

Significant Differences in States' Enacted Uniform Trust Codes

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Statutes are subject to change; the date of the most recent update to each state comparison may be found on the last page of this chart.

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Total length: 67 pages

UNIFORM TRUST CODE	OHIO ORC §5801.01 et seq. Effective: January 1, 2007	FLORIDA FSA § 736.0101 et seq. Effective: July 1, 2007	ALABAMA AC §19-3B-101 et seq. Effective: January 1, 2007	PENNSYLVANIA 20 Pa. C.S. §7701 et seq. Effective:
General Notes:	Though not always noted below, Ohio frequently adds the phrase “for any of the following reasons” or “if any of the following” before dispositive lists.			<p>Pennsylvania regularly adds titles to sections and subsections throughout the UTC. These titles describe the general subject matter of the section and include a reference to the corresponding UTC section number.</p> <p>Elsewhere in the Code where the UTC makes reference to another section, Pennsylvania typically adds a parenthetical noting the subject matter of that section and its UTC section number, e.g. (relating to duty to administer trust – UTC 801).</p> <p>Furthermore, when omitting a subsection, Pennsylvania typically reserves the subsection number so that the remainder of the section numbering matches the UTC.</p>
§101		<p style="text-align: center;">X</p> <p>Changes to read: “...the “<u>Florida Trust Code</u>” and for purposes of this chapter is referred to as the “code.”</p>		<p style="text-align: center;">X</p> <p>Adds: <u>Subchapters A (relating to general provisions) through I (relating to liability of trustees and rights of persons dealing with trustees) shall be known and Subchapters A (relating to general provisions) through I (relating to liability of trustees and rights of persons dealing with trustees) shall be known and</u> may be cited as...</p>
§102	<p style="text-align: center;">X</p> <p>Reads: <u>Except as otherwise provided in</u></p>	<p style="text-align: center;">X</p> <p>Adds: <u>This code does not apply to</u></p>		

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	<u>any provision of Chapters 5801 to 5811 of the Revised Code, those chapters apply to charitable and noncharitable inter vivos express trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust. Chapters 5801 to 5811 of the Revised Code apply to testamentary trusts to the extent provided by section 2109.69 of the Revised Code.</u>	<u>constructive or resulting trusts; conservatorships; custodial arrangements pursuant to the Florida Uniform Transfers to Minors Act; business trusts providing for certificates to be issued to beneficiaries; common trust funds; land trusts under s. 689.05; trusts created by the form of the account or by the deposit agreement at a financial institution; voting trusts; security arrangements; liquidation trusts; trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; and any arrangement under which a person is nominee or escrowee for another.</u>		
§103	<p style="text-align: center;">X</p> <p>In subsection (B) defining “Ascertainable standard”, omits “...<i>as in effect on [the effective date of this [Code][amendment]], or as later amended</i>].”</p> <p>In subsection (C) defining “Beneficiary”, incorporates UTC paragraphs (A) and (B) into the broader subsection and adds: “...<u>or a charitable organization that is expressly designated in the terms of the trust to receive distributions. ‘Beneficiary’ does not include any charitable organization that is not expressly designated in the terms of the trust to receive distributions, but to whom the trustee may in its discretion make distributions.</u>”</p> <p>Adds new subsection (D): <u>“Beneficiary surrogate” means a person, other than a trustee, designated by the settler in the trust instrument to receive notices,</u></p>	<p style="text-align: center;">X</p> <p>Adds to the introductory language: <u>“Unless the context otherwise requires, in this code:”</u></p> <p>Adds: <u>(2) “Affiliate” means any person or entity that directly or indirectly through one or more intermediaries owns or controls, is owned or controlled by, or is under common control or ownership with, the fiduciary. An affiliate may include, but is not limited to, an investment adviser, administrator, broker, transfer agent, placement agent, servicing agent, registrar, custodian, underwriter, sponsor, distributor, or manager.</u></p> <p>Rephrases paragraph (4)(b) [UTC (3)(b)] to read: “Holds a power of appointment over trust property in a capacity other than that of trustee.”</p> <p>UTC subsection (5) is renumbered to subsection (9), “conservator” is replaced</p>	<p style="text-align: center;">X</p> <p>Changes subsection (7) defining “Guardian” to read: “...means a person <u>who has qualified as a guardian of a minor or incapacitated person pursuant to parental or spousal nomination or court appointment and includes a limited guardian as described in Section 26-2A-78(e) and Section 26-2A-105(c), but excludes one who is merely a guardian ad litem.</u></p> <p>In subsection (11) defining “Power of withdrawal” omits the division into paragraphs (A) and (B).</p> <p>Adds new subsection (12): <u>PRESUMPTIVE REMAINDER BENEFICIARY means a person who would be entitled to the principal of a trust if the income interest were immediately terminated, and if a trust contains a power of appointment, then the holder of such power of appointment</u></p>	<p style="text-align: center;">X</p> <p>Adds prefatory language: <u>The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:</u></p> <p>Omits UTC subsection (2) defining “Ascertainable Standard.”</p> <p>In paragraph (2) under the definition of “Beneficiary,” adds: “...of trustee <u>or protector, holds...</u>”</p> <p>In the definition of “Charitable trust” adds: “...in section <u>7735(a) (relating to charitable purposes; enforcement – UTC 405).</u>”</p> <p>Adds new definition of “Current beneficiary”: <u>A person 18 years of age or older to or for whom income or principal of a trust must be distributed currently or a person 25 years of age or older to or for</u></p>

