

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 19.
DESCENT, DISTRIBUTION, AND TRUSTS.

CHAPTER 13.
UNIFORM TRUST CODE.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 13. UNIFORM TRUST CODE.

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CHAPTER 13. UNIFORM TRUST CODE.

Refs & Annos

Jurisdiction	Laws	Effective Date	Statutory Citation
Alabama	2006, c. 216	1-1-2007	Code 1975, §§ 19-3B-101 to 19-3B-1305.
Arizona	2008, c. 247	1-1-2009	A.R.S. §§ 14-10101 to 14-11102.
Arkansas	2005, c. 1031	8-12-2005	A.C.A. §§ 28-73-101 to 28-73-1105.
District of Columbia	2004, c. 15-104	3-10-2004	D.C. Official Code, 2001 Ed. §§ 19-1301.01 to 19-1311.03.
Florida[FN1]	2006, c. 217	7-1-2007	West's F.S.A. §§ 736.0101 to 736.1303.
Kansas	2002, c. 133	1-1-2003	K.S.A. 58a-101 to 58a-1107.
Maine	2004, c. 618	7-1-2005	18-B M.R.S.A. §§ 101 to 1104.
Michigan	2009, No. 46	4-1-2010	M.C.L.A. §§ 700.7101 to 700.8206.
Missouri	2004, H.B. No. 1511	1-1-2005	V.A.M.S. §§ 456.1-101 to 456.11-1106.
Nebraska [FN2]	2003, LB 130	1-1-2005	R.R.S. 1943, §§ 30-3801 to 30-38,110.
New Hampshire	2004, c. 130	10-1-2004	RSA 564-B:1-101 to 564-B:12-1205.
New Mexico	2003, c. 122	7-1-2003	NMSA 1978, §§ 46A-1-101 to 46A-11-1105.
North Carolina	2005, c. 192	1-1-2006	G.S. §§ 36C-1-101 to 36C-11-1104.
North Dakota	2007, c. 549	8-1-2007	NDCC 59-09-01 to 59-19-02.
Ohio	2006, H.B. 416	1-1-2007	R.C. §§ 5801.01 to 5811.03.
Oregon	2005, c. 348	6-29-2005	ORS 130.001 to 130.910.
Pennsylvania	2006, c. 98	[FN*]	20 Pa.C.S.A. §§ 7701 to 7799.3.
South Carolina	2005, c. 66	11-6-2006	Code 1976, §§ 62-7-101 to 62-7-1106.
Tennessee	2004, c. 537	1-1-2006	T.C.A. §§ 35-15-101 to 35-15-1103.
Utah	2004, c. 89	7-1-2004	U.C.A. 1953, 75-7-101 to 75-7-1201.
Vermont	2009, P.A. 20	7-1-2009	14A V.S.A. §§ 101 to 1204.
Virginia	2005, c. 935	7-1-2006	Code 1950, §§ 55-541.01 to 55-551.06.
West Virginia	2011, c. 66	6-10-2011	W. Va. Code §§ 44D-1-101 to 44D-11-1105.
Wyoming	2003, c. 124	7-1-2003	Wyo.Stat.Ann. §§ 4-10-101 to 4-10-1103.

[FN*] Approval date.

[FN1] Enacts the Uniform Trust Code and repeals the Uniform Trustees' Powers Act effective July 1, 2007.

[FN2] Repealed the Uniform Prudent Investor Act (R.R.S. 1943, §§ 8-2201 to 8-2213) and the Uniform Trustees' Powers Act (R.R.S. 1943, §§ 30-2819 to 30-2826), and enacted the Uniform Trust Code (R.R.S. 1943, §§ 30-3801 to 30-38,110) by L.2003, LB 130, operative January 1, 2005.

SUBCHAPTER I. GENERAL PROVISIONS AND DEFINITIONS.

§ 19-1301.01. SHORT TITLE.

This chapter may be cited as the "Uniform Trust Code".

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 15-104, the "Uniform Trust Act of 2003", was introduced in Council and assigned Bill No. 15-234, which

was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 4, 2003, and December 2, 2003, respectively. Signed by the Mayor on December 18, 2003, it was assigned Act No. 15-286 and transmitted to both Houses of Congress for its review. D.C. Law 15-104 became effective on March 10, 2004.

Uniform Law

This section is based upon § 101 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.02. SCOPE.

This chapter applies to express trusts, charitable or noncharitable, and trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 102 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.03. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Action," with respect to an act of a trustee, includes a failure to act.
- (2) "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.
- (3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in section 19-1304.05(a).
- (4) "Conservator" means a person appointed by the court to administer the estate of a minor or adult individual.
- (5) "Distributee" means a beneficiary who is currently entitled to receive a distribution from a trust.
- (6) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.
- (7) "Guardian" means a person appointed by the court, a parent, or a spouse to make decisions regarding the support, care, education, health, and welfare of a minor or adult individual. The term "guardian" does not include a guardian ad litem.
- (8) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.
- (9) "Jurisdiction," with respect to a geographic area, includes a State or country.
- (10) "Permissible distributee" means a beneficiary who is currently eligible to receive a distribution from a trust.
- (11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.
- (12) "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.
- (13) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.
- (14) "Qualified beneficiary" means a beneficiary who, on the date the 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 paragraph terminated on that date; or

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

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

(16) "Settlor" means a person, including a testator, who 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 that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(17) "Settlor's successors in interest" means the residuary beneficiaries under the settlor's will, or if none, the settlor's heirs.

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

(19) "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. The term "state" includes an Indian tribe or band recognized by federal law or formally acknowledged by a State.

