



**Substitute House Bill No. 7104**

**Public Act No. 19-137**

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

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

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

Sec. 2. (NEW) (*Effective January 1, 2020*) (a) Sections 1 to 98, inclusive, of this act apply to express trusts, whether testamentary or inter vivos, and to trusts created pursuant to a statute, judgment or decree that requires the trust to be administered in the manner of an express trust.

(b) Except as expressly set forth in sections 1 to 98, inclusive, of this act, sections 1 to 98, inclusive, of this act do not apply to a charitable trust, as defined in subdivision (5) of section 3 of this act.

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

(d) No provision of sections 1 to 109, inclusive, of this act, as such provision may be applied to a trust established pursuant to and in compliance with 42 USC 1396p(d)(4), as amended from time to time, shall be interpreted in a manner that is inconsistent with, or that

**Substitute House Bill No. 7104**

contravenes, the provisions of federal law; nor shall any court having jurisdiction over any such trust issue an order, judgment, decree or ruling, that is inconsistent with, or that contravenes, the provisions of federal law.

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

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

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

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

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

(5) "Charitable trust" means a trust, or part of a trust, created (A) for a charitable purpose described in section 26 of this act; and (B) when property is dedicated for a charitable purpose, whether the dedication is by written instrument, declaration, deed, pledge, judgment or decree.

***Substitute House Bill No. 7104***

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

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

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

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

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

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

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

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

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

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

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

***Substitute House Bill No. 7104***

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

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

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

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

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

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

(23) "Qualified beneficiary" means a beneficiary that, on the date the

***Substitute House Bill No. 7104***

beneficiary's qualification is determined: (A) Is a distributee or permissible distributee of trust income or principal; (B) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in subparagraph (A) of this subdivision terminated on such date without causing the trust to terminate; or (C) would be a distributee or permissible distributee of trust income or principal if the trust terminated on such date.

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

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

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

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

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

(29) "Trust director" means a person that is granted a power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee, provided a person is a trust

**Substitute House Bill No. 7104**

director whether or not the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or settlor of the trust.

(30) "Trust instrument" means any instrument executed by the settlor, including a will establishing or creating a testamentary trust, that contains terms of the trust, including any amendments thereto. In the case of a charitable trust, "trust instrument" means any written instrument by which property is dedicated for a charitable purpose described in section 26 of this act.

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

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

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

**Substitute House Bill No. 7104**

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

(b) The terms of a trust prevail over each provision of sections 1 to 98, inclusive, of this act except: (1) The requirements for creating a trust; (2) the duty of a trustee to act in good faith and in accordance with the terms and purposes of the trust; (3) the requirement of section 25 of this act that a trust have a purpose that is lawful and not contrary to public policy; (4) the power of the court to modify or terminate a trust under sections 31 to 37, inclusive, of this act; (5) the power of the court under section 45 of this act to require, dispense with, modify or terminate a bond; (6) the power of the court under section 51 of this act to adjust a trustee's compensation specified in the terms of the trust that is unreasonably low or high; (7) the duty under subdivisions (2) and (3) of subsection (b) of section 63 of this act to notify each qualified beneficiary of an irrevocable trust who has attained twenty-five years of age, or the designated representative of the qualified beneficiary, if any, of the existence of the trust, of the identity of the trustee, and of the right of the qualified beneficiary to request a trustee's report; (8) the duty under subsections (a) and (c) of section 63 of this act to respond to the request of a qualified beneficiary of an irrevocable trust or the designated representative of the qualified beneficiary, if any, for a trustee's report and other information reasonably related to the administration of a trust; (9) the effect of an exculpatory term under section 73 of this act; (10) the rights under sections 75 to 78, inclusive, of this act of a person other than a trustee or beneficiary; (11) periods of limitation for commencing a judicial proceeding; (12) the power of the court to take the action and exercise the jurisdiction necessary in the interests of justice; (13) the jurisdiction of the court as provided in sections 15 and 16 of this act; and (14) the provisions of sections 1 to 83, inclusive, of this act dealing with judicial supervision of testamentary

**Substitute House Bill No. 7104**

trusts.

Sec. 6. (NEW) (*Effective January 1, 2020*) The common law of trusts and principles of equity supplement sections 1 to 109, inclusive, of this act, except to the extent modified by sections 1 to 109, inclusive, of this act or another provision of the general statutes. The provisions of sections 1 to 109, inclusive, of this act expressly applying to charitable trusts apply only to supplement Connecticut common law of charitable trusts. No provision in sections 1 to 109, inclusive, of this act or title 45a of the general statutes shall be applied or construed to alter or diminish any charitable interest or purpose or any condition or restriction related to a charitable interest or purpose.

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

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

(b) A trustee is under a continuing duty to administer the trust at a place appropriate to its purposes, its administration and the interests



***Substitute House Bill No. 7104***

of the beneficiaries.

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

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

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

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

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

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

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

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

(g) In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust

**Substitute House Bill No. 7104**

property to a successor trustee designated in the terms of the trust or appointed pursuant to section 47 of this act.

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

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

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

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

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

(b) A charitable organization expressly designated to receive

**Substitute House Bill No. 7104**

distributions under the terms of a charitable trust has the rights of a qualified beneficiary under sections 1 to 109, inclusive, of this act if the charitable organization, on the date the charitable organization's qualification is being determined: (1) Is a distributee or permissible distributee of trust income or principal; (2) would be a distributee or permissible distributee of trust income or principal upon termination of the interests of other distributees or permissible distributees then receiving or eligible to receive distributions; or (3) would be a distributee or permissible distributee of trust income or principal if the trust terminated on such date.

