded by said subdivision.

1881 Sec. 91. (NEW) (*Effective January 1, 2020*) The terms of a trust may  
1882 relieve a cotrustee from duty and liability with respect to another  
1883 cotrustee's exercise or nonexercise of a power of the other cotrustee to  
1884 the same extent that, in a directed trust, a directed trustee is relieved  
1885 from duty and liability with respect to a trust director's power of  
1886 direction under sections 88 to 90, inclusive, of this act.

1887 Sec. 92. (NEW) (*Effective January 1, 2020*) (a) An action against a trust  
1888 director for breach of trust must be commenced within the same  
1889 limitation period as under section 70 of this act for an action for breach  
1890 of trust against a trustee in a like position and under similar  
1891 circumstances.

1892 (b) A financial report or accounting has the same effect on the  
1893 limitation period for an action against a trust director for breach of  
1894 trust that the financial report or accounting would have under section  
1895 70 of this act in an action for breach of trust against a trustee in a like  
1896 position and under similar circumstances.

1897 Sec. 93. (NEW) (*Effective January 1, 2020*) In an action against a trust  
1898 director for breach of trust, the director may assert the same defenses a  
1899 trustee in a like position and under similar circumstances could assert  
1900 in an action for breach of trust against the trustee.

1901 Sec. 94. (NEW) (*Effective January 1, 2020*) (a) By accepting  
1902 appointment as a trust director of a trust subject to sections 81 to 98,  
1903 inclusive, of this act, the director submits to personal jurisdiction of the  
1904 courts of this state regarding any matter related to a power or duty of  
1905 the director.

1906 (b) This section does not preclude other methods of obtaining  
1907 jurisdiction over a trust director.

1908 Sec. 95. (NEW) (*Effective January 1, 2020*) Unless the terms of a trust  
1909 provide otherwise, the rules applicable to a trustee apply to a trust  
1910 director regarding the following matters:

1911 (1) Acceptance under section 44 of this act;

1912 (2) Giving of bond to secure performance under section 45 of this  
1913 act;

1914 (3) Reasonable compensation under section 51 of this act;

1915 (4) Resignation under section 48 of this act;

1916 (5) Removal under section 49 of this act; and

1917 (6) Vacancy and appointment of successor under section 47 of this  
1918 act.

1919 Sec. 96. (NEW) (*Effective January 1, 2020*) In applying and construing

1920 the uniform provisions of sections 81 to 98, inclusive, of this act,  
1921 consideration shall be given to the need to promote uniformity of the  
1922 law with respect to its subject matter among states that enact it.

1923       Sec. 97. (NEW) (*Effective January 1, 2020*) Sections 81 to 98, inclusive,  
1924 of this act modify, limit and supersede the Electronic Signatures in  
1925 Global and National Commerce Act, 15 USC 7001 et seq., but do not  
1926 modify, limit or supersede Section 101(c) of said act, 15 USC 7001(c), or  
1927 authorize electronic delivery of any of the notices described in Section  
1928 103(b) of said act, 15 USC 7003(b).

1929       Sec. 98. (NEW) (*Effective January 1, 2020*) The provisions of this  
1930 section and sections 81 to 97, inclusive, of this act governing the legal  
1931 effect, validity or enforceability of electronic records or electronic  
1932 signatures, and of contracts formed or performed with the use of the  
1933 records or signatures, conform to the requirements of Section 102 of  
1934 the Electronic Signatures in Global and National Commerce Act, 15  
1935 USC 7002 and supersede, modify and limit the requirements of that  
1936 act.

1937       Sec. 99. (NEW) (*Effective January 1, 2020*) This section and sections  
1938 100 to 108, inclusive, of this act may be cited as the "Connecticut  
1939 Qualified Dispositions in Trust Act".

1940       Sec. 100. (NEW) (*Effective January 1, 2020*) As used in this section and  
1941 sections 101 to 108, inclusive, of this act:

1942       (1) "Claim" means a right to payment, whether or not the right is  
1943 reduced to judgment, liquidated, unliquidated, fixed, contingent,  
1944 matured, unmatured, disputed, undisputed, legal, equitable, secured  
1945 or unsecured.

1946       (2) "Creditor" means, with respect to a transferor, a person who has  
1947 a claim.

1948       (3) "Debt" means liability on a claim.

1949       (4) "Disposition" means a transfer, conveyance or assignment of



1950 property, including a change in the legal ownership of property  
1951 occurring upon the substitution of one trustee for another or the  
1952 addition of one or more new trustees, or the exercise of a power so as  
1953 to cause a transfer of property, to a trustee or trustees. "Disposition"  
1954 does not include the release or relinquishment of an interest that was  
1955 the subject of a qualified disposition.

1956 (5) "Property" includes real property, tangible and intangible  
1957 personal property, and interests in real or personal property, tangible  
1958 and intangible.

1959 (6) "Qualified disposition" means a disposition by or from a  
1960 transferor to a trustee, with or without consideration, by means of a  
1961 trust instrument. "Qualified disposition" does not include a  
1962 disposition: (A) In derogation of any state or federal agency claim or  
1963 right of recovery under 42 USC Chapter 7, Subchapter XIX against a  
1964 trust established by a transferor or such transferor's spouse, or (B) in  
1965 respect to a state or federal agency treatment of the trust instrument in  
1966 a determination of a transferor's eligibility under a state plan under 42  
1967 USC Chapter 7, Subchapter XIX.

1968 (7) "Spouse" and "former spouse" means only persons to whom the  
1969 transferor was married at, or before, the time the qualified disposition  
1970 is made.

1971 (8) "Transferor" means an individual who, or entity which, as an  
1972 owner of property or as a holder of a general power of appointment,  
1973 which authorizes the holder to appoint in favor of the holder, the  
1974 holder's creditors, the holder's estate or the creditors of the holder's  
1975 estate, or as a trustee, directly or indirectly, makes a disposition or  
1976 causes a disposition to be made.

1977 (9) "Qualified trustee" means:

1978 (A) Any person, other than the transferor, who in the case of an  
1979 individual, is a resident of this state or who, in all other cases, is a state  
1980 or federally chartered bank or trust company having a place of

1981 business in this state, is authorized to engage in a trust business in this  
1982 state, and maintains or arranges for custody in this state of some or all  
1983 of the property that is the subject of the qualified disposition,  
1984 maintains records in this state for the trust on an exclusive or  
1985 nonexclusive basis, prepares or arranges for the preparation in this  
1986 state of fiduciary income tax returns for the trust, or otherwise  
1987 materially participates in this state in the administration of the trust.

1988 (B) "Qualified trustee" does not include (i) the transferor, (ii) any  
1989 other individual who is a nonresident of this state, or (iii) an entity that  
1990 is not authorized by the laws of this state to act as a trustee or whose  
1991 activities are not subject to supervision as provided in subparagraph  
1992 (A) of this subdivision.

1993 (10) "Trust instrument" means an instrument, in writing, appointing  
1994 at least one qualified trustee for the property that is the subject of a  
1995 disposition, which instrument:

1996 (A) Expressly provides that the laws of this state govern the  
1997 validity, construction and administration of the trust;

1998 (B) Is irrevocable; and

1999 (C) Provides that the interest of the transferor or other beneficiary in  
2000 the trust property or the income from the trust property may not be  
2001 transferred, assigned, pledged or mortgaged, whether voluntarily or  
2002 involuntarily, before the qualified trustee or qualified trustees actually  
2003 distribute the property or income from the trust property to the  
2004 beneficiary, and the provision of the trust instrument shall be deemed  
2005 to be a restriction on the transfer of the transferor's beneficial interest  
2006 in the trust that is enforceable under applicable nonbankruptcy law  
2007 within the meaning of 11 USC 541(c)(2), as amended from time to time.

2008 Sec. 101. (NEW) (*Effective January 1, 2020*) (a) Nothing in sections 99  
2009 to 108, inclusive, of this act shall be construed to preclude a transferor  
2010 from appointing one or more trust directors, including, but not limited  
2011 to:

2012 (1) Trust directors who have authority under the terms of the trust  
2013 instrument to remove and appoint qualified trustees or trust directors;  
2014 and

2015 (2) Trust directors who have authority under the terms of the trust  
2016 instrument to direct, consent to or disapprove distributions from the  
2017 trust.

2018 (b) A transferor may serve as trust director, but the power of a trust  
2019 director, who is the transferor shall be limited to the retention of the  
2020 veto right permitted by subdivision (1) of section 103 of this act.

2021 (c) For purposes of this section, "trust director" includes a trust  
2022 director, as defined in section 3 of this act, a trust protector, a trust  
2023 advisor or any other person who, in addition to a qualified trustee,  
2024 holds one or more trust powers.

2025 Sec. 102. (NEW) (*Effective January 1, 2020*) (a) If a qualified trustee of  
2026 a trust ceases to meet the requirements of subparagraph (A) of  
2027 subdivision (9) of section 100 of this act and no remaining trustee  
2028 meets the requirements of said subparagraph, the qualified trustee  
2029 shall be deemed to have resigned at the time of the cessation and the  
2030 successor qualified trustee provided for in the trust instrument shall  
2031 become a qualified trustee of the trust. In the absence of any successor  
2032 qualified trustee provided for in the trust agreement, the court may,  
2033 upon application of any interested party, appoint a successor qualified  
2034 trustee.

2035 (b) In the case of a disposition to more than one trustee, at least one  
2036 of whom is a qualified trustee, a disposition that is otherwise a  
2037 qualified disposition shall not be treated as other than a qualified  
2038 disposition solely because not all of the trustees are qualified trustees.

2039 (c) A trustee of a trust who is not a qualified trustee may transfer the  
2040 assets of a trust to a qualified trustee. Notwithstanding the provisions  
2041 of subparagraph (A) of subdivision (9) of section 100 of this act, a  
2042 disposition by a trustee who is not a qualified trustee to a trustee who

2043 is a qualified trustee will not fail to qualify as a qualified disposition  
2044 solely because the trust instrument does not contain an express  
2045 provision that the laws of this state govern the validity, construction  
2046 and administration of the trust.