(20) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.

(21) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 103 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.04. KNOWLEDGE.

(a) Subject to subsection (b) of this section, a person has knowledge of a fact if the person:

(1) Has actual knowledge of it;

(2) Has received a notice or notification of it; or

(3) From all the facts and circumstances known to the person at the time in question, has reason to know it.

(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 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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 104 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.05. DEFAULT AND MANDATORY RULES.

(a) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(b) The terms of a trust prevail over any provision of this chapter except:

- (1) The requirements for creating a trust;
- (2) The duty of a trustee to act in good faith and in accordance with the purposes of the trust;
- (3) The requirement that a trust and its terms be for the benefit of its beneficiaries, and that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve;
- (4) The power of the court to modify or terminate a trust under sections 19- 1304.10 through 19-1304.16;
- (5) The effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in subchapter V of this chapter;
- (6) The power of the court under section 19-1307.02 to require, dispense with, or modify or terminate a bond;
- (7) The power of the court under section 19-1307.08(b) to adjust a trustee's compensation specified in the terms of the trust which is unreasonably low or high;
- (8) Subject to subsection (c) of this section, the duty under section 19- 1308.13(b)(2) and (3) to notify qualified beneficiaries of an irrevocable trust who have attained 25 years of age of the existence of the trust, the identity of the trustee, and their right to request the trustee's reports;
- (9) Subject to subsection (c) of this section, the duty under section 19- 1308.13(a) to respond to the request of a beneficiary of an irrevocable trust for trustee's reports and other information reasonably related to the administration of a trust;
- (10) The effect of an exculpatory term under section 19-1310.08;
- (11) The rights under sections 19-1310.10 through 19-1310.13 of a person other than a trustee or beneficiary;
- (12) Periods of limitation for commencing a judicial proceeding; and
- (13) The power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice.

(c) The settlor, in the trust instrument or in another writing delivered to the trustee, may waive or modify the duties of a trustee under section 19- 1308.13 to give notice, information, and reports to beneficiaries by:

- (1) Waiving or modifying such duties during the lifetime of the settlor or the lifetime of the settlor's surviving spouse;
- (2) Specifying a different age at which a beneficiary or class of beneficiaries must be notified under section 19-1308.13(b)(2) and (3); or
- (3) Designating a person or persons to act in good faith to protect the interests of beneficiaries, to receive any notice, information, or reports required under section 19-1308.13 in lieu of providing such notice, information, or reports to the beneficiaries.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 105 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.06. COMMON LAW OF TRUSTS; PRINCIPLES OF EQUITY.

The common law of trusts and principles of equity supplement this chapter, except to the extent modified by this chapter or another statute of the District of Columbia.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 106 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.07. GOVERNING LAW.

The meaning and effect of the terms of a trust are determined by:

- (1) The law of the jurisdiction designated in the terms unless the designation of that 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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 107 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.08. PRINCIPAL PLACE OF ADMINISTRATION.

(a) Without precluding other means for establishing a sufficient connection with the designated jurisdiction, terms of a trust designating the principal place of administration 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; or
- (2) 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 of the beneficiaries.

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

(d) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than 60 days before initiating the transfer. The notice of proposed transfer must 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 reasons for the proposed transfer;
- (4) The date on which the proposed transfer is anticipated to occur; and
- (5) The date, not less than 60 days after the giving of the notice, by which the qualified beneficiary must notify the trustee of an objection to the proposed transfer.

(e) The authority of a trustee under this section to transfer a trust's principal place of administration terminates if a qualified beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

(f) In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed pursuant to section 19-1307.04.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

This section is based upon § 108 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.09. METHODS AND WAIVER OF NOTICE.

(a) Notice to a person under this chapter or the sending of a document to a person under this chapter must be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice or for sending a document include first-class mail, personal delivery, delivery to the person's last known place of residence or place of business, or a properly directed electronic message.

(b) Notice otherwise required under this chapter or a document otherwise required to be sent under this chapter need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee.

(c) Notice under this chapter or the sending of a document under this chapter may be waived by the person to be notified or sent the document.

(d) Notice of a judicial proceeding must be given as provided in the applicable rules of civil procedure.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 109 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.10. OTHERS TREATED AS QUALIFIED BENEFICIARIES.

(a) Whenever notice to qualified beneficiaries of a trust is required under this chapter, the trustee must also give notice to any other beneficiary who has sent the trustee a request for notice.

(b) A charitable organization expressly designated to receive distributions under the terms of a charitable trust or a person appointed to enforce a trust created for the care of an animal or another noncharitable purpose as provided in section 19-1304.08 or section 19-1304.09 has the rights of a qualified beneficiary under this chapter.

(c) The Corporation Counsel of the District of Columbia has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in the District of Columbia.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 110 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1301.11. NONJUDICIAL SETTLEMENT AGREEMENTS.

(a) For the purposes of this section, the term "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 otherwise provided in subsection (c) of this section, interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a 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 this chapter 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) Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in subchapter III of this chapter was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 111 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER II. JUDICIAL PROCEEDINGS.

§ 19-1302.01. ROLE OF COURT IN ADMINISTRATION OF TRUST.

- (a) The court may intervene in the administration of a trust to the extent its jurisdiction is invoked by an interested person or as provided by law.
- (b) A trust is not subject to continuing judicial supervision unless ordered by the court.
- (c) A judicial proceeding involving a trust may relate to any matter involving the trust's administration, including a request for instructions and an action to declare rights.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 201 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1302.02. JURISDICTION OVER TRUSTEE AND BENEFICIARY.