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

(d) A person appointed to enforce a trust created for (1) the care of an animal under section 45a-489a of the general statutes, as amended by this act, or (2) another noncharitable purpose as provided in section 29 of this act, has the rights of a qualified beneficiary under sections 1 to 109, inclusive, of this act.

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

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

(b) Except as provided in subsections (c) and (e) of this section,

**Substitute House Bill No. 7104**

interested persons may enter into a binding, nonjudicial settlement agreement with respect to any matter involving an inter vivos trust.

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

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

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

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

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

(1) The insured is: (A) A settlor of the trust; or (B) an individual in

**Substitute House Bill No. 7104**

whom a settlor of the trust has, or would have had if living at the time the policy was issued, an insurable interest; and

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

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

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

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

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

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

**Substitute House Bill No. 7104**

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

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

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

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

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

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

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

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

***Substitute House Bill No. 7104***

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

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

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

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

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

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

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

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

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

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

(1) Determine title or rights of possession and use in and to any real, tangible or intangible property that constitutes or may constitute property of a trust, including the rights and obligations of a beneficiary of the trust pursuant to subdivision (3) of subsection (a) of section 45a-

***Substitute House Bill No. 7104***

98 of the general statutes, as amended by this act;

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

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

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

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

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

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

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

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

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

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

(1) A proceeding relating to a testamentary trust that the court



***Substitute House Bill No. 7104***

consolidates with another proceeding involving the same trust over which the Superior Court has original jurisdiction; and

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

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

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

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

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

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

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

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

***Substitute House Bill No. 7104***

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

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

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

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

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

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

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

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

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

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

(e) With respect to a matter over which the court has jurisdiction,

**Substitute House Bill No. 7104**

the court may hear and decide a trustee's request for instructions or for approval of action or a party's request to compel or prohibit an action by a trustee.

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

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

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

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

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

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

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

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

(4) Where the settlor resides;

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

***Substitute House Bill No. 7104***

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

Sec. 17. (NEW) (*Effective January 1, 2020*) (a) Notice to a person who may represent and bind another person under this section and sections 18 to 21, inclusive, of this act has the same effect as if notice were given directly to the other person.

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

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

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

(e) This section and sections 18 to 21, inclusive, of this act, shall apply to all judicial proceedings and all nonjudicial settlements, agreements or actions (1) under sections 1 to 109, inclusive, of this act; and (2) under any other provisions of the general statutes pertaining to trust matters. As used in this subsection, "trust matters" means (A) any property or interest in property held as part of a trust; (B) actions by or against a trust or by or against the trustee of the trust, in its capacity as trustee; (C) proceedings for the interpretation of a document creating a trust or other instrument pursuant to which property is held by a trustee; (D) accountings, whether intermediate or final, of any trustee;

**Substitute House Bill No. 7104**

and (E) any other matter concerning the administration of a trust. Any reference to a trust in this section and sections 45a-487b to 45a-487f, inclusive, of the general statutes includes both testamentary and inter vivos trusts.

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

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

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

**Substitute House Bill No. 7104**

the parent's minor or unborn child.

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

Sec. 20. (NEW) (*Effective January 1, 2020*) (a) If the court determines that an interest is not represented pursuant to sections 17 to 21, inclusive, of this act, or that the otherwise available representation may be inadequate, the court may appoint a guardian ad litem to receive notice, give consent, and otherwise represent, bind and act on behalf of a minor, an incapacitated or unborn individual, or a person whose identity or location is unknown. A guardian ad litem may be appointed to represent several persons or interests.

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

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

Sec. 21. (NEW) (*Effective January 1, 2020*) (a) 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 and to receive a notice, information, an accounting or a report on behalf of the beneficiary; or (2) authorize a person or persons, other than a trustee of the trust or the settlor, to designate one or more persons to represent

**Substitute House Bill No. 7104**

and bind a beneficiary that is not a charity and receive any notice, information, accounting or report.

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

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

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

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

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

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

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

**Substitute House Bill No. 7104**

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

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

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

(4) The trustee has duties to perform.

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

(c) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred. With respect to a charitable trust, if no default beneficiary is named in the trust instrument, the property subject to the power passes to one or more charitable purposes or beneficiaries that the court selects. The selection shall be consistent with the settlor's intention to the extent it can be ascertained.

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

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

Sec. 24. (NEW) (*Effective January 1, 2020*) An inter vivos trust is validly created if its creation complies with (1) the law of the jurisdiction in which the trust instrument was executed; or (2) the law



**Substitute House Bill No. 7104**

of the jurisdiction in which, at the time of creation: (A) The settlor was domiciled, had a place of abode or was a national; (B) a trustee was domiciled or had a place of business; or (C) any trust property was located.

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

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

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

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

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

Sec. 27. (NEW) (*Effective January 1, 2020*) A trust or a provision of a

**Substitute House Bill No. 7104**

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

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

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

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

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

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

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

**Substitute House Bill No. 7104**

expires pursuant to its terms.