2047 Sec. 103. (NEW) (*Effective January 1, 2020*) For purposes of  
2048 subparagraph (B) of subdivision (10) of section 100 of this act, a trust  
2049 instrument is irrevocable regardless of whether the transferor retained  
2050 any of the following rights, powers and interests:

2051 (1) A transferor's power to veto a distribution from the trust;

2052 (2) A power of appointment, other than a power to appoint to the  
2053 transferor, the transferor's creditors, the transferor's estate or the  
2054 creditors of the transferor's estate, exercisable by will or other written  
2055 instrument of the transferor and effective only upon the transferor's  
2056 death;

2057 (3) The transferor's potential or actual receipt of income, including  
2058 rights to such income retained in the trust instrument;

2059 (4) The transferor's potential or actual receipt of income or principal  
2060 from a charitable remainder unitrust or charitable remainder annuity  
2061 trust, as such terms are defined in 26 USC 664, as amended from time  
2062 to time; and the transferor's right, at any time and from time to time by  
2063 written instrument delivered to the trustee, to release such transferor's  
2064 retained interest in the trust, in whole or in part, in favor of a charitable  
2065 organization that has or charitable organizations that have a  
2066 succeeding beneficial interest in the trust;

2067 (5) The transferor's receipt each year of a percentage, not to exceed  
2068 five per cent, specified in the trust instrument of the initial value of the  
2069 trust assets on their value determined from time to time pursuant to  
2070 the trust instrument or of a fixed amount that, on an annual basis, does  
2071 not exceed five per cent of the initial value of the trust assets;

2072 (6) The transferor's potential or actual receipt or use of principal if  
2073 the potential or actual receipt or use of principal would be the result of

2074 a qualified trustee acting:

2075 (A) In the discretion of the qualified trustee;

2076 (B) Pursuant to a standard that governs the distribution of principal  
2077 and does not confer upon the transferor a substantially unfettered  
2078 right to the receipt or use of the principal; or

2079 (C) At the direction of a trust director described in section 101 of this  
2080 act who is acting in the director's discretion, or pursuant to a standard  
2081 that governs the distribution of principal and does not confer upon the  
2082 transferor a substantially unfettered right to the receipt of or use of  
2083 principal. For purposes of this subparagraph, a qualified trustee is  
2084 presumed to have discretion with respect to the distribution of  
2085 principal unless such discretion is expressly denied to the trustee by  
2086 the terms of the trust instrument;

2087 (7) The transferor's right to remove a trustee or director and to  
2088 appoint a new trustee or director, other than a person who is a related  
2089 or subordinate party with respect to the transferor within the meaning  
2090 of 26 USC 672(c), as amended from time to time;

2091 (8) The transferor's potential or actual use of real property held  
2092 under a qualified personal residence trust within the meaning of the  
2093 term as described in 26 USC 2702(c), as amended from time to time, or  
2094 the transferor's possession and enjoyment of a qualified annuity  
2095 interest within the meaning of the term as described in 26 CFR 25.2702-  
2096 5(c)(8), as amended from time to time; and

2097 (9) The transferor's potential or actual receipt of income or principal  
2098 to pay, in whole or in part, income taxes due on income of the trust if  
2099 the potential or actual receipt of income or principal is pursuant to a  
2100 provision in the trust instrument that expressly provides for the  
2101 payment of the taxes and if such potential or actual receipt of income  
2102 or principal would be the result of a qualified trustee acting:

2103 (A) In the qualified trustee's discretion; or

2104 (B) At the direction of a trust director described in section 101 of this  
2105 act who is acting in the director's discretion.

2106 Sec. 104. (NEW) (*Effective January 1, 2020*) A qualified disposition  
2107 shall be subject to sections 99 to 108, inclusive, of this act  
2108 notwithstanding a transferor's retention of any of the powers and  
2109 rights described in section 103 of this act and the transferor's service as  
2110 investment director or advisor pursuant to section 101 of this act. The  
2111 transferor shall have only such powers and rights as are conferred by  
2112 the trust instrument. Except as provided in the trust instrument, and  
2113 permitted by section 101 of this act and in section 103 of this act, a  
2114 transferor has no rights or authority with respect to the property that is  
2115 the subject of a qualified disposition or the income therefrom, and any  
2116 agreement or understanding purporting to grant or permit the  
2117 retention of any greater rights or authority is void.

2118 Sec. 105. (NEW) (*Effective January 1, 2020*) (a) Notwithstanding any  
2119 provision of the general statutes, no action of any kind, including,  
2120 without limitation, an action to enforce a judgment entered by a court  
2121 or other body having adjudicative authority, shall be brought at law or  
2122 in equity for an attachment or other provisional remedy against  
2123 property that is the subject of a qualified disposition or for avoidance  
2124 of a qualified disposition, unless the action is brought pursuant to  
2125 section 52-552h of the general statutes. In any such action, the creditor  
2126 has the burden to prove each element by clear and convincing  
2127 evidence.

2128 (b) Notwithstanding the provisions of section 52-552j of the general  
2129 statutes, a creditor may not bring an action under subsection (a) of this  
2130 section if:

2131 (1) The creditor's claim against the transferor arose before the  
2132 qualified disposition was made, unless the action is brought within  
2133 four years after the qualified disposition is made or, if later, within one  
2134 year after the qualified disposition was or could reasonably have been  
2135 discovered by the creditor; or

2136 (2) The creditor's claim against the transferor arose subsequent to  
2137 the qualified disposition, unless the action is brought within four years  
2138 after the qualified disposition is made.

2139 (c) For the purposes of sections 99 to 108, inclusive, of this act, a  
2140 qualified disposition that is made by means of a disposition by a  
2141 transferor who is a trustee shall be deemed to have been made as of the  
2142 time the property that is the subject of the qualified disposition was  
2143 originally transferred to the transferor, or any predecessor trustee,  
2144 making the qualified disposition in a form that conforms with the  
2145 requirements set forth in subdivision (10) of section 100 of this act. If a  
2146 trustee of an existing trust proposes to make a qualified disposition  
2147 pursuant to this subsection, but the trust would not conform to the  
2148 requirements of subdivision (10) of section 100 of this act as a result of  
2149 the original transferor's nonconforming powers of appointment, upon  
2150 the trustee's delivery to the qualified trustee of an irrevocable written  
2151 election to have this subsection apply to the trust, the nonconforming  
2152 powers of appointment shall be deemed modified to the extent  
2153 necessary to conform with the requirements of subdivision (10) of  
2154 section 100 of this act. For purposes of sections 99 to 108, inclusive, of  
2155 this act, an irrevocable written election includes a description of the  
2156 original transferor's powers of appointment as modified together with  
2157 the original transferor's written consent to the election but no such  
2158 consent of the original transferor shall be considered a disposition  
2159 within the meaning of subdivision (4) of section 100 of this act.

2160 (d) Notwithstanding any provision of the general statutes, a  
2161 creditor, including a creditor whose claim arose before or after a  
2162 qualified disposition, or any other person shall have only such rights  
2163 with respect to a qualified disposition as are provided in this section  
2164 and sections 106 and 107 of this act, and no such creditor nor any other  
2165 person shall have any claim or cause of action against the trustee, or  
2166 trust director, as described in section 101 of this act, of a trust that is  
2167 the subject of a qualified disposition, or against any person involved in  
2168 the counseling, drafting, preparation, execution or funding of a trust  
2169 that is the subject of a qualified disposition.

2170 (e) Notwithstanding any other provision of the general statutes, no  
2171 action of any kind, including, without limitation, an action to enforce a  
2172 judgment by a court or other body having adjudicative authority, shall  
2173 be brought at law or in equity against the trustee, or trust director, as  
2174 described in section 101 of this act, of a trust that is the subject of the  
2175 qualified disposition, or against any person involved in the counseling,  
2176 drafting, preparation, execution or funding of a trust that is the subject  
2177 of a qualified disposition, if, as of the date the action is brought, an  
2178 action by a creditor with respect to the qualified disposition would be  
2179 barred under this section.

2180 (f) If more than one qualified disposition is made by means of the  
2181 same trust instrument:

2182 (1) The making of a subsequent qualified disposition shall be  
2183 disregarded in determining whether a creditor's claim with respect to a  
2184 prior qualified disposition is extinguished as provided in subsection  
2185 (b) of this section; and

2186 (2) Any distribution to a beneficiary shall be deemed to have been  
2187 made from the latest such qualified disposition.

2188 (g) If, in any action brought against a trustee of a trust that is  
2189 funded, in whole or in part, by a qualified disposition, a court takes  
2190 any action whereby the court declines to apply the law of this state in  
2191 determining the validity, construction or administration of the trust, or  
2192 the effect of a spendthrift provision of the trust, the trustee shall  
2193 immediately, upon the court's action and without the further order of  
2194 any court, cease in all respects to be a trustee of the trust and (1) a  
2195 successor trustee shall thereupon succeed as trustee in accordance with  
2196 the terms of the trust instrument; or (2) if the trust instrument does not  
2197 provide for a successor trustee and the trust would otherwise be  
2198 without a trustee, the court having jurisdiction pursuant to sections 15  
2199 and 16 of this act, upon the application of any beneficiary of the trust,  
2200 shall appoint a successor trustee upon such terms and conditions as it  
2201 determines to be consistent with the purposes of the trust and the  
2202 provisions of this section. The court shall have no continuing



2203 jurisdiction over the trust or trustee merely by reason of appointing the  
2204 trustee. Upon the trustee's ceasing to be trustee, the trustee shall have  
2205 no power or authority other than to convey the trust property to the  
2206 successor trustee named in the trust instrument or appointed by the  
2207 court having jurisdiction in accordance with the provisions of this  
2208 section.

2209 Sec. 106. (NEW) (*Effective January 1, 2020*) Notwithstanding the  
2210 provisions of section 105 of this act, sections 99 to 108, inclusive, of this  
2211 act, shall not apply to defeat a claim brought by:

2212 (1) A person to whom the transferor is indebted on or before the  
2213 date of a qualified disposition on account of an agreement or order of  
2214 court for payment of support or alimony in favor of the transferor's  
2215 spouse, former spouse or children, or for a division or distribution of  
2216 property in favor of the transferor's spouse or former spouse, but only  
2217 to the extent of the debt; or

2218 (2) To any person who suffers death, personal injury or property  
2219 damage on or before the date of a qualified disposition by a transferor,  
2220 which death, personal injury or property damage is at any time  
2221 determined to have been caused, in whole or in part, by the tortious  
2222 act or omission of the transferor or by another person for whom the  
2223 transferor is or was vicariously liable, but only to the extent of the  
2224 claim against the transferor or other person for whom the transferor is  
2225 or was vicariously liable.

2226 Sec. 107. (NEW) (*Effective January 1, 2020*) (a) A qualified disposition  
2227 shall be avoided only to the extent necessary to satisfy the transferor's  
2228 debt to the creditor at whose instance the disposition had been  
2229 avoided, together with any costs, including attorney's fees, that the  
2230 court may allow.

2231 (b) If any qualified disposition is avoided pursuant to subsection (a)  
2232 of this section, the following rules apply:

2233 (1) If the court is satisfied that the trustee has not acted in bad faith

2234 in accepting or administering the property that is the subject of the  
2235 qualified disposition:

2236 (A) The trustee has a first and paramount lien against the property  
2237 that is the subject of the qualified disposition in an amount equal to the  
2238 entire cost, including attorney's fees, properly incurred by the trustee  
2239 in the defense of the action or proceedings to avoid the qualified  
2240 disposition;

2241 (B) The qualified disposition shall be avoided subject to the proper  
2242 fees, costs, preexisting rights, claims and interest of the trustee and of  
2243 any predecessor trustee that has not acted in bad faith; and

2244 (C) For purposes of this subdivision, it shall be presumed that the  
2245 trustee did not act in bad faith merely by accepting the property.