- (a) By accepting the trusteeship of a trust having its principal place of administration in the District of Columbia or by moving the principal place of administration to the District of Columbia, the trustee submits personally to the jurisdiction of the courts of the District of Columbia 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 the District of Columbia are subject to the jurisdiction of the courts of the District of Columbia regarding any matter involving the trust. By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of the District of Columbia regarding any matter involving the trust.
- (c) This section does not preclude other methods of obtaining jurisdiction over a trustee, beneficiary, or other person receiving property from the trust.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

This section is based upon § 202 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER III. REPRESENTATION.

§ 19-1303.01. REPRESENTATION: BASIC EFFECT.

(a) Notice to a person who may represent and bind another person under this subchapter 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 subchapter is binding on the person represented unless the person represented objects to the representation by notifying the trustee or the representative before the consent would otherwise have become effective.

(c) Except as otherwise provided in sections 19-1304.11 and 19-1306.02, a person who under this subchapter may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 301 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1303.02. REPRESENTATION BY HOLDER OF GENERAL TESTAMENTARY POWER OF APPOINTMENT.

The holder of a power of appointment may represent and bind persons whose interests as permissible appointees or takers in default are subject to the power. A qualified power of appointment is a power exercisable in favor of:

(1) The power holder, the power holder's estate, the power holder's creditors and the creditors of the power holder's estate; or

(2) All persons other than the power holder, the power holder's estate, the power holder's creditors, and the creditors of the power holder's estate.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 302 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1303.03. REPRESENTATION BY FIDUCIARIES AND PARENTS.

To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

(1) A conservator may represent and bind the estate that the conservator controls;

(2) A guardian may represent and bind the ward if a conservator of the ward's estate has not been appointed;

(3) An agent having authority to act with respect to the particular question or dispute may represent and bind the principal;

(4) A trustee may represent and bind the beneficiaries of the trust;

(5) A personal representative of a decedent's estate may represent and bind persons interested in the estate;

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

(7) An individual may represent a grandchild or a more remote descendent, whether born or unborn, whom a parent may not represent and bind under paragraph (6) of this subsection; and

(8) A qualified beneficiary may represent and bind any beneficiary who may succeed to the qualified beneficiary's interest under the terms of the trust or pursuant to the exercise of a power of appointment.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 303 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1303.04. REPRESENTATION BY PERSON HAVING SUBSTANTIALLY IDENTICAL INTEREST.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 304 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1303.05. APPOINTMENT OF REPRESENTATIVE.

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

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

(c) In making decisions, a representative may consider general benefit accruing to the living members of the individual's family.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 305 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER IV. CREATION, VALIDITY,

MODIFICATION, AND TERMINATION OF TRUST.

§ 19-1304.01. METHODS OF CREATING TRUST.

A trust may be created by:

- (1) Transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;
- (2) Declaration by the owner of property that the owner holds identifiable property as trustee;
- (3) Exercise of a power of appointment in favor of a trustee; or
- (4) A court for the benefit of an individual in lieu of a transfer of property to a conservatorship or guardianship pursuant to Chapter 1 or subchapter VI of Chapter 20 of Title 21 of the District of Columbia Official Code.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 401 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.02. REQUIREMENTS FOR CREATION.

(a) A trust is created only if:

- (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 19-1304.08; or
 - (C) A trust for a noncharitable purpose, as provided in section 19-1304.09;
- (4) The trustee has duties to perform; and
- (5) The same person is not the sole trustee and sole beneficiary.

(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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 402 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.03. TRUSTS CREATED IN OTHER JURISDICTIONS.

A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation:

- (1) The settlor was domiciled, had a place of abode, or was a national;
- (2) A trustee was domiciled or had a place of business; or

(3) Any trust property was located.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 403 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.04. TRUST PURPOSES.

A trust may be created only to the extent its purposes are lawful, not contrary to public policy, and possible to achieve. A trust and its terms must be for the benefit of its beneficiaries.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 404 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.05. CHARITABLE PURPOSES; ENFORCEMENT.

(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 is beneficial to the community.

(b) If the terms of a charitable trust do not indicate or otherwise provide for the selection of a particular charitable purpose or beneficiary, the court may select one or more charitable purposes or beneficiaries. The selection must be consistent with the settlor's intention to the extent it can be ascertained.

(c) The settlor of a charitable trust, among others, may maintain a proceeding to enforce the trust.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 405 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.06. CREATION OF TRUST INDUCED BY FRAUD, DURESS, OR UNDUE INFLUENCE.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 406 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.07. EVIDENCE OF ORAL TRUST.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 407 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.08. TRUST FOR CARE OF ANIMAL.

(a) A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal.

(b) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court. A person having an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed.

(c) 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 must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 408 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.09. NONCHARITABLE TRUST WITHOUT ASCERTAINABLE BENEFICIARY.

Except as otherwise provided in section 19-1304.08 or by D.C. Official Code § 43-113, the following rules apply:

(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 21 years.

(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 so 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 must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 409 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.10. MODIFICATION OR TERMINATION OF TRUST; PROCEEDINGS FOR APPROVAL OR DISAPPROVAL.

(a) In addition to the methods of termination prescribed by section 19- 1304.11 through section 19-1304.14, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

(b) A proceeding to approve or disapprove a proposed modification or termination under sections 19-1304.11 through 19-1304.16, or trust combination or division under section 19-1304.17, may be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a proposed modification or termination under section 19-1304.11 may be commenced by the settlor. The settlor of a charitable trust may maintain a proceeding to modify the trust under section 19-1304.13.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 410 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.11. MODIFICATION OR TERMINATION OF NONCHARITABLE IRREVOCABLE TRUST BY CONSENT.