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

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

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

Sec. 31. (NEW) (*Effective January 1, 2020*) (a) If the court finds that the settlor, the trustee and all beneficiaries consent to the modification or termination of a noncharitable irrevocable trust, the court may approve the modification or termination even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by (1) an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; or (2) the settlor's conservator with the approval of the court supervising the conservatorship. This subsection does not apply to irrevocable trusts created before, or revocable trusts that become irrevocable before, January 1, 2020.

(b) A noncharitable irrevocable trust may be (1) terminated upon consent of all of the beneficiaries if the court concludes that

**Substitute House Bill No. 7104**

continuance of the trust is not necessary to achieve any material purpose of the trust; and (2) modified upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

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

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

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

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

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

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

Sec. 32. (NEW) (*Effective January 1, 2020*) (a) The court may modify

**Substitute House Bill No. 7104**

the administrative or dispositive terms of a trust, subject to sections 33 and 34 of this section, or terminate a noncharitable trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification shall be made in accordance with the settlor's probable intention.

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

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

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

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

Sec. 33. (NEW) (*Effective January 1, 2020*) Except as otherwise provided in section 34 of this act, if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve or wasteful: (1) The trust does not fail, in whole or in part; (2) the trust property does not revert to the settlor or the settlor's successors in interest; and (3) the court may apply cy pres to modify or terminate the trust by directing

**Substitute House Bill No. 7104**

that the trust property be applied or distributed, in whole or in part, in a manner consistent with the settlor's charitable purposes.

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

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

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

**Substitute House Bill No. 7104**

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

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

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

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

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

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

**Substitute House Bill No. 7104**

(b) The trustee of a testamentary trust, with court approval, may combine the trust with another trust or divide the trust into two or more separate trusts if the result does not impair rights of a beneficiary or adversely affect achievement of the purposes of the trust.

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

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

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

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



**Substitute House Bill No. 7104**

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

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

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

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

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

**Substitute House Bill No. 7104**

attributable to the settlor's contribution.

(c) With respect to a revocable trust:

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

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

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

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

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

(g) A trustee who does not know that a trust has been revoked or

**Substitute House Bill No. 7104**

amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

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

Sec. 42. (NEW) (*Effective January 1, 2020*) (a) To the extent a trust is revocable by a settlor, a trustee may follow a direction of the settlor that is contrary to the terms of the trust. To the extent a trust is revocable by a settlor in conjunction with a person other than a trustee or person holding an adverse interest, the trustee may follow a direction from the settlor and the other person holding the power to revoke even if the direction is contrary to the terms of the trust.

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

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

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

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

(2) One hundred twenty days after the date on which the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address,

***Substitute House Bill No. 7104***

and of the time allowed for commencing a proceeding. The trustee may provide the documentation and information set forth in this subdivision to (A) all persons who would be entitled to notice of the application for probate of a will or administration of an intestate estate or to notice of the admission of a will to probate or the granting of letters of administration; and (B) the beneficiaries of the trust and all persons whose interests are, in the opinion of the trustee, adversely affected by the trust. The provisions of this subdivision shall not apply to a person if notice is sent to the designated representative for the person but not to the person.

(b) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for doing so unless: (1) The trustee knows of a pending judicial proceeding contesting the validity of the trust; (2) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced not later than sixty days after the date on which the contestant sent the notification; or (3) the trustee failed to give notice in accordance with section 63 of this act.

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

Sec. 44. (NEW) (*Effective January 1, 2020*) (a) Except as provided in subsection (c) of this section, a person designated as trustee accepts the trusteeship: (1) By substantially complying with a method of acceptance provided in the terms of the trust; (2) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship; or (3) in the case of

**Substitute House Bill No. 7104**

a testamentary trust, filing an acceptance of trust in the court with jurisdiction over the trust.

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

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

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

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

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

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

(b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees

***Substitute House Bill No. 7104***

may act for the trust.

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

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

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

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

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

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

**Substitute House Bill No. 7104**

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

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

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

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

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

(b) A trustee of a testamentary trust may resign with the approval of

**Substitute House Bill No. 7104**

the court.

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

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

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

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

(1) The trustee becomes incapable of executing or neglects to perform the trustee's duties, wastes the trust assets, fails to furnish an additional or substitute probate bond ordered by the court, or has committed any other serious breach of trust;

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

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

(4) There has been a substantial change of circumstances or removal



**Substitute House Bill No. 7104**

is requested by all of the qualified beneficiaries and the court finds that (A) removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust; and (B) a suitable cotrustee or successor trustee is available. The court may not remove a successor corporate fiduciary in a manner that discriminates against state banks or national banking associations. No consolidated state bank or national banking association and no receiving state bank or national banking association may be removed solely because it is a successor fiduciary, as defined in section 45a-245a of the general statutes.

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

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

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

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

(b) If the terms of a trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, but the court may allow more or less compensation if: (1) The duties of the trustee are substantially different from those contemplated when the trust was

**Substitute House Bill No. 7104**

created; or (2) the compensation specified by the terms of the trust would be unreasonably low or high.