2246 (2) If the court is satisfied that a beneficiary of a trust has not acted  
2247 in bad faith, the avoidance of the qualified disposition shall be subject  
2248 to the right of the beneficiary to retain any distribution made upon the  
2249 exercise of a trust power or discretion vested in the trustee of the trust,  
2250 which power or discretion was properly exercised prior to the  
2251 creditor's commencement of an action to avoid the qualified  
2252 disposition. For purposes of this subdivision, it shall be presumed that  
2253 the beneficiary, including a beneficiary who is also a transferor of the  
2254 trust, did not act in bad faith merely by creating the trust or by  
2255 accepting a distribution made in accordance with the terms of the  
2256 trust.

2257 (c) A creditor has the burden of proving by clear and convincing  
2258 evidence that a trustee or beneficiary acted in bad faith as set forth in  
2259 subsection (b) of this section, except, in the case of a beneficiary who is  
2260 also the transferor, the burden on the creditor is to prove by a  
2261 preponderance of the evidence that the transferor-beneficiary acted in  
2262 bad faith. The provisions of this subsection shall be construed to  
2263 provide substantive nonprocedural rights under state law.

2264 (d) For purposes of sections 99 to 107, inclusive, of this act,

2265 attachment, garnishment, sequestration or other legal or equitable  
2266 processes shall be permitted only in circumstances permitted by the  
2267 express terms of said sections of this act.

2268 (e) For purposes of this section, "court" means the Superior Court.

2269 Sec. 108. (NEW) (*Effective January 1, 2020*) The provisions of this  
2270 section and sections 100 to 107, inclusive, of this act, apply to qualified  
2271 dispositions made on or after January 1, 2020.

2272 Sec. 109. (NEW) (*Effective January 1, 2020*) (a) Except as otherwise  
2273 provided in sections 1 to 108, inclusive, of this act, on January 1, 2020,  
2274 the following rules apply:

2275 (1) Sections 1 to 108, inclusive, of this act apply to all trusts created  
2276 before, on or after January 1, 2020.

2277 (2) Sections 1 to 108, inclusive, of this act apply to all judicial  
2278 proceedings concerning trusts commenced on or after January 1, 2020.

2279 (3) Sections 1 to 108, inclusive, of this act apply to judicial  
2280 proceedings concerning trusts commenced before January 1, 2020,  
2281 unless the court in which the judicial proceeding is pending finds that  
2282 application of a particular provision of sections 1 to 108, inclusive, of  
2283 this act would substantially interfere with the effective conduct of the  
2284 judicial proceedings or prejudice the rights of the parties. If the court  
2285 finds substantial interference or prejudice, the particular provision of  
2286 sections 1 to 108, inclusive, of this act do not apply and the superseded  
2287 law applies.

2288 (4) Any rule of construction or presumption provided in sections 1  
2289 to 108, inclusive, of this act applies to trust instruments executed  
2290 before January 1, 2020, unless there is a clear indication of a contrary  
2291 intent in the terms of the trust.

2292 (5) An act done before January 1, 2020, is not affected by sections 1  
2293 to 108, inclusive, of this act.

2294 (b) If a right is acquired, extinguished or barred upon the expiration  
2295 of a prescribed period that has commenced to run under any provision  
2296 of the general statutes, other than sections 1 to 108, inclusive, of this act  
2297 before January 1, 2020, the provision of the general statutes continues  
2298 to apply to the right even if the provision has been repealed or  
2299 superseded.

2300 Sec. 110. Section 45a-98 of the general statutes is repealed and the  
2301 following is substituted in lieu thereof (*Effective January 1, 2020*):

2302 (a) Probate Courts in their respective districts shall have the power  
2303 to (1) grant administration of intestate estates of persons who have  
2304 died domiciled in their districts and of intestate estates of persons not  
2305 domiciled in this state which may be granted as provided by section  
2306 45a-303; (2) admit wills to probate of persons who have died domiciled  
2307 in their districts or of nondomiciliaries whose wills may be proved in  
2308 their districts as provided in section 45a-287; (3) except as provided in  
2309 section 45a-98a or as limited by an applicable statute of limitations,  
2310 determine title or rights of possession and use in and to any real,  
2311 tangible or intangible property that constitutes, or may constitute, all  
2312 or part of any trust, any decedent's estate, or any estate under control  
2313 of a guardian or conservator, [which trust or estate is otherwise subject  
2314 to the jurisdiction of the Probate Court,] including the rights and  
2315 obligations of any beneficiary of the trust or estate and including the  
2316 rights and obligations of any joint tenant with respect to survivorship  
2317 property; (4) except as provided in section 45a-98a, determine the  
2318 validity or construe the meaning and effect of (A) any will or trust  
2319 agreement if a construction is required in connection with the  
2320 administration or distribution of a trust or estate; [otherwise subject to  
2321 the jurisdiction of the Probate Court; (B) an inter vivos trust upon a  
2322 petition that meets the requirements for a petition for an accounting  
2323 pursuant to subsection (b) or (c) of section 45a-175, provided such an  
2324 accounting need not be required; or (C)] or (B) a power of attorney  
2325 pursuant to section 1-350o; (5) except as provided in section 45a-98a,  
2326 apply the doctrine of cy pres or approximation; (6) to the extent  
2327 provided for in section 45a-175, as amended by this act, call executors,

2328 administrators, trustees, guardians, conservators, and agents acting  
2329 under powers of attorney created in accordance with sections 1-350 to  
2330 1-353b, inclusive, to account concerning the estates entrusted to their  
2331 charge or for other relief as provided in sections 1-350 to 1-353b,  
2332 inclusive; and (7) make any lawful orders or decrees to carry into effect  
2333 the power and jurisdiction conferred upon [them] the Probate Courts  
2334 by the laws of this state.

2335 (b) The jurisdiction of Probate Courts to determine title or rights or  
2336 to construe instruments or to apply the doctrine of cy pres or  
2337 approximation pursuant to subsection (a) of this section is concurrent  
2338 with the jurisdiction of the Superior Court and does not affect the  
2339 power of the Superior Court as a court of general jurisdiction.

2340 Sec. 111. Section 45a-175 of the general statutes is repealed and the  
2341 following is substituted in lieu thereof (*Effective January 1, 2020*):

2342 (a) Probate Courts shall have jurisdiction of the interim and final  
2343 accounts of testamentary trustees, trustees appointed by the Probate  
2344 Courts, conservators, guardians, executors and administrators, and, to  
2345 the extent provided for in this section, shall have jurisdiction of  
2346 accounts of the actions of trustees of inter vivos trusts and agents  
2347 acting under powers of attorney.

2348 (b) A trustee or settlor of an inter vivos trust or the successor of the  
2349 trustee, settlor or his or her legal representative may petition [to the  
2350 Probate Court for the district where the trustee, or any one of them,  
2351 has any place of business or to the Probate Court for the district where  
2352 the trustee or any one of them or the settlor resides or, in the case of a  
2353 deceased settlor, to the Probate Court having jurisdiction over the  
2354 estate of the settlor or for the district in which the settlor resided  
2355 immediately prior to death] a Probate Court specified in section 16 of  
2356 this act for submission to the jurisdiction of the court of an account for  
2357 allowance of the trustee's actions under such trust.

2358 (c) (1) Any beneficiary of an inter vivos trust may petition a Probate  
2359 Court [having jurisdiction under this section] specified in section 16 of

2360 this act for an accounting by the trustee or trustees. The court may,  
2361 after hearing with notice to all interested parties, grant the petition and  
2362 require an accounting for such periods of time as it determines are  
2363 reasonable and necessary on finding that: (A) The beneficiary has an  
2364 interest in the trust sufficient to entitle [him or her] the beneficiary to  
2365 an accounting, (B) cause has been shown that an accounting is  
2366 necessary, and (C) the petition is not for the purpose of harassment.

2367 [(2) A Probate Court shall have jurisdiction to require an accounting  
2368 under subdivision (1) of this subsection if (A) a trustee of the trust  
2369 resides in its district, (B) in the case of a corporate trustee, the trustee  
2370 has any place of business in the district, (C) any of the trust assets are  
2371 maintained or evidences of intangible property of the trust are situated  
2372 in the district, or (D) the settlor resides in the district or, in the case of a  
2373 deceased settlor, resided in the district immediately prior to death.]

2374 [(3)] (2) As used in subdivision (1) of this subsection, "beneficiary"  
2375 [means any person currently receiving payments of income or  
2376 principal from the trust, or who may be entitled to receive income or  
2377 principal or both from the trust at some future date, or the legal  
2378 representative of such person] has the same meaning as provided in  
2379 section 3 of this act.

2380 (d) Any of the persons specified in section 1-350o may petition the  
2381 Probate Court for the district where the agent has any place of business  
2382 or to the Probate Court for the district where the agent or the principal  
2383 resides or, in the case of a deceased principal, to the Probate Court  
2384 having jurisdiction over the estate of the principal or for the district in  
2385 which the principal resided immediately prior to death, for an  
2386 accounting or other relief as provided in section 1-350o. The court shall  
2387 grant the petition if filed by the principal, agent, guardian, conservator  
2388 or other fiduciary acting for the principal. The court may grant a  
2389 petition filed by any other person specified in section 1-350o if it finds  
2390 that (1) the petitioner has an interest sufficient to entitle [him] the  
2391 petitioner to the relief requested, (2) cause has been shown that such  
2392 relief is necessary, and (3) the petition is not for the purpose of

2393 harassment.

2394 (e) The action to submit an accounting to the court, whether by an  
2395 inter vivos trustee or agent acting under a power of attorney or  
2396 whether pursuant to petition of another party, [shall] does not subject  
2397 the trust or the power of attorney to the continuing jurisdiction of the  
2398 Probate Court.

2399 (f) If the court finds such appointment [to be] is necessary and in the  
2400 best interests of the estate, the court upon its own motion may appoint  
2401 an auditor to be selected from a list provided by the Probate Court  
2402 Administrator, to examine accounts over which the court has  
2403 jurisdiction under this section, except those accounts on matters in  
2404 which the fiduciary or cofiduciary is a corporation having trust  
2405 powers. The list of auditors compiled by the Probate Court  
2406 Administrator shall be comprised of individuals who hold a license  
2407 from the State Board of Accountancy as a certified public accountant or  
2408 public accountant. The Probate Court Administrator may from time to  
2409 time establish hourly rates and allowable expenses for the  
2410 compensation of auditors under this section. Costs of the audit may be  
2411 charged to the fiduciary, any party in interest and the estate, in such  
2412 proportion as the court shall direct if the court finds [such] the charge  
2413 to be equitable. Any such share may be paid from the fund established  
2414 under section 45a-82, subject to the approval of the Probate Court  
2415 Administrator, if it is determined that the person obligated to pay  
2416 [such] the share is unable to pay or to charge such amount to the estate  
2417 would cause undue hardship.