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	<p><u>information, and reports otherwise required to be provided to a current beneficiary under divisions (B)(8) and (9) of section 5801.04 of the Revised Code.</u></p> <p>Adds new subsection (F): “<u>Current beneficiary</u>” means a beneficiary that, on the date the beneficiary’s qualification is determined, is a distributee or permissible distributee of trust income or principal.</p> <p>Omits UTC subsection (5) defining “Conservator”.</p> <p>Adds new subsection (G): “<u>Guardian of the estate</u>” means a guardian appointed by a court to administer the estate of any individual or to serve as conservator of the property of an individual eighteen years of age or older under section 2111.021 of the Revised Code.</p> <p>Changes subsection (I) [UTC (7)] to read: “Guardian <u>of the person</u>” means a <u>guardian</u> appointed by a court to make decisions regarding the support, care, education, health, and welfare of <u>any individual or to serve as conservator of the person of an individual eighteen years of age or older under section 2111.021 of the Revised Code.</u> “Guardian of the person” does not include a guardian ad litem.</p> <p>Adds new subsection (J): “<u>Internal Revenue Code</u>” means the “<u>Internal Revenue Code of 1986,</u>” 100 Stat. 2085, 26 U.S.C. 1 et seq., as amended.</p> <p>Adds new subsection (M): “<u>Mandatory distribution</u>” means a distribution of <u>income or principal, including a</u></p>	<p>with “<u>Guardian of the property</u>”, and “adult individual” is replaced with “<u>incapacitated adult.</u>”</p> <p>In subsection (6) defining “Environmental law” adds “...protection of the environment <u>or human health.</u>”</p> <p>Adds: (7) “<u>General power of appointment</u>” means a power of <u>appointment exercisable in favor of the holder of the power, the power holder’s creditors, the power holder’s estate, or the creditors of the power holder’s estate.</u></p> <p>In subsection (8) [UTC (7)] “Guardian is changed to “<u>Guardian of the person</u>”, the optional language is omitted, an “adult individual” is changed to “<u>incapacitated adult.</u>”</p> <p>Omits UTC subsection (10) defining “Person.”</p> <p>In subsection (14) [UTC (13)] defining “Qualified beneficiary” adds: “...means a <u>living</u> beneficiary...” and in paragraph (c) adds: “...trust terminated <u>in accordance with its terms</u> on that date.”</p> <p>Changes subsection (18) [UTC §17] to read: “State” means a State of the United States and includes the District of <u>Columbia, the commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.</u></p> <p>Rephrases subsection (21) [UTC (20)] as follows: “Trustee” <u>means the original trustee and includes any additional trustee, any successor trustee, and any</u></p>	<p><u>shall also be a presumptive remainder beneficiary.</u></p> <p>In subsection (13) [UTC (12)] defining “Property,” adds: <u>Property includes choses in action, claims, and interests created by beneficiary designation under policies of insurance, financial instruments and deferred compensation and other retirement arrangements, whether revocable or irrevocable.</u></p> <p>In paragraph (14)(B) [UTC (13)(B)] changes language slightly to read: “...terminated on that date, <u>but the termination of those interests would not cause the trust to terminate; or</u>”</p>	<p><u>whom income or principal of a trust may, in the trustee’s discretion, be distributed currently.</u></p> <p>Omits UTC definitions for “conservator” and “environmental law.”</p> <p>Changes the definition of “Guardian” to read: “A person <u>other than a guardian ad litem who is</u> appointed by the court to make decisions regarding the <u>property of an individual.</u>”</p> <p>In the definition of “interests of the beneficiaries” replaces “terms of the trust” with “<u>trust instrument.</u>”</p> <p>Omits the UTC definition of “Person.”</p> <p>Replaces the UTC definition of “Power of withdrawal” with the following: <u>The unrestricted power of a beneficiary, acting as a beneficiary and not as a trustee, to transfer to himself or herself the entire legal and beneficial interest in all or a portion of trust property. However, a power to withdraw the greater of the amount specified in section 2041(b)(2), 2503(b), or 2514(e) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §2041(b)(2), 2503(b) or 2514(e)), or any lesser amount determined by reference to one or more of these provisions, may not be treated as a power of withdrawal.</u></p> <p>In the definition of “Qualified beneficiary,” adds: “<u>Assuming nonexercise of all testamentary powers of appointment, a beneficiary...</u>”</p> <p>In paragraph (2) of the definition of</p>