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

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

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

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

(b) Subject to the rights of persons dealing with or assisting the trustee as provided in section 77 of this act, a sale, encumbrance or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless: (1) The transaction was authorized by the terms of the trust; (2) the transaction was approved by the court; (3) the beneficiary did not commence a judicial proceeding within the

***Substitute House Bill No. 7104***

time allowed by section 70 of this act; (4) the beneficiary consented to the trustee's conduct, ratified the transaction or released the trustee as provided in section 74 of this act; or (5) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

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

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

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

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

**Substitute House Bill No. 7104**

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

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

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

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

Sec. 55. (NEW) (*Effective January 1, 2020*) If a trust has two or more

**Substitute House Bill No. 7104**

beneficiaries, the trustee shall act impartially in investing, managing and distributing the trust property, giving due regard to the beneficiaries' respective interests.

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

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

(1) Selecting an agent for the delegation;

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

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

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

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

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

Sec. 58. (NEW) (*Effective January 1, 2020*) The settlor of an irrevocable

**Substitute House Bill No. 7104**

trust shall not be deemed to have a beneficial interest in such trust merely because the trustee is authorized under the trust instrument or any other provision of law to (1) pay or reimburse the settlor for any tax on trust income or trust principal that is payable by the settlor under the law imposing such tax; or (2) pay any such tax directly to the taxing authorities. No creditor of the settlor of an irrevocable trust shall be entitled to reach any trust property based on the discretionary powers described in this section.

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

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

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

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

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

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

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

**Substitute House Bill No. 7104**

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

(b) A trustee: (1) Upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the relevant portions of the trust instrument; (2) within sixty days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address and telephone number; and (3) within sixty days after the date on which the trustee acquires knowledge of the creation of an irrevocable trust, or the date on which the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection (c) of this section.

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

(d) A beneficiary of a trust may petition the court for an accounting by the trustee. The court may grant the petition of: (1) A qualified

***Substitute House Bill No. 7104***

beneficiary of testamentary trust, if the court finds that an account is necessary to protect the interests of a beneficiary; (2) any other beneficiary of a testamentary trust, if the court finds that the same standard applicable to an inter vivos trust as set forth in subsection (c) of section 45a-175 of the general statutes, as amended by this act, is satisfied; and (3) a beneficiary of an inter vivos trust, if the court finds the standard set forth in subsection (c) of section 45a-175 of the general statutes, as amended by this act, is satisfied.

(e) Nothing in subsection (c) of this section limits the power of the court in an accounting proceeding to determine which beneficiaries are entitled to a copy of the accounting and to receive notice of the proceedings.

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

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

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

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

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



**Substitute House Bill No. 7104**

act.

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

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

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

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

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

(d) Subsection (b) of this section does not apply to: (1) A power held

**Substitute House Bill No. 7104**

by the settlor's spouse who is the trustee of a trust for which a marital deduction, as described in Section 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, was previously allowed; (2) a trust during any period that the trust may be revoked or amended by its settlor; or (3) a trust, if contributions to the trust qualify for the annual exclusion under Section 2503(c) of said Internal Revenue Code.

Sec. 65. (NEW) (*Effective January 1, 2020*) (a) A trustee, without authorization by the court, may exercise: (1) Powers conferred by the terms of the trust; and (2) except as limited by the terms of the trust, (A) all powers over the trust property which an unmarried competent owner has over individually owned property; (B) any other powers appropriate to achieve the proper investment, management and distribution of the trust property; and (C) any other power conferred by sections 1 to 109, inclusive, of this act.

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

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

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

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

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

***Substitute House Bill No. 7104***

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

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

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

(7) With respect to stocks or other securities, exercise the rights of an absolute owner, including the right to (A) vote or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement; (B) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery; (C) pay calls, assessments and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and (D) deposit the securities with a depository or other regulated financial service institution;

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

(9) Enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a

***Substitute House Bill No. 7104***

period within or extending beyond the duration of the trust;

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

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

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

(13) With respect to possible liability for violation of environmental law, (A) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property; (B) take action to prevent, abate or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement; (C) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law; (D) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and (E) pay the expense of any inspection, review, abatement or remedial action to comply with environmental law;

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

(15) Pay taxes, assessments, compensation of the trustee and of

***Substitute House Bill No. 7104***

employees and agents of the trust, and other expenses incurred in the administration of the trust;

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

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

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

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

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

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

***Substitute House Bill No. 7104***

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

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

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

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

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

(27) Exercise all powers appropriate to achieve the proper investment, management, preservation and distribution of a digital asset held in the trust estate whether the trustee, the grantor or a third party is the original or a successor user of the digital asset. This subdivision shall be construed in accordance with the Connecticut Revised Uniform Fiduciary Access to Digital Assets Act, as said act is in effect from time to time during the administration of the trust. The custodian of each digital asset held in the trust, whether public or private, shall divulge to the trustee with respect to the asset: (A) Any electronically stored information; (B) the content of all electronic communications sent or received by the original and successor user; and (C) any record or other information stored by the custodian on a remote-computing service.

**Substitute House Bill No. 7104**

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

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

Sec. 67. (NEW) (*Effective January 1, 2020*) (a) Upon termination or partial termination of a trust, the trustee may send to the qualified beneficiaries a proposal for distribution. If the proposal informed the beneficiary of the right to object and of the time allowed for objection, the right of any beneficiary, to whom the trustee has sent the proposal, to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection not later than thirty days after the date on which the proposal was sent.

(b) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of

**Substitute House Bill No. 7104**

debts, expenses and taxes.

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

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

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

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

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

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

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

(c) If subsection (a) of this section does not apply, a judicial



***Substitute House Bill No. 7104***

proceeding by a beneficiary against a trustee for breach of trust shall be commenced not later than three years after the first to occur of: (1) The removal, resignation or death of the trustee; (2) the termination of the beneficiary's interest in the trust; or (3) the termination of the trust.