2418 (g) Upon the allowance of any such account, the court shall  
2419 determine the rights of the fiduciaries or the agent under a power of  
2420 attorney rendering the account and of the parties interested in the  
2421 account, including the relief authorized under section 1-350p, subject  
2422 to appeal as in other cases. The court shall cause notice of the hearing  
2423 on the account to be given in such manner and to such parties as it  
2424 directs.

2425 (h) In any action under this section, the Probate Court shall have, in

2426 addition to powers pursuant to this section, all the powers available to  
2427 a judge of the Superior Court at law and in equity pertaining to  
2428 matters under this section.

2429 Sec. 112. Section 45a-177 of the general statutes is repealed and the  
2430 following is substituted in lieu thereof (*Effective January 1, 2020*):

2431 (a) All conservators, guardians and trustees [, including (1) those  
2432 entrusted with] of testamentary trusts, unless excused by the will  
2433 creating the trust, [(2) conservators of the person authorized under  
2434 subsection (a) of section 45a-656 to manage the finances of a conserved  
2435 person, and (3) guardians of adults with intellectual disability  
2436 authorized under section 45a-677a to manage the finances of a  
2437 protected person,] shall render periodic accounts of their trusts signed  
2438 under penalty of false statement to the Probate Court having  
2439 jurisdiction for allowance, at least once during each three-year period  
2440 and more frequently if required by the court or by the will or trust  
2441 instrument creating the trust. [At the end of each three-year period  
2442 from the date of the last allowance of a periodic account, or upon the  
2443 earlier receipt of a final account, there shall be a hearing on all periodic  
2444 accounts not previously allowed, and the final account, if any, in  
2445 accordance with sections 45a-178 and 45a-179.] Except as otherwise  
2446 provided in rules of procedure adopted and promulgated by the  
2447 judges of the Supreme Court, under section 45a-78, the provisions of a  
2448 will excusing the trustee from rendering of periodic accounts does not  
2449 excuse the trustee from the rendering a final account upon termination  
2450 of the trust as required by section 45a-481.

2451 (b) If the estate held by any person in any such fiduciary capacity is  
2452 less than two thousand dollars, or, in the case of a corporate fiduciary  
2453 under the supervision of the Banking Commissioner or any other  
2454 fiduciary bonded by a surety company authorized to do business in  
2455 this state, ten thousand dollars, such fiduciary shall not be required to  
2456 render such account unless so ordered by the court.

2457 Sec. 113. Section 45a-242 of the general statutes is repealed and the  
2458 following is substituted in lieu thereof (*Effective January 1, 2020*):



2459 (a) The Probate Court having jurisdiction may, upon its own motion  
2460 or upon the petition of any person interested or of the surety upon the  
2461 fiduciary's probate bond, after notice and hearing, remove any  
2462 fiduciary if: (1) The fiduciary becomes incapable of executing such  
2463 fiduciary's trust, neglects to perform the duties of such fiduciary's  
2464 trust, wastes the estate in such fiduciary's charge, or fails to furnish  
2465 any additional or substitute probate bond ordered by the court, (2) lack  
2466 of cooperation among cofiduciaries substantially impairs the  
2467 administration of the estate, (3) because of unfitness, unwillingness or  
2468 persistent failure of the fiduciary to administer the estate effectively,  
2469 the court determines that removal of the fiduciary best serves the  
2470 interests of the beneficiaries, or (4) there has been a substantial change  
2471 of circumstances or removal is requested by all of the beneficiaries, the  
2472 court finds that removal of the fiduciary best serves the interests of all  
2473 the beneficiaries and is not inconsistent with a material purpose of the  
2474 governing instrument and a suitable cofiduciary or successor fiduciary  
2475 is available. A successor corporate fiduciary shall not be removed in  
2476 such a manner as to discriminate against state banks or national  
2477 banking associations, nor shall any consolidated state bank or national  
2478 banking association or any receiving state bank or national banking  
2479 association be removed solely because it is a successor fiduciary, as  
2480 defined in section 45a-245a.

2481 (b) The Probate Court, after notice and hearing, may accept or reject  
2482 the written resignation of any fiduciary, but such resignation shall not  
2483 relieve such fiduciary from the obligation to fully and finally account  
2484 to the court for the administration of such fiduciary's trust. The  
2485 fiduciary shall submit a final account to the court within sixty days of  
2486 the acceptance of his or her resignation.

2487 (c) [Trustees appointed by a testator to execute a trust created by  
2488 will and testamentary guardians] A guardian appointed by a testator  
2489 in a will may resign or be removed, and the [vacancies] vacancy filled  
2490 by the court having jurisdiction in the manner provided under this  
2491 section, unless otherwise provided by the will.

2492 (d) Except as otherwise provided in subsection (c) of this section,  
2493 upon the death, removal or acceptance of the resignation of any  
2494 fiduciary before the completion of such fiduciary's duties, the Probate  
2495 Court may appoint a suitable person to fill the resultant vacancy and  
2496 such successor fiduciary shall give a probate bond, unless such bond is  
2497 excused by the will or otherwise by law.

2498 (e) All suits in favor of or against the original fiduciary shall survive  
2499 to and may be prosecuted by or against the person appointed to  
2500 succeed such fiduciary.

2501 (f) For purposes of this section, "fiduciary" includes executors,  
2502 administrators, conservators and guardians, but does not include  
2503 trustees.

2504 Sec. 114. Section 45a-474 of the general statutes is repealed and the  
2505 following is substituted in lieu thereof (*Effective January 1, 2020*):

2506 When a will, trust agreement or other instrument establishing a  
2507 trust fails to provide for the contingency of the trustee's refusal to  
2508 accept the trust or the trustee's resignation, death or incapacity, the  
2509 Probate Court [for the district within which the estate is situated, or,  
2510 when the trust has been created by will, in the district having  
2511 jurisdiction of such will,] specified in section 16 of this act may, on the  
2512 happening of any such contingency, appoint some suitable person to  
2513 fill such vacancy, taking from [him] such suitable person a probate  
2514 bond, unless in the case of a will it is otherwise provided therein. [, in  
2515 which case the provisions of section 45a-473 shall apply.] The court  
2516 may appoint a successor trustee of an inter vivos trust before such  
2517 contingency has occurred if the court finds that a vacancy in the office  
2518 of trustee is likely to occur. The court shall specify the conditions that  
2519 the successor trustee of such inter vivos trust must satisfy before  
2520 becoming trustee. In the event of a vacancy in the office of trustee of  
2521 such inter vivos trust, the successor trustee may assume the office  
2522 immediately upon satisfying the conditions set forth in the court's  
2523 order without further court action.

2524 Sec. 115. Section 45a-477 of the general statutes is repealed and the  
2525 following is substituted in lieu thereof (*Effective January 1, 2020*):

2526 [(a) When any person not a resident of this state is the owner of a  
2527 life estate or income during life in any personal property or real  
2528 property in this state that may thereafter be converted into money, and  
2529 the child or children of such life tenant or person entitled to such life  
2530 use or income, residing in the same state as such life tenant or person  
2531 entitled to such life use or income, are entitled to the remainder upon  
2532 the termination of such life estate, life use or income, such life tenant  
2533 having procured the appointment of a trustee or other legal custodian  
2534 of the property in which he has such interest under the laws of the  
2535 place of his residence, such custodian may apply in writing to the  
2536 court of probate in this state which has jurisdiction of the  
2537 administration of such trust estate for the possession and removal of  
2538 such property. In such application the trustee or custodian shall allege  
2539 that he has been legally appointed such custodian in the jurisdiction in  
2540 which such life tenant resides, and that he has therein given a probate  
2541 bond valid according to the requirements of such jurisdiction, and  
2542 security thereon, or an increase in an existing bond and security, in an  
2543 amount equal to the value of all such estate of such person to be  
2544 removed from this state. Such bond and the decree of the court  
2545 appointing such custodian shall provide that if the child or children of  
2546 such life tenant are for any reason unable to take or receive the  
2547 property upon the termination of the life estate or estate aforesaid, it is  
2548 to be held and paid over by such custodian to such persons as the  
2549 court of probate in this state ordering such removal directs. Upon such  
2550 custodian filing for record in the Court of Probate an exemplified copy  
2551 of the record of the court by which he was appointed, it shall, after a  
2552 hearing upon such notice as the court orders to the person having such  
2553 estate in custody and after proof that all known debts against it in this  
2554 state have been paid or satisfied, appoint the applicant to be guardian,  
2555 conservator or trustee without further bonds, and authorize the person  
2556 having such estate in his custody to deliver it to the applicant, who  
2557 may demand, sue for and recover it and remove it from this state.]

2558 [(b)] Any one or more of the [vested beneficial owners of interests  
2559 established by a testamentary transfer of real property situated in this  
2560 state or personal property wherever situated, in trust or under  
2561 custodianship established and] beneficiaries of a trust that is  
2562 administered outside of this state [,] who are residents of this state may  
2563 petition [the court of probate in any district in which any such real  
2564 property or tangible personal property is situated or in which any of  
2565 such beneficial owners reside] the Probate Court specified in section 16  
2566 of this act to assume jurisdiction of such trust, [or custodianship] In the  
2567 petition, [such beneficial owner or owners] the beneficiaries shall  
2568 allege that it would be in the best interest of some or all of [such  
2569 beneficial owners] the beneficiaries and not adverse to any of [such  
2570 owners for the trust or custodianship] the other beneficiaries to be  
2571 administered in a [court of probate] Probate Court in this state or that  
2572 all such beneficial owners consent to the administration of the trust or  
2573 custodianship in a [court of probate] Probate Court in this state. The  
2574 [Court of] Probate Court, after hearing with notice as it directs,  
2575 including notice to any court having jurisdiction over the trust [or  
2576 custodianship,] upon written consent of all such [beneficial owners]  
2577 beneficiaries or satisfaction that the allegations in the petition are true  
2578 and upon proof that such transfer is not prohibited by law, may  
2579 assume jurisdiction. If a probate bond is required under the laws of the  
2580 state in which the transferring court is located or this state, such bond  
2581 shall be given to the Probate Court prior to the assumption of  
2582 jurisdiction by such court. Upon transfer and assumption of  
2583 jurisdiction and administration of such trust [or custodianship] to this  
2584 state, the record shall be established in the [Court of] Probate Court as  
2585 if the [estate] trust were being originally established for administration  
2586 in this state and the provisions of the general statutes shall govern the  
2587 trust [or custodianship] and its administration.

2588 Sec. 116. Section 45a-482 of the general statutes is repealed and the  
2589 following is substituted in lieu thereof (*Effective January 1, 2020*):

2590 When the facts at the time of distribution from an estate to a trust or  
2591 from a testamentary trust to a successive trust are such that no trust

2592 would be operative under the terms of the instrument creating such  
2593 trust or successive trust because of the death of the life tenant, or  
2594 because the beneficiary has reached a stipulated age, or if such trust  
2595 would qualify for termination under section [45a-484] 35 of this act, or  
2596 for any other reason, the fiduciary of such estate or prior trust may  
2597 distribute, with the approval of the court of probate having  
2598 jurisdiction, directly from the estate or prior trust to the remaindermen  
2599 of such trust, the corpus of such trust and any income earned during  
2600 the period of estate administration or administration of the prior trust  
2601 and distributable to such remaindermen, without the interposition of  
2602 the establishment of such trust or successive trust. If distribution is  
2603 based on the fact that the trust would qualify for termination under  
2604 section [45a-484] 35 of this act, reasonable notice shall be provided to  
2605 all beneficiaries who are known and in being and who have vested or  
2606 contingent interests in the trust.