(a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. 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;
- (2) The settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or
- (3) The settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed.

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

(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:

(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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 411 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.12. MODIFICATION OR TERMINATION BECAUSE OF UNANTICIPATED CIRCUMSTANCES OR INABILITY TO ADMINISTER TRUST EFFECTIVELY.

- (a) The court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification must 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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 412 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.13. CY PRES.

Except as otherwise provided in the terms of the trust, if a particular charitable purpose is or 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 that the trust property be applied or distributed, in whole or in part, in a manner consistent with the settlor's charitable purposes.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 413 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.14. TERMINATION OF UNECONOMIC TRUST.

- (a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value less than \$50,000 may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.
- (b) The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.
- (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.
- (d) This section does not apply to an easement for conservation or preservation.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 414 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.15. REFORMATION TO CORRECT MISTAKES.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 415 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.16. MODIFICATION TO ACHIEVE SETTLOR'S TAX OBJECTIVES.

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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 416 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.17. COMBINATION AND DIVISION OF TRUSTS.

After notice to the qualified beneficiaries, a trustee may combine 2 or more trusts into a single trust or divide a trust into 2 or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 417 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1304.18. TITLE OF TRUST PROPERTY.

Real or personal property that is transferred to a trust may be titled in the name of:

- (1) The trust by reference to the instrument creating the trust;
- (2) The current trustee as the trustee of such trust; or
- (3) "The trustee" as the trustee of such trust.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

For Law 15-104, see notes following § 19-1301.01.

SUBCHAPTER V. CREDITOR'S CLAIMS; SPENDTHRIFT AND DISCRETIONARY TRUSTS.

§ 19-1305.01. RIGHTS OF BENEFICIARY'S CREDITOR OR ASSIGNEE.

To the extent a beneficiary's interest is not protected by a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to such relief as is appropriate under the circumstances. Whether or not a trust contains a spendthrift provision, the creditor of a beneficiary cannot exercise or compel the exercise of the beneficiary's right to commerce, approve, or disapprove a proposed trust termination or modification under sections 19-1304.11 through 19-1304.16, or trust combination or division under section 19-1304.17.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 501 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1305.02. SPENDTHRIFT PROVISION.

(a) A spendthrift provision is valid only if it restrains both voluntary and involuntary transfer of a beneficiary's interest.

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

(c) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in this subchapter, a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 502 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1305.03. EXCEPTIONS TO SPENDTHRIFT PROVISION.

(a) For the purposes of this section, the term "child" includes any person for whom an order or judgment for child support has been entered in this or another State.

(b) Whether or not a trust contains a spendthrift provision, a beneficiary's child, who has a judgment or court order against the beneficiary for support or maintenance, may obtain from a court an order attaching present or future distributions when payable under the terms of the trust to or for the benefit of the beneficiary.

(c) A spendthrift provision is unenforceable against a claim of the District of Columbia or the United States to the extent a statute of the District of Columbia or federal law so provides.

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 503 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1305.04. DISCRETIONARY TRUSTS; EFFECT OF STANDARD.[RESERVED]

§ 19-1305.05. CREDITOR'S CLAIM AGAINST SETTLOR.

(a) Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

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

(2) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children under sections 19-101.02, 19-101.03, and 19-101.04, to the extent the settlor's residuary probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.

(b) For the purposes of this section:

(1) During the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and

(2) Upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in section 2041(b)(2) or 2514(e) of the Internal Revenue Code of 1986, or section 2503(b) of the Internal Revenue Code of 1986, in each case as in effect on the effective date of this chapter [March 10, 2004], or as later amended.

(c) If a proceeding other than a small estate proceeding is commenced in the District of Columbia to administer the estate of a deceased settlor as provided in Title 20, property of the trust of which the decedent was a settlor is not liable for payment of claims against the settlor that were not properly presented in the estate proceeding.

(d) If a proceeding as described in subsection (c) of this section has not been commenced, the trustee of the trust of which the decedent was a settlor may publish a notice substantially similar to, and in the same manner as provided for the notice described in section 20-704, and thereby obtain for the trust the same protection from claims afforded to a decedent's estate under section 20-903. Claims against a deceased settlor are barred as against the trustees and the trust property unless presented to the trustee at the address provided in the notice within 6 months after the date of the first publication of the notice. Except to the extent inconsistent with this subsection, Chapter 9 of Title 20 applies to the trustee and trust created by a deceased settlor in the same manner as it applies to a personal representative and decedent's estate.

(e) If a notice under subsection (d) of this section is published and a proceeding to administer the settlor's estate is later commenced, claims against a deceased settlor are barred as against the trustee and trust property as of the date provided in subsection (d) of this section, and not the date provided in section 20-903.

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

References in Text

Sections 2041(b)(2), 2514(e), and 2503(b) of the Internal Revenue Code of 1986, referred to in subsec. (b)(2), are classified to 26 U.S.C.A. § 2041(b)(2), 26 U.S.C.A. § 2514(e), and 26 U.S.C.A. § 2503(b).

Uniform Law

This section is based upon § 505 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1305.06. OVERDUE DISTRIBUTION.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 506 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1305.07. PERSONAL OBLIGATIONS OF TRUSTEE.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 507 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER VI. REVOCABLE TRUSTS.

§ 19-1306.01. CAPACITY OF SETTLOR OF REVOCABLE TRUST.