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

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

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

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

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

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

**Substitute House Bill No. 7104**

term is fair under the circumstances and that its existence and contents were adequately communicated to the settlor.

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

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

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

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

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

Sec. 76. (NEW) (*Effective January 1, 2020*) (a) Except as provided in

**Substitute House Bill No. 7104**

subsection (c) of this section or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed pursuant to the Uniform Partnership Act, sections 34-300 to 34-399, inclusive, of the general statutes or the Uniform Limited Partnership Act, sections 34-9 to 34-38u, inclusive, of the general statutes.

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

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

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

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

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

**Substitute House Bill No. 7104**

or the propriety of their exercise.

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

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

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

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

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

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

**Substitute House Bill No. 7104**

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

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

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

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

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

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

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

**Substitute House Bill No. 7104**

uniform provisions.

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

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

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

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

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

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

Sec. 84. (NEW) (*Effective January 1, 2020*) (a) As used in this section, "power of appointment" means a power that enables a person acting in a nonfiduciary capacity to designate a recipient of an ownership

**Substitute House Bill No. 7104**

interest in or another power of appointment over trust property.

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

(1) Power of appointment;

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

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

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

(A) The beneficiary; or

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

(5) Power over a trust if:

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

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

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

Sec. 85. (NEW) (*Effective January 1, 2020*) (a) Subject to section 86 of

**Substitute House Bill No. 7104**

this act, the terms of a trust may grant a power of direction to a trust director.

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

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

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

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

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

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

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

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



**Substitute House Bill No. 7104**

circumstances; and

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

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

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

Sec. 88. (NEW) (*Effective January 1, 2020*) (a) Subject to the provisions of subsection (b) of this section, a directed trustee shall take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction or further power under subdivision (1) of subsection (b) of section 85 of this act and the trustee is not liable for the action.

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

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

**Substitute House Bill No. 7104**

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

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

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

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

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

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

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

**Substitute House Bill No. 7104**

trustee does not assume the duty excluded in said subdivision.

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

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

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

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

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

Sec. 94. (NEW) (*Effective January 1, 2020*) (a) By accepting

**Substitute House Bill No. 7104**

appointment as a trust director of a trust subject to sections 81 to 98, inclusive, of this act, the director submits to personal jurisdiction of the courts of this state regarding any matter related to a power or duty of the director.

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

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

- (1) Acceptance under section 44 of this act;
- (2) Giving of bond to secure performance under section 45 of this act;
- (3) Reasonable compensation under section 51 of this act;
- (4) Resignation under section 48 of this act;
- (5) Removal under section 49 of this act; and
- (6) Vacancy and appointment of successor under section 47 of this act.

Sec. 96. (NEW) (*Effective January 1, 2020*) In applying and construing the uniform provisions of sections 81 to 98, inclusive, of this act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

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

**Substitute House Bill No. 7104**

103(b) of said act, 15 USC 7003(b).

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

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

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

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

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

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

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

**Substitute House Bill No. 7104**

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

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

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

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

(9) "Qualified trustee" means:

(A) Any person, other than the transferor, who in the case of an individual, is a resident of this state or who, in all other cases, is a state or federally chartered bank or trust company having a place of business in this state, is authorized to engage in a trust business in this state, and maintains or arranges for custody in this state of some or all of the property that is the subject of the qualified disposition, maintains records in this state for the trust on an exclusive or

**Substitute House Bill No. 7104**

nonexclusive basis, prepares or arranges for the preparation in this state of fiduciary income tax returns for the trust, or otherwise materially participates in this state in the administration of the trust.

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

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

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

(B) Is irrevocable; and

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

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

(1) Trust directors who have authority under the terms of the trust

**Substitute House Bill No. 7104**

instrument to remove and appoint qualified trustees or trust directors;  
and

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

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

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

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

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

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



**Substitute House Bill No. 7104**

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

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

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

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

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

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

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

***Substitute House Bill No. 7104***

not exceed five per cent of the initial value of the trust assets;

(6) The transferor's potential or actual receipt or use of principal if the potential or actual receipt or use of principal would be the result of a qualified trustee acting:

(A) In the discretion of the qualified trustee;

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

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

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

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

(9) The transferor's potential or actual receipt of income or principal to pay, in whole or in part, income taxes due on income of the trust if

**Substitute House Bill No. 7104**

the potential or actual receipt of income or principal is pursuant to a provision in the trust instrument that expressly provides for the payment of the taxes and if such potential or actual receipt of income or principal would be the result of a qualified trustee acting:

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

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

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

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

***Substitute House Bill No. 7104***

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

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

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

(c) For the purposes of sections 99 to 108, inclusive, of this act, a qualified disposition that is made by means of a disposition by a transferor who is a trustee shall be deemed to have been made as of the time the property that is the subject of the qualified disposition was originally transferred to the transferor, or any predecessor trustee, making the qualified disposition in a form that conforms with the requirements set forth in subdivision (10) of section 100 of this act. If a trustee of an existing trust proposes to make a qualified disposition pursuant to this subsection, but the trust would not conform to the requirements of subdivision (10) of section 100 of this act as a result of the original transferor's nonconforming powers of appointment, upon the trustee's delivery to the qualified trustee of an irrevocable written election to have this subsection apply to the trust, the nonconforming powers of appointment shall be deemed modified to the extent necessary to conform with the requirements of subdivision (10) of section 100 of this act. For purposes of sections 99 to 108, inclusive, of this act, an irrevocable written election includes a description of the original transferor's powers of appointment as modified together with the original transferor's written consent to the election but no such consent of the original transferor shall be considered a disposition

***Substitute House Bill No. 7104***

within the meaning of subdivision (4) of section 100 of this act.