2607 Sec. 117. Section 45a-485 of the general statutes is repealed and the  
2608 following is substituted in lieu thereof (*Effective January 1, 2020*):

2609 (a) If any marital deduction would not be allowed by reason of  
2610 Section 2056(d)(1) of the Internal Revenue Code of 1986 with respect to  
2611 any interest in property passing under any will, trust agreement or  
2612 other governing instrument because such interest fails to comply with  
2613 the requirements of Sections 2056(d)(2)(A) and 2056A(a) of said code,  
2614 the Superior Court, or [the] a Probate Court [if the trust or estate is  
2615 otherwise subject to the jurisdiction of the Probate Court, or with  
2616 respect to an inter vivos trust, if that trust is or could be subject to the  
2617 jurisdiction of the court for an accounting pursuant to section 45a-175,  
2618 provided such an accounting need not be required] specified in section  
2619 16 of this act, shall have jurisdiction over any action brought to reform  
2620 such will, trust agreement or other governing instrument to comply  
2621 with those requirements so as to allow a marital deduction under  
2622 Section 2056(a) of said code. All references contained in this section to  
2623 any section of the Internal Revenue Code of 1986 [shall] mean that  
2624 section of the Internal Revenue Code of 1986, or any subsequent  
2625 corresponding internal revenue code of the United States, as from time

2626 to time amended.

2627 (b) The Superior Court or the Probate Court [shall be] are  
2628 empowered to reform any such will, trust agreement or other  
2629 governing instrument described in subsection (a) of this section to the  
2630 extent necessary to ensure the allowance of the marital deduction  
2631 described in said subsection. [(a) of this section.]

2632 (c) Any reformation of any will, trust agreement or other governing  
2633 instrument in accordance with the provisions of this section shall be  
2634 effective whether or not a disclaimer has been filed within the period  
2635 [of time] specified in sections 45a-578 to 45a-585, inclusive.

2636 (d) This section shall be applicable to any action commenced to  
2637 reform any such will, trust agreement or other governing instrument  
2638 created by a decedent dying on or after November 10, 1988.

2639 Sec. 118. Section 45a-489a of the general statutes is repealed and the  
2640 following is substituted in lieu thereof (*Effective January 1, 2020*):

2641 (a) A testamentary or inter vivos trust may be created to provide for  
2642 the care of an animal or animals alive during the settlor's or testator's  
2643 lifetime. The trust shall terminate upon the death of the last surviving  
2644 animal. A trust created pursuant to this section shall designate a trust  
2645 protector in the trust instrument whose sole duty shall be to act on  
2646 behalf of the animal or animals provided for in the trust instrument. A  
2647 trust protector shall be replaced in the same manner as a trustee under  
2648 section 45a-474, as amended by this act.

2649 (b) Except as otherwise provided in this section, the provisions of  
2650 the laws of this state that govern the creation and administration of  
2651 trusts shall apply to a trust created to provide for the care of an animal  
2652 or animals pursuant to this section.

2653 (c) [(1)] The Superior Court, or a [probate court described in  
2654 subdivision (2) of this subsection] Probate Court specified in section 16  
2655 of this act, shall have jurisdiction over any trust created pursuant to  
2656 this section.

2657 [(2) A probate court shall have jurisdiction over any trust created  
2658 pursuant to this section if the trustee of the trust is otherwise subject to  
2659 the jurisdiction of such probate court, or the trust is an inter vivos trust  
2660 and the trust is or could be subject to the jurisdiction of such probate  
2661 court for an accounting pursuant to section 45a-175.]

2662 (d) The trustee of a trust created pursuant to this section shall  
2663 annually render an account for the trust, signed under penalty of false  
2664 statement, to the trust protector.

2665 (e) Any individual identified as a trust protector pursuant to this  
2666 section may file a petition in the Superior Court or [a probate court  
2667 having jurisdiction pursuant to subsection (c) of this section] the  
2668 Probate Court to enforce the provisions of the trust, remove or replace  
2669 any trustee of the trust, or require a trustee to render an account as  
2670 required under subsection (d) of this section. The court may award  
2671 costs and attorney's fees to the trust protector, from the trust property,  
2672 if the trust protector prevails on a petition filed under this subsection  
2673 and the court finds that the filing of the petition was necessary to fulfill  
2674 the trust protector's duty to act on behalf of the animal or animals  
2675 provided for in the trust instrument.

2676 (f) If the trust protector determines that the trustee has used trust  
2677 property for personal use or has otherwise committed fraud with  
2678 respect to the trust, the trust protector may request the Attorney  
2679 General to file a petition in the Superior Court or [a probate court  
2680 having jurisdiction pursuant to subsection (c) of this section] the  
2681 Probate Court to enforce the provisions of the trust, remove or replace  
2682 any trustee of the trust or seek restitution from the trustee with respect  
2683 to [such] the trust property. The Attorney General may file such  
2684 petition if the Attorney General determines that the circumstances  
2685 warrant such filing.

2686 (g) Trust property may be applied only to its intended use, subject  
2687 to proper trust expenses including trustee fees, except to the extent the  
2688 Superior Court or [a probate court having jurisdiction pursuant to  
2689 subsection (c) of this section] the Probate Court, upon application by

2690 the trustee or trust protector, determines that the value of the trust  
2691 property exceeds the amount required for its intended use. Trust  
2692 property not required for its intended use, including trust property  
2693 remaining upon termination of the trust, shall be distributed in the  
2694 following order of priority:

2695 (1) As directed by the terms of the trust instrument;

2696 (2) To the remainder beneficiaries identified in the trust instrument,  
2697 under the same terms provided in the trust for the remainder interest;

2698 (3) To the settlor, if then living;

2699 (4) Pursuant to the residuary clause of the settlor's or testator's will;  
2700 or

2701 (5) To the settlor's or testator's heirs in accordance with the laws of  
2702 this state governing descent and distribution.

2703 Sec. 119. Section 45a-491 of the general statutes is amended by  
2704 adding subsection (f) as follows (*Effective January 1, 2020*):

2705 (NEW) (f) With respect to any trust created on or after January 1,  
2706 2020, this section and sections 45a-492 to 45a-495, inclusive, as  
2707 amended by this act, shall apply to a nonvested property interest or  
2708 power of appointment contained in a trust by substituting "eight  
2709 hundred years" in place of "ninety years" in each place such term  
2710 appears in sections 45a-492 to 45a-495, inclusive, as amended by this  
2711 act, unless the terms of the trust expressly require that all beneficial  
2712 interests in the trust vest or terminate within a lesser period.

2713 Sec. 120. Section 45a-519 of the general statutes is repealed and the  
2714 following is substituted in lieu thereof (*Effective January 1, 2020*):

2715 (a) If any deduction under Section 170, Section 2055 or Section 2522  
2716 of the Internal Revenue Code of 1986 is not allowable with respect to  
2717 any interest in property passing under any will, trust agreement or  
2718 other governing instrument to a person, or for a use, described in



2719 Section 170(c), Section 2055(a) or Section 2522(a) and (b) of said code  
2720 because such interest [shall fail] fails to comply with the requirements  
2721 of Section 170(f)(2), Section 2055(e)(2) or Section 2522(c)(2) of said code,  
2722 the Superior Court, [or the Probate Court if the trust or estate is  
2723 otherwise subject to the jurisdiction of the Probate Court, or with  
2724 respect to an inter vivos trust, if that trust is or could be subject to the  
2725 jurisdiction of the court for an accounting pursuant to section 45a-175,  
2726 provided such an accounting need not be required] or a Probate Court  
2727 specified in section 16 of this act, shall have jurisdiction over any  
2728 action brought to reform such will, trust agreement or other governing  
2729 instrument in accordance with the provisions of Section 170(f)(7),  
2730 Section 2055(e)(3) or Section 2522(c)(4) of said code so that such  
2731 deduction may be allowed under the applicable provisions of said  
2732 code. All references contained in this section to any section of the  
2733 Internal Revenue Code of 1986 [shall] mean that section of the Internal  
2734 Revenue Code of 1986, or any subsequent corresponding internal  
2735 revenue code of the United States, as from time to time amended.

2736 (b) The Superior Court or the Probate Court [shall be] are  
2737 empowered to reform any such will, trust agreement or other  
2738 governing instrument only to the extent necessary in order to ensure  
2739 the allowance of any deduction described in subsection (a) of this  
2740 section, and only to the extent the court finds that such reformation is  
2741 consistent with the original intent of the testator or donor.

2742 (c) This section shall not be construed to effect a change in any  
2743 dispositive provisions of the governing instrument as provided in  
2744 section 45a-514.

2745 (d) Any reformation of any will, trust agreement or other governing  
2746 instrument in accordance with the provisions of this section shall be  
2747 effective whether or not a disclaimer has been filed within the period  
2748 [of time] specified in sections 45a-578 to 45a-585, inclusive.

2749 (e) This section shall be applicable to any action commenced on or  
2750 after July 18, 1984.

2751 Sec. 121. Subsection (b) of section 45a-520 of the general statutes is  
2752 repealed and the following is substituted in lieu thereof (*Effective*  
2753 *January 1, 2020*):

2754 (b) In any case where the current market value of the assets of a  
2755 testamentary or inter vivos charitable trust is less than one hundred  
2756 fifty thousand dollars, any trustee thereof, any charitable beneficiary  
2757 specifically designated in the governing instrument or the Attorney  
2758 General may petition a [court of probate] Probate Court specified in  
2759 section 16 of this act for an order terminating the trust. [If such a trust  
2760 has been under the jurisdiction of a court of probate prior to any such  
2761 petition, the petition shall be brought to the court of probate for the  
2762 district which has had jurisdiction over the trust. If such a trust has not  
2763 been under the jurisdiction of a court of probate prior to any such  
2764 petition, the petition shall be brought to the court of probate for any  
2765 district in which any such trustee resides or has a place of business. If  
2766 such a trust has not been under the jurisdiction of a court of probate  
2767 prior to any such petition and if there is no trustee thereof residing or  
2768 having a place of business in Connecticut, the petition shall be brought  
2769 to the court of probate for any district in which any charitable  
2770 beneficiary of the trust has its principal office.] Upon receipt of such a  
2771 petition, the court shall order a hearing and cause notice thereof to be  
2772 given to the Attorney General, the trustees, the grantor of the trust, if  
2773 living, and any charitable beneficiary of the trust specifically  
2774 designated in the governing instrument. If at such a hearing the court  
2775 determines that continuation of the trust is uneconomic when the costs  
2776 of operating the trust, probable income and other relevant factors are  
2777 considered or not in the best interest of the beneficiaries, the court may  
2778 order termination of the trust and distribution of the trust assets to any  
2779 charitable beneficiary specifically designated in the governing  
2780 instrument or, [in the event] if no such beneficiary exists, to such other  
2781 charitable trusts or charitable entities, including any community trust  
2782 or foundation, as the court may determine will fulfill the charitable  
2783 purposes of the trust being so terminated.