The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 601 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1306.02. REVOCATION OR AMENDMENT OF REVOCABLE TRUST.

(a) Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust. This subsection does not apply to a trust created under an instrument executed before the effective date of this chapter [March 10, 2004].

(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;
- (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 portion of the trust property attributable to that settlor's contribution; and
- (3) Upon the revocation or amendment of the trust by fewer than all of the settlors, the trustee shall promptly notify the other settlors of the revocation or amendment.

(c) The settlor may revoke or amend a revocable trust:

- (1) By substantial compliance with a method provided in the terms of the trust; or
- (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.
 - (A) A later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust; or
 - (B) Any other method manifesting clear and convincing evidence of the settlor's intent.

(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 or the power.

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

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 602 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1306.03. SETTLOR'S POWERS; POWERS OF WITHDRAWAL.

(a) While a trust is revocable, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

(b) While a trust is not revocable, for so long as a person has a currently exercisable power of withdrawal over the entire principal of the trust, the duties of a trustee are owed exclusively to such person.

(c) While a trust is revocable and a settlor does not have the capacity to revoke the trust, a beneficiary shall have the right to enforce the settlor's intent to benefit the beneficiary during the settlor's incapacity.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 603 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1306.04. LIMITATION ON ACTION CONTESTING VALIDITY OF REVOCABLE TRUST, DISTRIBUTION OF TRUST PROPERTY.

(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 earliest of:

- (1) One year after the settlor's death;
 - (2) Ninety days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding; or
 - (3) Six months after the date of the first publication of notice of the trust's existence, the name and address of each trustee and of the settlor, and the time allowed for commencing a proceeding, in the same manner as required for publication of notice of appointment of a personal representative, if the trustee sends a copy of the text of such notice, not later than 15 days after the date of its first publication, to each qualified beneficiary of the trust, heir of the decedent, and other person who would be an interested person within the meaning of section 20-101(d) if the trust were a will and who would have been required to be sent notice of the appointment of a personal representative under section 20-704 if a personal representative had been appointed.
- (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; or
 - (2) A potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent the notification.
- (c) A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 604 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER VII. OFFICE OF TRUSTEE.

§ 19-1307.01. ACCEPTING OR DECLINING TRUSTEESHIP.

- (a) Except as otherwise 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; or
 - (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.
- (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 time 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 time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to the designated cotrustee, or, if none, to the successor trustee, or, if none, to a distributee or permissible distributee; and
 - (2) Inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 701 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1307.02. TRUSTEE'S BOND.

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

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

(c) A regulated financial-service institution qualified to do trust business in the District of Columbia need not give bond, even if required by the terms of the trust.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 702 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1307.03. COTRUSTEES.

(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 may act for the trust.

(c) A cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.

(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 a function relating to management, investment, or trust administration, but may not delegate a decision to make a distribution. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.

(f) Except as otherwise 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) Each 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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 703 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1307.04. VACANCY IN TRUSTEESHIP; APPOINTMENT OF SUCCESSOR.

(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 guardian or conservator is appointed for an individual serving as trustee.

(b) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled. A vacancy in a trusteeship must be filled if the trust has no remaining trustee.

(c) A vacancy in a trusteeship of a noncharitable trust that is required to be filled must be filled in the following order of priority:

- (1) By a person designated pursuant to the terms of the trust to act as successor trustee;
- (2) By a person appointed by unanimous agreement of the qualified beneficiaries; or
- (3) By a person appointed by the court.

(d) A vacancy in a trusteeship of a charitable trust that is required to be filled must be filled in the following order of priority:

- (1) By a person designated pursuant to the terms of the trust to act as successor trustee;
- (2) By a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust if the Corporation Counsel of the District of Columbia concurs in the selection; or
- (3) By a person appointed by the court.

(e) 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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 704 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1307.05. RESIGNATION OF TRUSTEE.

(a) A trustee may resign:

- (1) Upon at least 30 days' notice to the qualified beneficiaries, the settlor, if living, and all cotrustees or, if there is no cotrustee, to the next designated successor trustee; or
- (2) With the approval of the court.

(b) In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

(c) Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 705 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1307.06. REMOVAL OF TRUSTEE.

(a) The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative.

(b) The court may remove a trustee if:

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

(2) Lack of cooperation among cotrustees substantially impairs the 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 is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.

(c) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under section 19-1310.01(b) as may be necessary to protect the trust property or the interests of the beneficiaries.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 706 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1307.07. DELIVERY OF PROPERTY BY FORMER TRUSTEE.

(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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 707 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1307.08. COMPENSATION OF TRUSTEE.

(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 created; or

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 708 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1307.09. REIMBURSEMENT OF EXPENSES.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 709 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER VIII. DUTIES AND POWERS OF TRUSTEE.

§ 19-1308.01. DUTY TO ADMINISTER TRUST.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 801 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.02. DUTY OF LOYALTY.

(a) A trustee shall administer the trust solely in the interests of the beneficiaries.

(b) Subject to the rights of persons dealing with or assisting the trustee as provided in section 19-1310.12, 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 time allowed by section 19-1310.05;
- (4) The beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with section 19-1310.9; 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, siblings, 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 the trustee, has an interest that might affect the trustee's best judgment.

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

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

(f) An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor rule of subchapter IX of this chapter. In addition to its compensation for acting as trustee, the trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust. If the trustee receives compensation from the investment company or investment trust for providing investment advisory or investment management services, the trustee at least annually shall notify the persons entitled under section 19-1308.13 to receive a copy of the trustee's annual report of the rate and method by which that compensation was determined.