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

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

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

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

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

**Substitute House Bill No. 7104**

(g) If, in any action brought against a trustee of a trust that is funded, in whole or in part, by a qualified disposition, a court takes any action whereby the court declines to apply the law of this state in determining the validity, construction or administration of the trust, or the effect of a spendthrift provision of the trust, the trustee shall immediately, upon the court's action and without the further order of any court, cease in all respects to be a trustee of the trust and (1) a successor trustee shall thereupon succeed as trustee in accordance with the terms of the trust instrument; or (2) if the trust instrument does not provide for a successor trustee and the trust would otherwise be without a trustee, the court having jurisdiction pursuant to sections 15 and 16 of this act, upon the application of any beneficiary of the trust, shall appoint a successor trustee upon such terms and conditions as it determines to be consistent with the purposes of the trust and the provisions of this section. The court shall have no continuing jurisdiction over the trust or trustee merely by reason of appointing the trustee. Upon the trustee's ceasing to be trustee, the trustee shall have no power or authority other than to convey the trust property to the successor trustee named in the trust instrument or appointed by the court having jurisdiction in accordance with the provisions of this section.

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

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

(2) To any person who suffers death, personal injury or property

**Substitute House Bill No. 7104**

damage on or before the date of a qualified disposition by a transferor, which death, personal injury or property damage is at any time determined to have been caused, in whole or in part, by the tortious act or omission of the transferor or by another person for whom the transferor is or was vicariously liable, but only to the extent of the claim against the transferor or other person for whom the transferor is or was vicariously liable.

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

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

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

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

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

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

(2) If the court is satisfied that a beneficiary of a trust has not acted

**Substitute House Bill No. 7104**

in bad faith, the avoidance of the qualified disposition shall be subject to the right of the beneficiary to retain any distribution made upon the exercise of a trust power or discretion vested in the trustee of the trust, which power or discretion was properly exercised prior to the creditor's commencement of an action to avoid the qualified disposition. For purposes of this subdivision, it shall be presumed that the beneficiary, including a beneficiary who is also a transferor of the trust, did not act in bad faith merely by creating the trust or by accepting a distribution made in accordance with the terms of the trust.

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

(d) For purposes of sections 99 to 107, inclusive, of this act, attachment, garnishment, sequestration or other legal or equitable processes shall be permitted only in circumstances permitted by the express terms of said sections of this act.

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

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

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

(1) Sections 1 to 108, inclusive, of this act apply to all trusts created



**Substitute House Bill No. 7104**

before, on or after January 1, 2020.

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

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

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

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

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

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

(a) Probate Courts in their respective districts shall have the power to (1) grant administration of intestate estates of persons who have

**Substitute House Bill No. 7104**

died domiciled in their districts and of intestate estates of persons not domiciled in this state which may be granted as provided by section 45a-303; (2) admit wills to probate of persons who have died domiciled in their districts or of nondomiciliaries whose wills may be proved in their districts as provided in section 45a-287; (3) except as provided in section 45a-98a or as limited by an applicable statute of limitations, determine title or rights of possession and use in and to any real, tangible or intangible property that constitutes, or may constitute, all or part of any trust, any decedent's estate, or any estate under control of a guardian or conservator, [which trust or estate is otherwise subject to the jurisdiction of the Probate Court,] including the rights and obligations of any beneficiary of the trust or estate and including the rights and obligations of any joint tenant with respect to survivorship property; (4) except as provided in section 45a-98a, determine the validity or construe the meaning and effect of (A) any will or trust agreement if a construction is required in connection with the administration or distribution of a trust or estate; [otherwise subject to the jurisdiction of the Probate Court; (B) an inter vivos trust upon a petition that meets the requirements for a petition for an accounting pursuant to subsection (b) or (c) of section 45a-175, provided such an accounting need not be required; or (C)] or (B) a power of attorney pursuant to section 1-350o; (5) except as provided in section 45a-98a, apply the doctrine of cy pres or approximation; (6) to the extent provided for in section 45a-175, as amended by this act, call executors, administrators, trustees, guardians, conservators, and agents acting under powers of attorney created in accordance with sections 1-350 to 1-353b, inclusive, to account concerning the estates entrusted to their charge or for other relief as provided in sections 1-350 to 1-353b, inclusive; and (7) make any lawful orders or decrees to carry into effect the power and jurisdiction conferred upon [them] the Probate Courts by the laws of this state.

(b) The jurisdiction of Probate Courts to determine title or rights or

**Substitute House Bill No. 7104**

to construe instruments or to apply the doctrine of cy pres or approximation pursuant to subsection (a) of this section is concurrent with the jurisdiction of the Superior Court and does not affect the power of the Superior Court as a court of general jurisdiction.