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	<p><u>distribution upon termination of the trust, that the trustee is required to make to a beneficiary under the terms of the trust. Mandatory distributions do not include distributions that a trustee is directed or authorized to make pursuant to a support or other standard, regardless of whether the terms of the trust provide that the trustee “may” or “shall” make the distributions pursuant to a support or other standard.</u></p> <p>In subsection (O) [UTC (11)] defining “Power of withdrawal,” removes division into paragraphs (A) and (B) but retains the same language.</p> <p>Changes subsection (P) [UTC (12)] defining “Property” to read: “Property” means anything or any interest in <u>anything</u> that may be the subject of ownership.</p> <p>Changes subsection (Q) [UTC (13)] to read: “...means a beneficiary <u>to whom</u>, on the date the beneficiary’s qualification is determined, <u>any of the following applies:</u>”</p> <p>Changes paragraph (Q)(2) [UTC (13)(B)] to read: “<u>The beneficiary</u> would be a distributee or permissible distributee of trust income or principal if the interests of the distributes described in <u>division (Q)(1) of this section</u> terminated on that date, <u>but the termination of those interests would not cause the trust to terminate.</u>”</p> <p>Changes subsection (R) [UTC (14)] defining “Revocable” to read: “...means revocable <u>at the time of determination by the settler alone or by the settler with the</u></p>	<p><u>cotrustee.</u></p>		<p>“Qualified beneficiary” omits “...<i>without causing the trust to terminate</i>”</p> <p>Replaces the UTC definition of “Revocable” with a definition of “Revocable trust” as follows: <u>A trust is revocable to the extent the settler, immediately before the time as of which the determination is made, had the power, acting without the consent of the trustee or any person holding an interest adverse to revocation, to prevent the transfer of the trust property at the settlor’s death by revocation or amendment of or withdrawal of property from the trust.</u></p> <p>Under the definition of “Spendthrift provision” changes the language to read: <u>“A provision in a trust instrument that restrains both...”</u></p> <p>Omits the UTC definitions of “State” and “Terms of a trust.”</p> <p>Changes the definition of “Trust instrument” to read: <u>“A will or other written instrument executed by the settler that contains trust provisions, including...”</u></p>