2784 Sec. 122. Section 45a-521 of the general statutes is repealed and the

2785 following is substituted in lieu thereof (*Effective January 1, 2020*):

2786 (a) Upon a petition filed within the period specified in [the Code of  
 2787 Federal Regulations, Title 26, Section 1.664-3(a)(1)(i)(f)(3)] 26 CFR  
 2788 1.664-3, by a trustee of a charitable remainder unitrust, the Superior  
 2789 Court, or [the] a Probate Court [if the trustee is otherwise subject to the  
 2790 jurisdiction of the Probate Court, or with respect to an inter vivos trust,  
 2791 if such trust is or could be subject to the jurisdiction of the Probate  
 2792 Court for an accounting pursuant to section 45a-175, provided such an  
 2793 accounting need not be required,] specified in section 16 of this act  
 2794 shall have jurisdiction to reform such charitable remainder unitrust for  
 2795 the sole purpose of substituting a provision allowing payment of the  
 2796 unitrust amount under [the Code of Federal Regulations, Title 26,  
 2797 Section 1.664-3(a)(1)(i)(c)] 26 CFR 1.664-3 for an existing provision  
 2798 providing for payment of the unitrust amount under [Title 26, Section  
 2799 1.664-3(a)(1)(i)(b) of the Code of Federal Regulations] 26 CFR 1.664-3.

2800 (b) The Superior Court or the Probate Court [shall be] are  
 2801 empowered to reform such trust only to the extent the court finds that  
 2802 such reformation is consistent with the original intent of the testator or  
 2803 donor.

2804 (c) This section shall not be construed to effect a change in any  
 2805 dispositive provision of the trust as provided in section 45a-514.

2806 Sec. 123. Sections 45a-473, 45a-484, 45a-487 to 45a-487f, inclusive,  
 2807 and 45a-488 of the general statutes are repealed. (*Effective January 1,*  
 2808 *2020*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2020</i>	New section
Sec. 2	<i>January 1, 2020</i>	New section
Sec. 3	<i>January 1, 2020</i>	New section
Sec. 4	<i>January 1, 2020</i>	New section
Sec. 5	<i>January 1, 2020</i>	New section
Sec. 6	<i>January 1, 2020</i>	New section

Sec. 7	January 1, 2020	New section
Sec. 8	January 1, 2020	New section
Sec. 9	January 1, 2020	New section
Sec. 10	January 1, 2020	New section
Sec. 11	January 1, 2020	New section
Sec. 12	January 1, 2020	New section
Sec. 13	January 1, 2020	New section
Sec. 14	January 1, 2020	New section
Sec. 15	January 1, 2020	New section
Sec. 16	January 1, 2020	New section
Sec. 17	January 1, 2020	New section
Sec. 18	January 1, 2020	New section
Sec. 19	January 1, 2020	New section
Sec. 20	January 1, 2020	New section
Sec. 21	January 1, 2020	New section
Sec. 22	January 1, 2020	New section
Sec. 23	January 1, 2020	New section
Sec. 24	January 1, 2020	New section
Sec. 25	January 1, 2020	New section
Sec. 26	January 1, 2020	New section
Sec. 27	January 1, 2020	New section
Sec. 28	January 1, 2020	New section
Sec. 29	January 1, 2020	New section
Sec. 30	January 1, 2020	New section
Sec. 31	January 1, 2020	New section
Sec. 32	January 1, 2020	New section
Sec. 33	January 1, 2020	New section
Sec. 34	January 1, 2020	New section
Sec. 35	January 1, 2020	New section
Sec. 36	January 1, 2020	New section
Sec. 37	January 1, 2020	New section
Sec. 38	January 1, 2020	New section
Sec. 39	January 1, 2020	New section
Sec. 40	January 1, 2020	New section
Sec. 41	January 1, 2020	New section
Sec. 42	January 1, 2020	New section
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Sec. 44	January 1, 2020	New section
Sec. 45	January 1, 2020	New section
Sec. 46	January 1, 2020	New section
Sec. 47	January 1, 2020	New section

Sec. 48	<i>January 1, 2020</i>	New section
Sec. 49	<i>January 1, 2020</i>	New section
Sec. 50	<i>January 1, 2020</i>	New section
Sec. 51	<i>January 1, 2020</i>	New section
Sec. 52	<i>January 1, 2020</i>	New section
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Sec. 56	<i>January 1, 2020</i>	New section
Sec. 57	<i>January 1, 2020</i>	New section
Sec. 58	<i>January 1, 2020</i>	New section
Sec. 59	<i>January 1, 2020</i>	New section
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Sec. 68	<i>January 1, 2020</i>	New section
Sec. 69	<i>January 1, 2020</i>	New section
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Sec. 85	<i>January 1, 2020</i>	New section
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Sec. 103	January 1, 2020	New section
Sec. 104	January 1, 2020	New section
Sec. 105	January 1, 2020	New section
Sec. 106	January 1, 2020	New section
Sec. 107	January 1, 2020	New section
Sec. 108	January 1, 2020	New section
Sec. 109	January 1, 2020	New section
Sec. 110	January 1, 2020	45a-98
Sec. 111	January 1, 2020	45a-175
Sec. 112	January 1, 2020	45a-177
Sec. 113	January 1, 2020	45a-242
Sec. 114	January 1, 2020	45a-474
Sec. 115	January 1, 2020	45a-477
Sec. 116	January 1, 2020	45a-482
Sec. 117	January 1, 2020	45a-485
Sec. 118	January 1, 2020	45a-489a
Sec. 119	January 1, 2020	45a-491
Sec. 120	January 1, 2020	45a-519
Sec. 121	January 1, 2020	45a-520(b)
Sec. 122	January 1, 2020	45a-521
Sec. 123	January 1, 2020	Repealer section

**Statement of Legislative Commissioners:**

In Section 2(b), "subdivision (7)" was changed to "subdivision (5)" for accuracy; in Section 15(d)(12), "subdivision (6)" was changed to "subdivision (5)" for accuracy; in Section 29(1), the provisions of former Section 109(6) have been added to Section 29(1) for clarity; in Section

66(a)(27), "the statute" was changed to "said act" for accuracy; in Sections 105 (d) and (e) "advisor" was changed to "trust director" for consistency and accuracy; and in Section 109(5), "123" was changed to "108" 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:**

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Social Services, Dept.	GF - See Below	See Below	See Below

Note: GF=General Fund

**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**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.



**OLR Bill Analysis****sHB 7104****AN ACT CONCERNING ADOPTION OF THE CONNECTICUT  
UNIFORM TRUST CODE.**

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[§§ 81-98 — 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)*

[§§ 99-108 — CONNECTICUT QUALIFIED DISPOSITIONS IN TRUST ACT](#)

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

[§ 109 — APPLICABILITY](#)

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

[§§ 110-118, 120-123 — OTHER PROVISIONS](#)

*Makes minor, technical, and conforming changes*

[§ 119 — RULE AGAINST PERPETUITIES](#)

*Generally extends, from 90 to 800 years, the period within which certain interests must vest*

## **SUMMARY**

This bill adopts the Connecticut Uniform Trust Code, establishing numerous rules on creating, modifying, terminating, and enforcing trusts. A trust, generally speaking, is an arrangement in which one person (the trustee), holds money or other property for the benefit of another person (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 establishment of 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 power over some aspect of the trust's administration (§§ 81-98). Among other things, the bill addresses trust directors' and directed trustees' duties.

It sets up a framework for creating self-settled asset protection trusts, which are irrevocable trusts, the assets of which (1) the grantor may still benefit personally from and (2) creditors generally cannot reach (§§ 99-108).

The bill makes changes to the rule against perpetuities, extending the period in which future interests must vest to be valid (§§ 119).

It also makes minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2020

## **§§ 1-12 — UNIFORM 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 (§ 2)**

The bill applies to the following types of trusts:

1. express trusts, whether testamentary (i.e., a trust created under a will or, unless otherwise expressly provided, pursuant to a probate court order) or inter vivos (i.e., non-testamentary trusts) and
2. trusts created under a statute or court order requiring a trust to be administered as an express trust.

Except as provided below, the bill does not apply to charitable trusts (i.e., a trust, or portion of one, created for a charitable purpose, as set forth below, when property is dedicated for that purpose).

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

The bill provides that, for special needs trusts created under

specified federal law, (1) the bill's applicable provisions must not be interpreted in a manner that is inconsistent with or contradicts federal law and (2) courts may not issue an order or other ruling that is inconsistent with or contradicts federal law.

***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; personal delivery; or electronic messages, if the person has consented to receive documents electronically; 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 14 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) provisions dealing with judicial supervision of testamentary trusts. (See § 5(b) of the bill for the complete list of exceptions.)

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

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

1. the bill's provisions expressly applying to charitable trusts apply only to supplement Connecticut common law and
2. the bill and existing probate laws must not be applied or construed to alter or diminish any charitable interest or purpose or any related condition or restriction.

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

**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). 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 a trust's principal place of administration to other states or foreign jurisdictions. It requires probate court approval to transfer testamentary trusts and prohibits the transfer of charitable trusts to other countries.

The bill specifies that changing a trust's principal place of administration from Connecticut to another jurisdiction does not, by itself, deprive Connecticut courts of jurisdiction over the trust.

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. "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 must send a notice to the trust's qualified beneficiaries, the trustee must also send it to (1) any designated representatives (see § 21) and (2) other beneficiaries who request 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 (a) administered in Connecticut or (b) with the primary charitable beneficiary or intended charitable benefit in the state; 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) interpretation of 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) it contains terms the court could

have properly approved 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 — 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 testamentary trusts, but not inter vivos trusts, are subject to continuing judicial supervision.

### ***Personal and Subject Matter Jurisdiction (§§ 14 & 15)***

Under the bill, a trustee submits to the personal jurisdiction of Connecticut's courts for 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 for any trust matter. If a beneficiary accepts a trust distribution, he or she submits personally to the jurisdiction of the state's courts for any trust matter.

The bill specifies that, notwithstanding the above provisions, Connecticut courts have jurisdiction over the trustees of charitable trusts if the primary charitable beneficiary or intended charitable benefit is in the state.

***Testamentary Trusts.*** For testamentary trusts, the bill specifies several matters over which the state's probate or Superior Courts have jurisdiction or concurrent jurisdiction.

For example, it specifies that probate courts have sole original jurisdiction over matters to (1) determine the validity of the will establishing the trust, (2) compel a trustee to account or to approve a trustee's account or proposed final distribution, and (3) terminate a charitable trust.