(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. 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) This section does 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 might violate this section if entered into by the trustee.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 802 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.03. IMPARTIALITY.

If a trust has 2 or more beneficiaries, the trustee shall act impartially in investing, managing, and distributing the trust property, giving due regard to the beneficiaries' respective interests.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 803 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.04. PRUDENT ADMINISTRATION.

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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 804 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.05. COSTS OF ADMINISTRATION.

In administering a trust, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust, and the skills of the trustee.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 805 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.06. TRUSTEE'S SKILLS.

A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, shall use those special skills or expertise.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 806 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.07. DELEGATION BY TRUSTEE.

(a) A trustee may delegate duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

- (1) Selecting an agent;
- (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 in order 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 the District of Columbia, an agent submits to the jurisdiction of the courts of the District of Columbia.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 807 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.08. POWERS TO DIRECT.

(a) While a trust is revocable, the trustee may follow a direction of the settlor that is contrary to the terms of the trust.

(b) If the terms of a trust confer upon a person other than the settlor of a revocable trust power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise of the power unless the attempted exercise is manifestly contrary to the terms of the trust or the trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that the person holding the power owes to the beneficiaries of the trust.

(c) The terms of a trust may confer upon a trustee or other person a power to direct the modification or termination of the trust.

(d) A person, other than a beneficiary, who holds a power to direct is presumptively a fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results from breach of a fiduciary duty.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 808 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.09. CONTROL AND PROTECTION OF TRUST PROPERTY.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 809 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.10. RECORDKEEPING AND IDENTIFICATION OF TRUST PROPERTY.

(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 otherwise 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 2 or more separate trusts.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 810 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.11. ENFORCEMENT AND DEFENSE OF CLAIMS.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 811 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.12. COLLECTING TRUST PROPERTY.

A trustee shall take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee, and to redress a breach of trust known to the trustee to have been committed by a former trustee.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 812 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.13. DUTY TO INFORM AND REPORT.

(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 them to protect their interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a beneficiary's request for information related to the administration of the trust.

(b) Subject to subsection (e) of this section, a trustee:

- (1) Upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the trust instrument;
- (2) Within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;
- (3) Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument,

and of the right to a trustee's report as provided in subsection (c) of this section; and

(4) Shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation.

(c)(1) A trustee shall, annually and at the termination of the trust, send a report to the distributees and permissible distributees.

(2) A trustee shall, at the termination of the trust, send a report to other qualified beneficiaries who request it.

(3) Upon a vacancy in a trusteeship, unless a cotrustee remains in office, the former trustee shall send a report to the qualified beneficiaries.

(4) Upon a vacancy in a trusteeship or upon termination of the trust, the trustee shall send a report to a nonqualified beneficiary who requests it unless the preparation of the report was waived by the qualified beneficiaries.

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

(6) For the purposes of this subsection, the term "report" means a report of the trust property, liabilities, receipts, disbursement, and distributions, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market value.

(d) A beneficiary may waive the right to a trustee's report 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.

(e) Subsections (a), (b), and (c) of this section do not apply to a trust created under an instrument executed before the effective date of this chapter [March 10, 2004].

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 813 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.14. DISCRETIONARY POWERS; TAX SAVINGS.

(a) Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute", "sole", or "uncontrolled", the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

(b) Section 21-1722 applies to a trust governed by this chapter.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 814 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.15. GENERAL POWERS OF TRUSTEE.

(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 powers conferred by this chapter.

(b) The exercise of a power is subject to the fiduciary duties prescribed by this subchapter.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 815 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.16. SPECIFIC POWERS OF TRUSTEE.

Without limiting the authority conferred by section 19-1308.15, 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;
- (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;
 - (D) Exercise stock options and other rights; and
 - (E) 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 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 any 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 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, and the trustee has a lien on future distributions for repayment of those 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 that the appointed trustee 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 paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:
- (A) Paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, to an agent of the beneficiary authorized to receive payment, or if there is no such agent, to the beneficiary's guardian;
 - (B) Paying it to the beneficiary's custodian under Chapter 3 of Title 21 or under the uniform gifts to minors act or uniform transfers to minors act of another state or custodial trustee under Chapter 13 of Title 19, or under the uniform custodial trusts act of another state;
 - (C) If the trustee does not know of a conservator, agent authorized to receive payment, guardian, custodian, or custodial trustee, 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;
- (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 those 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 the administration of the trust and distribute the trust property to the persons entitled to it; and
- (27) Purchase and pay premiums on life insurance on the life of any beneficiary.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 816 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1308.17. DISTRIBUTION UPON TERMINATION.

(a) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within 30 days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

(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 debts, expenses, and taxes, and to secure a right of reimbursement if the reserve is inadequate.

(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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 817 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER IX. UNIFORM PRUDENT INVESTOR ACT.