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	<p>consent of <u>any person other than a person holding an adverse interest. A trust's characterization as revocable is not affected by the settlor's lack of capacity to exercise the power of revocation, regardless of whether an agent of the settler under a power of attorney, or a guardian of the person or estate of the settler, is serving.</u>"</p> <p>Changes subsection (U) [UTC (17)] defining "State" to read: "...the District of Columbia, <u>the Commonwealth of Puerto Rico, the United States Virgin Islands, or any, a territory or insular possession subject to the jurisdiction of the United States, or an</u> The term includes <u>an</u> Indian tribe or band recognized by federal law or formally acknowledged by a state.</p> <p>Adds subsection (Y): <u>(1) "Wholly discretionary trust" means a trust to which all of the following apply:</u></p> <p><u>(a) The trust is irrevocable.</u></p> <p><u>(b) Distributions of income or principal from the trust may or shall be made to or for the benefit of the beneficiary only at the trustee's discretion.</u></p> <p><u>(c) The beneficiary does not have a power of withdrawal from the trust.</u></p> <p><u>(d) The terms of the trust use "sole," "absolute," "uncontrolled," or language of similar import to describe the trustee's discretion to make distributions to or for the benefit of the beneficiary.</u></p> <p><u>(f) The beneficiary does not have the power to become the trustee or a cotrustee.</u></p> <p><u>(2) A trust may be a wholly discretionary trust with respect to one or more but less than all beneficiaries.</u></p>			

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	<p><u>(3) If a beneficiary has a power of withdrawal, the trust may be a wholly discretionary trust with respect to that beneficiary during any period in which the beneficiary may not exercise the power. During a period in which the beneficiary may exercise the power, both of the following apply:</u></p> <p><u>(a) The portion of the trust the beneficiary may withdraw may not be a wholly discretionary trust with respect to that beneficiary;</u></p> <p><u>(b) The portion of the trust the beneficiary may not withdraw may be a wholly discretionary trust with respect to that beneficiary.</u></p> <p><u>(4) If the beneficiary and one or more others have made contributions to the trust, the portion of the trust attributable to the beneficiary's contributions may not be a wholly discretionary trust with respect to that beneficiary, but the portion of the trust attributable to the contributions of others may be a wholly discretionary trust with respect to that beneficiary. If a beneficiary has a power of withdrawal, then upon the lapse, release, or waiver of the power, the beneficiary is treated as having made contributions to the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greatest of the following amounts:</u></p> <p><u>(a) The amount specified in section 2041(b)(2) or 2514(e) of the Internal Revenue Code;</u></p> <p><u>(b) If the donor of the property subject to the beneficiary's power of withdrawal is not married at the time of the transfer of the property to the trust, the amount specified in section 2503(b) of the Internal Revenue Code;</u></p>			

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	<p><u>(c) If the donor of the property subject to the beneficiary's power of withdrawal is married at the time of the transfer of the property to the trust, twice the amount specified in section 2503(b) of the Internal Revenue Code.</u></p> <p><u>(5) Notwithstanding divisions (Y)(1)(f) and (g) of this section, a trust may be a wholly discretionary trust if the beneficiary is, or has the power to become, a trustee only with respect to the management or the investment of the trust assets, and not with respect to making discretionary distribution decisions. With respect to a trust established for the benefit of an individual who is blind or disabled as defined in 42 U.S.C. 1382c(a)(2) or (3), as amended, a wholly discretionary trust may include either or both of the following:</u></p> <p><u>(a) Precatory language regarding its intended purpose of providing supplemental goods and services to or for the benefit of the beneficiary, and not to supplant benefits from public assistance programs;</u></p> <p><u>(b) A prohibition against providing food, clothing, and shelter to the beneficiary.</u></p>			
§104	<p style="text-align: center;">X</p> <p>Changes subsection (A) to read: “...knowledge of a fact if <u>any of the following apply:</u>”</p> <p>In paragraphs (A)(1) to (A)(3) adds “the person,” as in “The person has actual knowledge,” and replaces “it” with “the fact”.</p> <p>Changes subsection (B) slightly to read:</p>	<p style="text-align: center;">X</p> <p>Changes paragraph (1)(c) [UTC (a)(3)] to read: <u>Has reason to know the fact</u> from all the other facts and circumstances known to the person at the time in question.</p> <p>In subsection (2) [UTC (b)] replaces “to act for the trust” with “to act <u>on matters involving the trust.</u>”</p>	<p style="text-align: center;">X</p> <p>In paragraph (b)(7) adds “...terms of the trust <u>or by written agreement,</u> which is...”</p>	<p style="text-align: center;">X</p> <p>Prefaces subsections (a) and (b) with the phrase “<u>For the purposes of this chapter,</u> ...”</p> <p>Rephrases paragraph (a)(3) but retains the same meaning.</p>