Under the bill, probate and Superior Courts have concurrent original jurisdiction over several matters, such as to (1) determine title or right of possession and use in property that constitutes or may constitute trust property, (2) reform a trust to qualify for the marital deduction or charitable deduction under tax law, and (3) modify or terminate a noncharitable trust. (Please refer to § 15(a) and (b) of the bill for the complete lists.)

The bill specifies that the Superior Court has original jurisdiction over:

1. proceedings relating to a testamentary trust that the court consolidates with another proceeding involving the same trust over which the court has original jurisdiction and
2. any matters over which the Superior Court has statutory or common law jurisdiction or has powers or remedies that are not available to the probate court.

***Inter Vivos Trusts.*** Under the bill, the Superior Court has original jurisdiction over all matters relating to inter vivos trusts. The bill specifies several matters over which the probate court has concurrent original jurisdiction with the Superior Court, such as (1) compelling a trustee to account or approving a trustee's account, (2) terminating a charitable trust, or (3) determining title or right of possession and use in property that constitutes or may constitute trust property.

(Please refer to § 15(d) of the bill for the complete list.)

***Request for Instruction or Approval of Action.*** The bill allows the court, with respect to a matter over which it has jurisdiction, to hear and decide a trustee's request for instructions or for approval of an



action or a party's request to compel or prohibit a trustee's action.

### **Venue (§ 16)**

Under the bill, trust-related proceedings in Superior Court must follow existing law's venue rules (see chapter 890 of the general statutes).

The bill requires probate court petitions concerning testamentary trusts to be filed with (1) the court that admitted the will to probate or (2) if the trust was established through a court order, the court that issued the order or the court to which the trust was subsequently transferred.

The bill also establishes rules for where probate court proceedings about inter vivos trusts must be filed – for example, in the probate district where the settlor resides or where the principal place of administration is located.

## **§§ 17-21 & 123 — REPRESENTATION**

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

### **Basic Rules (§ 17)**

Under the bill, (1) notice to a person's representative has the same effect as if the person were 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.

The bill prohibits a settlor from representing or binding a beneficiary with respect to a trust termination or modification. It specifies that a non-attorney cannot serve as someone's legal counsel.

These provisions apply to all judicial proceedings, nonjudicial settlements, and other provisions of law pertaining to trust matters.

### **Fiduciaries and Other Representatives (§§ 18-20 & 123)**

The bill provides that the holders of a power of appointment (i.e., authority to designate the recipients of a property interest) 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 representation:

1. conservators of an estate, agents, trustees, and estate executors and administrators may represent and bind another party or estate, as applicable;
2. conservators of persons or guardians of adults with intellectual disability may represent and bind such a person only with court approval;
3. a parent may represent and bind his or her minor or unborn child, if a guardian of the estate has not been appointed; and
4. 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 to the extent there is no conflict of interest.

If the court determines that an interest is not represented or the available representation may be inadequate, it may appoint a guardian ad litem (GAL) for the person. In making any decisions, the GAL may consider the 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).

### ***Representation of Beneficiaries (§ 21)***

Under the bill, the trust instrument may (1) designate one or more persons other than the settlor to represent and bind a beneficiary that

is not a charity or (2) authorize a person or persons, other than a trustee or the settlor, to designate one or more persons to represent and bind a beneficiary that is not a charity.

Except as the bill provides otherwise, (1) a designated representative may not represent and bind a beneficiary while the person is serving as trustee and (2) a designated representative who is a beneficiary may not represent and bind another beneficiary unless certain conditions are met (e.g., they are married).

A designated representative is not liable to the beneficiary, or to anyone claiming through that beneficiary, for any actions or omissions to act made in good faith.

### **§§ 22-38 & 123 — 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 or distribution 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 a trust need not be in writing unless another law requires otherwise. But the creation and terms of an oral trust, other than a charitable trust, 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).

Under the bill, a trust may grant a trustee the power to select a beneficiary from an indefinite class, but that authority fails if it is not exercised within a reasonable time. For charitable trusts, if the trust instrument does not name a default beneficiary, the property subject to such power passes to one or more charitable purposes or beneficiaries that the court selects. The court must make that selection consistent with the settlor's intention to the extent it can be ascertained.

The bill specifies that a charitable trust is created if the donor makes a gift with a charitable intent.

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.

***Inter Vivos 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 where it was executed or 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, or someone the settlor designates who would not otherwise have standing, may enforce it in court only to the extent specified in the trust instrument.

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.

If a charitable trust, whose purposes are set forth in the trust instrument, is converted to a corporation or other entity, then the new entity's governing instrument must recite the charitable purposes of the original instrument.

***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 90-year period applies only to trusts that become irrevocable on or after January 1, 2020.

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 existing law provides otherwise.

***Modification or Termination (§ 30)***

Under the bill:

1. a charitable trust terminates only in accordance with existing law's requirements (see § 121 of the bill, CGS § 45a-520) or the bill's cy pres provisions (§§ 33 & 34) and
2. a noncharitable trust terminates if it is revoked or expires or in accordance with the bill's provisions (§§ 31, 32, & 35).

A trustee or beneficiary may bring a court proceeding to approve or disapprove a modification, termination, combination, or division. The settlor of a charitable trust may bring a proceeding to modify a trust if the instrument expressly grants that right.

The trustee is a necessary party in any such proceeding and may appeal any related court order, denial, or decree.

***Modification or Termination by Consent (§ 31)***

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

1. if the settlor, trustee, and all beneficiaries consent, the court can approve a modification or termination even if it is inconsistent with the trust's material purpose and
2. if all beneficiaries consent, the court can approve such an action if continuing the trust is not necessary to achieve any material purpose of the trust or modifying it is not inconsistent with such a purpose.

The above provisions do not apply to irrevocable trusts created before January 1, 2020, or to trusts that became irrevocable before that date.

To approve such an action when not all beneficiaries consent, the court must find, among other things, that the interests of non-consenting beneficiaries will be protected.

The bill specifies that a spendthrift provision in a trust is not presumed to constitute a material purpose. A “spendthrift provision” allows the settlor to restrain both voluntary and involuntary transfers of a beneficiary’s interest.

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

Notwithstanding these provisions, the bill prohibits courts from terminating an irrevocable special needs trust established under specified federal law. The court may approve a modification for certain purposes, such as (1) complying with federal law or (2) modifying someone’s contingent beneficial interest that is available only after repaying Connecticut or another state for medical assistance or unreimbursed claims Connecticut would have had against the estate.

***Modification or Termination Due to Unanticipated Circumstances (§ 32)***

Subject to the cy pres provisions set forth below (§§ 33 & 34), 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 and as directed by the court.

The bill prohibits courts from terminating an irrevocable special needs trust established under specified federal law. It allows courts to modify these trusts for certain purposes.

***Cy Pres (§§ 33 & 34)***

Generally, the bill provides that if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful, the court may apply the common law “cy pres” doctrine to modify or terminate it 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 & 123)***

The bill generally allows a trustee to terminate a noncharitable inter vivos trust valued at under \$200,000 if the trustee concludes that the property’s value does not justify its administration costs. The trustee must first give 30 days’ notice to the qualified beneficiaries and such other beneficiaries as the trustee deems reasonable. This authority to terminate does not apply to special needs trusts under specified federal law.

The bill also allows courts to modify or terminate a noncharitable trust or replace the trustee, if it determines that the trust property’s value does not justify its costs relative to the trust’s material purposes. This does not apply to special needs trusts under specified federal law, and the court may modify such a trust only for certain purposes.

In any such case the trustee must distribute the property in a manner consistent with the trust’s purposes or, for terminations involving court approval, as directed by the court.

The bill correspondingly repeals a law on the termination of trusts valued at under \$150,000 (CGS § 45a-484).

These provisions do not apply to conservation or preservation easements.

***Reformation to Correct Mistakes (§ 36)***

Under the bill, a court may reform a noncharitable trust’s terms to conform to the settlor’s intention if it is proven 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 the trustee of an inter vivos trust, after providing 30 days' notice to qualified beneficiaries, to combine multiple trusts or divide a trust into separate trusts, if it does not impair a beneficiary's rights or the trust's purposes. For testamentary trusts, rather than providing such notice, the trustee must seek court approval to combine or divide trusts.

## **§§ 39 & 40 — CREDITORS' CLAIMS**

*Sets rules for when a trustee's or beneficiary's creditors can reach the trust's property*

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

The bill 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 § 40(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 the federal tax code in effect on January 1, 2020. A power of withdrawal is a presently exercisable power of appointment meeting certain requirements.

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

## **§§ 41-43 — REVOCABLE TRUSTS**

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

### **Revocation or Amendment (§ 41)**

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 January 1, 2020, (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 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.

### **Settlor's Powers; Powers of Withdrawal (§ 42)**

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 (§ 43)**

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) 120 days after the trustee sent the person (not a representative) a copy of the trust instrument and a notice with certain related information.

Upon the settlor's death, the trustee may distribute the trust property in accordance with its 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). If the court determines that a distribution is invalid, the beneficiary is liable to return it.

## **§§ 44-52 & 123 — 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 (§ 44)**

Under the bill, a person designated as trustee accepts the role by substantially complying with the trust's acceptance method, or if none or that method is not exclusive, 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 period 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 property to determine potential liability issues or for other purposes.

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**Trustee's Bond (§§ 45 & 123)**

The bill requires the trustee to give a bond only if the court finds (1) it is needed to protect the beneficiaries' interests or (2) the trust requires it and, for noncharitable trusts, the court has not dispensed with the requirement. The court may (1) specify the bond amount, 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 (§ 46)**

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 notifies any co-trustee of the dissent is not liable for the action unless it is a serious breach.

**Vacancy; Appointment of Successor (§ 47)**

Under the bill, if at least one co-trustee remains, a vacancy in a trusteeship need not be filled unless the trust requires it. 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 (§§ 48 & 49)***

The bill allows trustees of inter vivos trusts to resign by (1) providing at least 30 days' notice to certain parties or (2) obtaining court approval. For testamentary trusts, the trustee may resign only with court approval. The court may impose conditions to protect the property, beneficiaries, and other trustees.

In either case, 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) and also allows the court to remove a trustee on its own initiative. A court may remove a trustee for, among other things, (1) wasting trust assets or other serious breaches of trust or (2) lack of cooperation among co-trustees that substantially impairs trust administration.

***Delivery of Property by Former Trustee (§ 50)***

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.

Under the bill, lawsuits in favor of or against the original trustee survive and may be prosecuted by or against the successor trustee.

***Trustee Compensation; Reimbursement of Expenses (§§ 51 & 52)***

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 the (1)

specified compensation would be unreasonably low or high or (2) trustee duties vary substantially from those first contemplated.

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

### **§§ 53-67 & 123 — DUTIES AND POWERS OF TRUSTEES**

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

#### ***Duty to Administer Trust; Prudent Administration; Impartiality; Property Protection (§§ 53, 55-56, & 59)***

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 (§ 54)***

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 about trustee conflicts of interest.

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 beneficiaries' best interests, 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 beneficiaries' best interests.