Refs & Annos

Jurisdiction	Laws	Effective Date	Statutory Citation
Alabama	2006, c. 216	1-1-2007	Code 1975, §§ 19-3B-901 to 19-3B-906.
Alaska	1998, c. 43	5-23-1998	AS §§ 13.36.225 to 13.36.290.
Arizona	2008, c. 247	1-1-2009	A.R.S. §§ 14-10901 to 14-10909.
Arkansas	2001, Act 151	2-8-2001	A.C.A. §§ 24-2-610 to 24-2-619.
California	1995, c. 63	1-1-1996	West's Ann. Cal. Probate Code, §§ 16045 to 16054.
Colorado	1995, S.B. 95-121	7-1-1995	West's C.R.S.A. §§ 15-1.1-101 to 15-1.1-115.
Connecticut	1997, P.A. 97-140	6-13-1997[FN*]	C.G.S.A. §§ 45a-541 to 45a-541/.
District of Columbia	2004, c. 15-104	3-10-2004	D.C. Official Code, 2001 Ed. §§ 19-1309.01 to 19-1309.06.
Florida	1993, c. 93-257	10-1-1993	West's F.S.A. §§ 518.11, 518.112.
Hawaii	1997, c. 26	4-14-1997	H.R.S. §§ 554C-1 to 554C-12.
Idaho	1997, c. 14	7-1-1997	I.C. §§ 68-501 to 68-514.
Illinois	1992, P.A. 87-715	1-1-1992	S.H.A. 760 ILCS 5/5, 5/5.1.
Indiana	1999, P.L. 137-1999	7-1-1999	West's A.I.C. §§ 30-4-3.5-1 to 30-4-3.5-13.
Iowa	1999, H.F. 663	7-1-2000	I.C.A. §§ 633A.4301 to 633A.4309.
Kansas	2000, c. 80	7-1-2000	K.S.A. 58-24a01 to 58-24a19.
Maine	2004, c. 618	7-1-2005	18-B M.R.S.A. §§ 901 to 908.
Massachusetts	1998, c. 398	12-4-1998[FN*]	M.G.L.A. c. 203C, §§ 1 to 11.
Michigan	1998, P.A. 386	4-1-2000	M.C.L.A. §§ 700.1501 to 700.1512.
Minnesota	1996, c. 314	1-1-1997	M.S.A. §§ 501B.151, 501B.152.
Mississippi	2006, c. 474	7-1-2006	Code 1972, §§ 91-9-601 to 91-9-627.

Missouri	2004, H.B. No. 1511	1-1-2005	V.A.M.S. §§ 469.900 to 469.913.
Montana	2003, c. 484	10-1-2003	M.C.A. 72-34-601 to 72-34-610.
Nebraska	2003, LB 130	1-1-2005	R.R.S. 1943, §§ 30-3883 to 30-3889.
Nevada	2003, c. 355	10-1-2003	NRS 164.705 to 164.775.
New Hampshire	2004, c. 130	10-1-2004	RSA 564-B:9-901 to 564-B:9-907.
New Jersey	1997, c. 26	3-7-1997	N.J.S.A. 3B:20-11.1 to 3B:20-11.12.
New Mexico	1995, c. 210	7-1-1995	NMSA 1978, §§ 45-7-601 to 45-7-612.
New York	1994, c. 609	1-1-1995	McKinney's EPTL 11-2.3.
North Carolina	2005, c. 192	1-1-2006	G.S. §§ 36C-9-901 to 36C-9-907.
North Dakota	2007, c. 549	8-1-2007	NDCC 59-17-01 to 59-17-06.
Ohio	2006, H.B. 416	1-1-2007	R.C. §§ 5809.01 to 5809.08.
Oklahoma	1995, c. 351	11-1-1995	60 Okl.St. Ann. §§ 175.60 to 175.72.
Oregon	2005, c. 348	6-29-2005 [FN*]	ORS 130.750 to 130.775.
Pennsylvania	1999, c. 1999-28	6-25-1999[FN*]	20 Pa. C.S.A. §§ 7201 to 7214.
Rhode Island	1996, c. 276	8-6-1996[FN*]	Gen. Laws 1956, §§ 18-15-1 to 18-15-13.
South Carolina	2005, c. 66	1-1-2006	Code 1976, § 62-7-933.
Tennessee	2002, c. 696	7-1-2002	T.C.A. §§ 35-14-101 to 35-14-114.
Texas	2003, c. 1103	1-1-2004	V.T.C.A. Property Code §§ 117.001 to 117.012.
Utah	2004, c. 89	7-1-2004	U.C.A. 1953, 75-7-901 to 75-7-907.
Vermont	1998, P.A. 67	7-1-1998	9 V.S.A. §§ 4651 to 4662.
Virgin Islands	2004, No. 6678	8-12-2004 [FN*]	9 V.I.C. §§ 701 to 714.
Virginia	1999, c. 772	1-1-2000	Code 1950, § 26-45.3 to 26-45.14.
Washington	1995, S.S.B. 5333	7-23-1995	West's RCWA 11.100.010 to 11.100.140.
West Virginia	1996, S.B. 294	7-1-1996	Code, 44-6C-1 to 44-6C-15.
Wisconsin	2004, c. 283	4-30-2004	W.S.A. 881.01.
Wyoming	2003, c. 124	7-1-2003	Wyo.Stat. Ann. §§ 4-10-901 to 4-10-913.

[FN*] Date of approval.

§ 19-1309.01. PRUDENT INVESTOR RULE.

(a) Except as provided in subsection (b) of this section, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule as set forth in sections 19-1309.02 through 19-1309.09.

(b) The prudent investor rule is a default rule that may be expanded, restricted, eliminated, or otherwise altered by provisions of the trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on provisions of the trust.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

2001 Ed., § 28-4701.

1981 Ed., § 28-4701.

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1 of the Uniform Prudent Investor Act. See 7B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

§ 19-1309.02. STANDARD OF CARE; PORTFOLIO STRATEGY; RISK AND RETURN OBJECTIVES.