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

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

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

(c) (1) Any beneficiary of an inter vivos trust may petition a Probate Court [having jurisdiction under this section] specified in section 16 of this act for an accounting by the trustee or trustees. The court may, after hearing with notice to all interested parties, grant the petition and require an accounting for such periods of time as it determines are reasonable and necessary on finding that: (A) The beneficiary has an interest in the trust sufficient to entitle [him or her] the beneficiary to an accounting, (B) cause has been shown that an accounting is

**Substitute House Bill No. 7104**

necessary, and (C) the petition is not for the purpose of harassment.

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

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

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

(e) The action to submit an accounting to the court, whether by an inter vivos trustee or agent acting under a power of attorney or

**Substitute House Bill No. 7104**

whether pursuant to petition of another party, [shall] does not subject the trust or the power of attorney to the continuing jurisdiction of the Probate Court.

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

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

(h) In any action under this section, the Probate Court shall have, in addition to powers pursuant to this section, all the powers available to

**Substitute House Bill No. 7104**

a judge of the Superior Court at law and in equity pertaining to matters under this section.

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

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

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

**Substitute House Bill No. 7104**

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

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

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

(c) [Trustees appointed by a testator to execute a trust created by

**Substitute House Bill No. 7104**

will and testamentary guardians] A guardian appointed by a testator in a will may resign or be removed, and the [vacancies] vacancy filled by the court having jurisdiction in the manner provided under this section, unless otherwise provided by the will.

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

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

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

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

When a will, trust agreement or other instrument establishing a trust fails to provide for the contingency of the trustee's refusal to accept the trust or the trustee's resignation, death or incapacity, the Probate Court [for the district within which the estate is situated, or, when the trust has been created by will, in the district having jurisdiction of such will,] specified in section 16 of this act may, on the happening of any such contingency, appoint some suitable person to fill such vacancy, taking from [him] such suitable person a probate bond, unless in the case of a will it is otherwise provided therein. [ in which case the provisions of section 45a-473 shall apply.] The court may appoint a successor trustee of an inter vivos trust before such



**Substitute House Bill No. 7104**

contingency has occurred if the court finds that a vacancy in the office of trustee is likely to occur. The court shall specify the conditions that the successor trustee of such inter vivos trust must satisfy before becoming trustee. In the event of a vacancy in the office of trustee of such inter vivos trust, the successor trustee may assume the office immediately upon satisfying the conditions set forth in the court's order without further court action.

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

[(a) When any person not a resident of this state is the owner of a life estate or income during life in any personal property or real property in this state that may thereafter be converted into money, and the child or children of such life tenant or person entitled to such life use or income, residing in the same state as such life tenant or person entitled to such life use or income, are entitled to the remainder upon the termination of such life estate, life use or income, such life tenant having procured the appointment of a trustee or other legal custodian of the property in which he has such interest under the laws of the place of his residence, such custodian may apply in writing to the court of probate in this state which has jurisdiction of the administration of such trust estate for the possession and removal of such property. In such application the trustee or custodian shall allege that he has been legally appointed such custodian in the jurisdiction in which such life tenant resides, and that he has therein given a probate bond valid according to the requirements of such jurisdiction, and security thereon, or an increase in an existing bond and security, in an amount equal to the value of all such estate of such person to be removed from this state. Such bond and the decree of the court appointing such custodian shall provide that if the child or children of such life tenant are for any reason unable to take or receive the property upon the termination of the life estate or estate aforesaid, it is

***Substitute House Bill No. 7104***

to be held and paid over by such custodian to such persons as the court of probate in this state ordering such removal directs. Upon such custodian filing for record in the Court of Probate an exemplified copy of the record of the court by which he was appointed, it shall, after a hearing upon such notice as the court orders to the person having such estate in custody and after proof that all known debts against it in this state have been paid or satisfied, appoint the applicant to be guardian, conservator or trustee without further bonds, and authorize the person having such estate in his custody to deliver it to the applicant, who may demand, sue for and recover it and remove it from this state.]

[(b)] Any one or more of the [vested beneficial owners of interests established by a testamentary transfer of real property situated in this state or personal property wherever situated, in trust or under custodianship established and] beneficiaries of a trust that is administered outside of this state [,] who are residents of this state may petition [the court of probate in any district in which any such real property or tangible personal property is situated or in which any of such beneficial owners reside] the Probate Court specified in section 16 of this act to assume jurisdiction of such trust. [or custodianship] In the petition, [such beneficial owner or owners] the beneficiaries shall allege that it would be in the best interest of some or all of [such beneficial owners] the beneficiaries and not adverse to any of [such owners for the trust or custodianship] the other beneficiaries to be administered in a [court of probate] Probate Court in this state or that all such beneficial owners consent to the administration of the trust or custodianship in a [court of probate] Probate Court in this state. The [Court of] Probate Court, after hearing with notice as it directs, including notice to any court having jurisdiction over the trust [or custodianship,] upon written consent of all such [beneficial owners] beneficiaries or satisfaction that the allegations in the petition are true and upon proof that such transfer is not prohibited by law, may assume jurisdiction. If a probate bond is required under the laws of the

**Substitute House Bill No. 7104**

state in which the transferring court is located or this state, such bond shall be given to the Probate Court prior to the assumption of jurisdiction by such court. Upon transfer and assumption of jurisdiction and administration of such trust [or custodianship] to this state, the record shall be established in the [Court of] Probate Court as if the [estate] trust were being originally established for administration in this state and the provisions of the general statutes shall govern the trust [or custodianship] and its administration.