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 institution operated by the trustee.

It allows a court to appoint a special fiduciary to decide whether any proposed transaction would violate these provisions.

#### ***Delegation by Trustee (§ 57)***

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.

#### ***When Settlor Not Deemed to Have Beneficial Interest (§ 58)***

Under the bill, an irrevocable trust's settlor is not deemed to have a beneficial interest in the trust merely because the trust or other law authorizes the trustee to (1) reimburse the settlor for any tax on trust income or principal that is payable by the settlor by law or (2) pay the

tax directly. The settlor's creditors are not entitled to reach any trust property based on these discretionary powers.

***Recordkeeping and Identification of Trust Property (§ 60)***

The bill requires trustees to (1) keep adequate records for the trust, (2) keep trust property separate from their 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 in doing so.

***Enforcement and Defense of Claims (§ 61)***

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

***Collecting Trust Property (§ 62)***

The bill requires a trustee to (1) take reasonable steps to compel a former trustee or other person to deliver trust property and (2) redress a known breach of trust by a former trustee.

***Duty to Inform and Report; Accounting (§ 63)***

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 information on the trust's administration.

The bill generally requires a trustee to:

1. upon a beneficiary's request, promptly provide a copy of the trust instrument's relevant portions;
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 qualified



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 must send a report annually and upon the trust's termination to the current beneficiaries and to other qualified beneficiaries who request it. The report must include information on the trust property, liabilities, disbursements, trustee compensation, and trust assets (including market values, if feasible). (This requirement, and the foregoing list of three requirements, does not apply to irrevocable trusts created before January 1, 2020 or to trusts that became irrevocable before that date.)

The bill allows beneficiaries to petition the court for an accounting by the trust and sets standards for when the court may grant the petition. For example, the court may grant the petition of qualified beneficiaries of a testamentary trust, if it finds that an account is necessary to protect their interests.

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 in the report.

Among other things, the bill provides that its representation provisions (§§ 17-21) apply with respect to all rights of beneficiaries under the foregoing provisions. Notice or information to a designated representative satisfies the trustee's duties.

### ***Discretionary Powers; Tax Savings (§§ 64 & 123)***

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 the trustee.

Unless the terms of the trust expressly provide otherwise, the bill applies the following limitations and prohibitions. First, the bill allows 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, to 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.

Secondly, a trustee may not exercise a power to make discretionary distributions to satisfy a legal support obligation 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. a trust during any period when 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 (§§ 65 & 66)**

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, and except as otherwise prohibited by law or the trust's terms, the bill authorizes a trustee to perform 27 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 a public or private sale;
3. exchange, partition, or otherwise change the character of trust property;
4. borrow money and mortgage trust property for a period within or extending beyond the trust's duration;
5. with respect to an interest in a business, continue the business and take any action that shareholders, members, or property owners could take (e.g., merger or dissolution); and
6. subject to certain requirements, exercise all powers appropriate to achieve the proper investment, management, preservation, and distribution of digital assets held in the trust estate.

(Please refer to § 66(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.

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.

These provisions apply to all trusts, whenever created, except they do not authorize powers for trusts established before January 1, 2020, if the trust instrument shows an intent to prohibit that power.

### ***Distribution Upon Termination (§ 67)***

The bill allows the trustee, upon a trust's 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 trustee 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.

These provisions do not apply to testamentary trusts.

## **§§ 68-78 — 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; Damages in Absence of Breach (§§ 68 & 69)***

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

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 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 (§ 70)***

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.

If the beneficiary did not receive such a report, he or she may bring the claim up to three 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.

The above provisions do not apply to testamentary trusts.

### ***Reliance on Trust Instrument (§ 71)***

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 (§ 72)***

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 (§ 73)***

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.

### ***Beneficiary's Consent, Release, or Ratification (§ 74)***

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. These provisions do not apply to testamentary trusts.

### ***Limitation on Personal Liability of Trustee (§ 75)***

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.

The 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.

It 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 (§ 76)***

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 the partnership enters 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 were a general partner.

#### ***Protection of Person Dealing with Trustee (§ 77)***

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. 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 (§ 78)***

Instead of providing a copy of the trust instrument to someone other than a beneficiary, the bill allows the trustee to provide a certification of trust with specified information (e.g., 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, including legal fees and costs, if the court determines that he or she did not act in good faith in demanding it.

### **§§ 79 & 80 — UNIFORMITY OF INTERPRETATION; SEVERABILITY**

*Addresses uniformity of interpretation and severability*

The bill directs that, in applying and construing its uniform provisions, 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).

**§§ 81-98 — 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' duties,
2. information sharing between directed trustees and trust directors,
3. settlors' option to relieve co-trustees from duties and liabilities with respect to another co-trustee's exercise or nonexercise of powers (§ 91),
4. bringing suit against a trust director for breach of trust,
5. how the bill's other provisions apply to trust directors, and
6. the interplay between the bill's provisions and the federal Electronic Signatures in Global and National Commerce Act (§§ 97 & 98).

These provisions apply to trusts administered in Connecticut, regardless of whether they are created before or after the provisions' effective date (i.e., January 1, 2020). But with respect to trusts created before that date, 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 (§ 82).

**Definitions (§ 3)**

**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.

**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. 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 § 84(b)).

#### **Trust Director’s Powers (§ 85)**

Unless the terms of the trust provide otherwise, in addition to a power of direction, a trust director may exercise any further power that is appropriate to the trust director’s exercise of express powers (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 (§§ 86, 87, & 95)**

**Fiduciary Duties (§ 87).** 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 (§ 86).** 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.

**Other Applicable Provisions (§ 95).** The bill requires trust directors to comply with certain other trust code provisions about trustees, unless a trust's terms provide otherwise. Specifically, trust directors must comply with provisions on (1) acceptance of a trusteeship (see § 44), (2) performance bonds (see § 45), (3) vacancy and appointment of a successor (see § 47), (4) resignation (see § 48), (5) removal (see § 49), and (6) reasonable compensation (see § 51).

**Trust Director's Liability (§§ 92-94)**

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 § 70, 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 the 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 (§ 88)**

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 (§§ 89 & 90)**

The bill generally requires trustees and trust directors to keep one another informed 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 generally 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. The trust's terms can provide otherwise.

### **Uniformity (§ 96)**

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

## **§§ 99-108 — CONNECTICUT QUALIFIED DISPOSITIONS IN TRUST ACT**

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

The bill sets up a framework for creating self-settled asset protection trusts (APT), which are irrevocable trusts, the assets of which (1) the grantor may still benefit personally from and (2) creditors generally cannot reach. (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,” thereby 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 transferor’s rights to APT property and income;
3. allowable creditor claims, including when and to what extent an APT can be nullified;
4. dispositions to multiple trustees (§ 102);
5. the procedure for appointing successor trustees (§ 102);
6. multiple dispositions from the same trust instrument (§ 105(f));  
and
7. protection for attorneys, trustees, and others involved in creating or administering an APT (§ 105(d)& (e)).

The bill’s provisions apply to qualified dispositions made on or after January 1, 2020 (i.e., the bill’s effective date) (§ 108).

#### ***Qualifying as an APT (§ 100)***

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. be irrevocable;
3. contain a spendthrift clause that is enforceable under applicable nonbankruptcy law; and

4. appoint a qualified trustee, other than the transferor.

***Qualified Trustees (§ 100)***

Under the bill, a qualified trustee cannot be the transferor. A qualified trustee must be a (1) Connecticut resident (in the case of an individual) 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.

***Transferors (§§ 101, 103 & 104)***

Under the bill, the transferor only has the powers and rights that are set forth in the trust instrument. The bill lists the powers and interests a transferor may retain under the trust instrument without rendering the trust revocable. Among other rights, the transferor may retain the right to:

1. veto a trust distribution;
2. receive income;
3. receive principal as a result of the trustee's exercise of discretion or compliance with a distribution standard (including action resulting from a trust director's direction);
4. annually receive up to 5% of the value of trust property;
5. remove a trustee or director and appoint a new one, other than someone who is a related or subordinate party; and
6. use real property held under a qualified personal residence trust under specified federal law.

Under the bill, a qualified disposition is subject to the bill's provisions in spite of a transferor retaining any such rights.

The bill allows a transferor to appoint one or more trust directors,

including directors with authority to (1) remove and appoint qualified trustees or trust directors or (2) direct, consent to, or disapprove of trust dispositions. A transferor may serve as trust director, but if so, his or her authority is limited to the right to veto trust distributions.

***Claims against Trust Property (§§ 105-107)***

The bill generally establishes rules that protect APTs from creditors' claims.

Under the bill, certain types of claims may be brought, including claims under the Uniform Fraudulent Transfer Act and claims resulting from the following, if the support obligation or injury, as applicable, occurred on or before a qualified disposition:

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

The bill sets deadlines for when a creditor may bring claims under the Uniform Fraudulent Transfer Act. For example, if the claim arose after a qualified disposition, the lawsuit must be filed within four years after the disposition was made, according to certain standards.

Under the bill, if a court declines to apply Connecticut law in an action brought against a trustee of a trust funded by a qualified disposition, the trustee must immediately cease serving as trustee. The trustee must turn over the trust property to the successor trustee (§ 105(g)).

The bill allows a qualified disposition to be avoided only to the extent necessary to satisfy the transferor's debt to the creditor, together with any costs, including attorney's fees, that the court allows. In such cases, the bill establishes certain protections for trustees and beneficiaries who did not act in bad faith. For example, the trustee has a first and paramount lien against the property that is subject to the

disposition in an amount equal to the trustee's entire cost, including attorney's fees, in defending the case to avoid the disposition.

Under the bill, the creditor has the burden of proving by clear and convincing evidence that a trustee or beneficiary acted in bad faith; if the beneficiary is also the transferor, however, the creditor must show bad faith by a preponderance of the evidence.

### **§ 109 — 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. For example, unless the bill provides otherwise, it applies to:

1. all trusts created before, on, or after January 1, 2020;
2. all judicial proceedings for trusts begun on or after that date; and
3. judicial proceedings for trusts begun before that date, 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 January 1, 2020, is not affected by the bill.

### **§§ 110-118, 120-123 — OTHER PROVISIONS**

*Makes minor, technical, and conforming changes*

The bill makes minor and conforming changes to current probate statutes. It also makes certain related changes to such statutes. For example, the bill specifies that unless court rules provide otherwise, a provision of a will excusing the trustee from rendering periodic accounts does not excuse the trustee from rendering a final account upon the trust's termination (§ 112).

### **§ 119 — RULE AGAINST PERPETUITIES**

*Generally extends, from 90 to 800 years, the period within which certain interests must vest*

The common law rule against perpetuities provides that a future interest in property or power of appointment 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 current 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. With certain exceptions, if the interest does not vest within these periods, it is void.

Under the bill, for a trust created on or after January 1, 2020, the bill substitutes an 800-year period for the current 90-year period, unless the trust's terms expressly require that all beneficial interests vest or terminate within a lesser period.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/08/2019)