(a) A trustee shall invest and manage trust assets as a prudent investor would by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation, but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among the circumstances relevant to the trust or its beneficiaries that a trustee shall consider in investing and managing the trust assets are the following:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
- (5) The expected total return from income and the appreciation of capital;
- (6) Other resources of the beneficiaries;
- (7) Needs for liquidity, for regularity of income, and for preservation or appreciation of capital; and
- (8) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A trustee shall take reasonable steps to verify facts relevant to the investment and management of trust assets.

(e) Subject to the standards of this subchapter, a trustee may invest in any kind of property or type of investment.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

2001 Ed., § 28-4702.

1981 Ed., § 28-4702.

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 2 of the Uniform Prudent Investor Act. See 7B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

§ 19-1309.03. DIVERSIFICATION.

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

2001 Ed., § 28-4703.

1981 Ed., § 28-4703.

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 3 of the Uniform Prudent Investor Act. See 7B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

§ 19-1309.04. DUTIES AT INCEPTION OF TRUSTEESHIP.

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

other circumstances of the trust, and with the requirements of this subchapter.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

2001 Ed., § 28-4704.

1981 Ed., § 28-4704.

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 4 of the Uniform Prudent Investor Act. See 7B Uniform Laws Annotated, Master Edition, or ULA Database on WESTLAW.

§ 19-1309.05. REVIEWING COMPLIANCE.

The prudent investor rule expresses a standard of conduct, not a particular outcome. Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

§ 19-1309.06. LANGUAGE INVOKING STANDARD OF SUBCHAPTER.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

SUBCHAPTER X. LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH TRUSTEE.

§ 19-1310.01. REMEDIES FOR BREACH OF TRUST.

(a) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.

(b) To remedy a breach of trust that has occurred or may occur, the court may:

- (1) Compel the trustee to perform the trustee's duties;
- (2) Enjoin the trustee from committing a breach of trust;
- (3) Compel the trustee to redress a breach of trust by paying money, restoring property, or other means;
- (4) Order a trustee to account;
- (5) Appoint a special fiduciary to take possession of the trust property and administer the trust;
- (6) Suspend the trustee;

- (7) Remove the trustee as provided in section 19-1307.06;
- (8) Reduce or deny compensation to the trustee;
- (9) Subject to section 19-1310.12, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds, or
- (10) Order any other appropriate relief.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1001 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.02. DAMAGES FOR BREACH OF TRUST.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1002 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.03. DAMAGES IN ABSENCE OF BREACH.

- (a) A trustee is accountable to an affected beneficiary for any profit made by the trustee arising from the administration of the trust, even absent a breach of trust.
- (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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1003 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.04. ATTORNEY'S FEES AND COSTS.

In a judicial proceeding involving the administration of a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another

party or from the trust that is the subject of the controversy.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1004 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.05. LIMITATION OF ACTION AGAINST TRUSTEE.

(a) A beneficiary may not commence a proceeding against a trustee for breach of trust more than one year after the date 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 proceeding by a beneficiary against a trustee for breach of trust must be commenced within 3 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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1005 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.06. RELIANCE ON TRUST INSTRUMENT.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1006 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.07. EVENT AFFECTING ADMINISTRATION OR DISTRIBUTION.

If the happening of an event, including marriage, divorce, performance of educational requirements, the attainment of a specified age, or death, affects the 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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1007 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.08. EXCULPATION OF TRUSTEE.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1008 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.09. BENEFICIARY'S CONSENT, RELEASE, OR RATIFICATION.

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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1009 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.10. LIMITATION ON PERSONAL LIABILITY OF TRUSTEE.

(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) A trustee is personally liable for torts committed in the course of administering a trust, or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1010 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.11. INTEREST AS GENERAL PARTNER.

(a) 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 D.C. Official Code §§ 33-101.01 through 33-112.04 (Uniform Partnership Act of 1996), or D.C. Official Code §§ 33-201.01 through 33-211.07 (Uniform Limited Partnership Act of 1987).

(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) 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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1011 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.12. PROTECTION OF PERSON DEALING WITH TRUSTEE.

(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 or the propriety of their exercise.

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

(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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1012 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1310.13. CERTIFICATION OF TRUST.

(a) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

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

(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 therein 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 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.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1013 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER XI. MISCELLANEOUS PROVISIONS.

§ 19-1311.01. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

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

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1101 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master

§ 19-1311.02. ELECTRONIC RECORDS AND SIGNATURES.

The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 467; 15 U.S.C. § 7002), and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1102 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 19-1311.03. APPLICATION TO EXISTING RELATIONSHIPS.

(a) Except as otherwise provided in this chapter, on the effective date of this chapter [March 10, 2004]:

(1) This chapter applies to all trusts created before, on, or after its effective date [March 10, 2004];

(2) This chapter applies to all judicial proceedings concerning trusts commenced on or after its effective date [March 10, 2004];

(3) This chapter applies to judicial proceedings concerning trusts commenced before its effective date [March 10, 2004] unless the court finds that application of a particular provision of this chapter would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of this chapter does not apply and the superseded law applies;

(4) Any rule of construction or presumption provided in this chapter applies to trust instruments executed before the effective date of the chapter [March 10, 2004] unless there is a clear indication of a contrary intent in the terms of the trust; and

(5) An act done before the effective date of the chapter [March 10, 2004] is not affected by this chapter.

(b) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run under any other statute before the effective date of the chapter [March 10, 2004], that statute continues to apply to the right even if it has been repealed or superseded.

(Mar. 10, 2004, D.C. Law 15-104, § 2(b), 51 DCR 208.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 15-104, see notes following § 19-1301.01.

Uniform Law

This section is based upon § 1106 of the Uniform Trust Code. See 7C, Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.