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

When the facts at the time of distribution from an estate to a trust or from a testamentary trust to a successive trust are such that no trust would be operative under the terms of the instrument creating such trust or successive trust because of the death of the life tenant, or because the beneficiary has reached a stipulated age, or if such trust would qualify for termination under section [45a-484] 35 of this act, or for any other reason, the fiduciary of such estate or prior trust may distribute, with the approval of the court of probate having jurisdiction, directly from the estate or prior trust to the remaindermen of such trust, the corpus of such trust and any income earned during the period of estate administration or administration of the prior trust and distributable to such remaindermen, without the interposition of the establishment of such trust or successive trust. If distribution is based on the fact that the trust would qualify for termination under section [45a-484] 35 of this act, reasonable notice shall be provided to all beneficiaries who are known and in being and who have vested or contingent interests in the trust.

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

(a) If any marital deduction would not be allowed by reason of

**Substitute House Bill No. 7104**

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

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

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

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

Sec. 118. Section 45a-489a of the general statutes is repealed and the

**Substitute House Bill No. 7104**

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

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

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

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

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

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

(e) Any individual identified as a trust protector pursuant to this section may file a petition in the Superior Court or [a probate court having jurisdiction pursuant to subsection (c) of this section] the Probate Court to enforce the provisions of the trust, remove or replace

**Substitute House Bill No. 7104**

any trustee of the trust, or require a trustee to render an account as required under subsection (d) of this section. The court may award costs and attorney's fees to the trust protector, from the trust property, if the trust protector prevails on a petition filed under this subsection and the court finds that the filing of the petition was necessary to fulfill the trust protector's duty to act on behalf of the animal or animals provided for in the trust instrument.

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

(g) Trust property may be applied only to its intended use, subject to proper trust expenses including trustee fees, except to the extent the Superior Court or [a probate court having jurisdiction pursuant to subsection (c) of this section] the Probate Court, upon application by the trustee or trust protector, determines that the value of the trust property exceeds the amount required for its intended use. Trust property not required for its intended use, including trust property remaining upon termination of the trust, shall be distributed in the following order of priority:

- (1) As directed by the terms of the trust instrument;
- (2) To the remainder beneficiaries identified in the trust instrument, under the same terms provided in the trust for the remainder interest;

**Substitute House Bill No. 7104**

(3) To the settlor, if then living;

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

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

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

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

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

(a) If any deduction under Section 170, Section 2055 or Section 2522 of the Internal Revenue Code of 1986 is not allowable with respect to any interest in property passing under any will, trust agreement or other governing instrument to a person, or for a use, described in Section 170(c), Section 2055(a) or Section 2522(a) and (b) of said code because such interest [shall fail] fails to comply with the requirements of Section 170(f)(2), Section 2055(e)(2) or Section 2522(c)(2) of said code, the Superior Court, [or the Probate Court if the trust or estate is otherwise subject to the jurisdiction of the Probate Court, or with respect to an inter vivos trust, if that trust is or could be subject to the jurisdiction of the court for an accounting pursuant to section 45a-175, provided such an accounting need not be required] or a Probate Court

**Substitute House Bill No. 7104**

specified in section 16 of this act, shall have jurisdiction over any action brought to reform such will, trust agreement or other governing instrument in accordance with the provisions of Section 170(f)(7), Section 2055(e)(3) or Section 2522(c)(4) of said code so that such deduction may be allowed under the applicable provisions of said code. All references contained in this section to any section of the Internal Revenue Code of 1986 [shall] mean that section of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended.

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

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

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

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

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

(b) In any case where the current market value of the assets of a testamentary or inter vivos charitable trust is less than one hundred



**Substitute House Bill No. 7104**

fifty thousand dollars, any trustee thereof, any charitable beneficiary specifically designated in the governing instrument or the Attorney General may petition a [court of probate] Probate Court specified in section 16 of this act for an order terminating the trust. [If such a trust has been under the jurisdiction of a court of probate prior to any such petition, the petition shall be brought to the court of probate for the district which has had jurisdiction over the trust. If such a trust has not been under the jurisdiction of a court of probate prior to any such petition, the petition shall be brought to the court of probate for any district in which any such trustee resides or has a place of business. If such a trust has not been under the jurisdiction of a court of probate prior to any such petition and if there is no trustee thereof residing or having a place of business in Connecticut, the petition shall be brought to the court of probate for any district in which any charitable beneficiary of the trust has its principal office.] Upon receipt of such a petition, the court shall order a hearing and cause notice thereof to be given to the Attorney General, the trustees, the grantor of the trust, if living, and any charitable beneficiary of the trust specifically designated in the governing instrument. If at such a hearing the court determines that continuation of the trust is uneconomic when the costs of operating the trust, probable income and other relevant factors are considered or not in the best interest of the beneficiaries, the court may order termination of the trust and distribution of the trust assets to any charitable beneficiary specifically designated in the governing instrument or, [in the event] if no such beneficiary exists, to such other charitable trusts or charitable entities, including any community trust or foundation, as the court may determine will fulfill the charitable purposes of the trust being so terminated.

Sec. 122. Section 45a-521 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2020*):

(a) Upon a petition filed within the period specified in [the Code of

**Substitute House Bill No. 7104**

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

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

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

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

Approved July 12, 2019