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	“...a trust only from the time an employee having responsibility to act for the trust <u>received the information or the information</u> would have been brought to the employee’s attention...”			
§105	<p style="text-align: center;">X</p> <p>In paragraph (b)(2) omits the following: “the duty of a trustee to act in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries;”</p> <p>In paragraph (b)(3) omits the following: “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...”</p> <p>In paragraphs (b)(8) and (b)(9) adds “<u>Subject to division (C) of this section, ...</u>” to the beginning and replaces “qualified” beneficiary with “current” beneficiary.</p> <p>Omits language in paragraph (b)(14): “The subject-matter jurisdiction of the court and venue for commencing...”</p> <p>Adds new subsection (C): <u>With respect to one or more of the current beneficiaries, the settler, in the trust instrument, may waive or modify the duties of the trustee described in divisions (B)(8) and (9) of this section. The waiver or modification may be made only by the settler designating in the trust instrument one or more beneficiary surrogates to receive any notices, information, or reports otherwise required under those divisions to be provided to the current</u></p>	<p style="text-align: center;">X</p> <p>Significantly rearranges and renumbers the paragraphs under subsection (2) [UTC (b)]. UTC (1) becomes (a), (2) becomes (b), (12) becomes (d), (13) becomes (e), (14) becomes (g), (4) is (j), (5) is (l), (6) is (p), (7) is (q), (8) is (r), (10) is (u), and (11) is (v).</p> <p>Omits UTC paragraphs (b)(3) and (b)(9).</p> <p>In paragraph (2)(g) [UTC (b)(14)] omits “subject-matter”.</p> <p>In paragraph (2)(j) [UTC (b)(4)] adds: “<u>except as provided in s 736.04115(3)(b), and under ss. 736.0413, 736.0415, and 736.0416.</u>”</p> <p>In paragraph (2)(r) [UTC (b)(8)] omits the language “who have attained 25 years of age”</p> <p>Adds the following paragraphs under subsection (2):</p> <p><u>(f) The requirements under s. 736.0108(1) for the designation of a principal place of administration of the trust.</u></p> <p><u>(h) The restrictions on the designation of representative under s. 736.0306.</u></p> <p><u>(i) The formalities required under s. 736.0403(2) for the execution of a trust.</u></p>	<p style="text-align: center;">X</p> <p>Omits optional subsection (8).</p> <p>In subsection (13) [UTC (14)] omits: “<i>the subject-matter jurisdiction of the court and venue for commencing...</i>”</p>	<p style="text-align: center;">X</p> <p>Changes subsection (a) to read: “<u>Except as provided in subsection (b), the provisions of a trust instrument prevail over any contrary provisions in this chapter.</u>”</p> <p>Changes subsection (b) to read: “<u>Notwithstanding a contrary provision in the trust instrument, the following rules apply:</u>”</p> <p>In paragraph (b)(1) adds: “<u>...set forth in section 7732 (relating to requirements for creation – UTC 402).</u>”</p> <p>Changes paragraph (b)(2) to read: “<u>...with the purposes of the trust as set forth in section 7771 (relating to duty to administer trust – UTC 801).</u>”</p> <p>Changes paragraph (b)(3) to read: “The requirement <u>in section 7734 (relating to trust purposes – UTC 404) that a trust’s purpose be lawful and</u> not contrary to public policy.”</p> <p>In paragraph (b)(6) omits “<i>...to require, dispense with, or modify or terminate a bond.</i>”</p> <p>In paragraph (b)(7) omits “<i>...which is unreasonably low or high.</i>”</p> <p>Omits optional subsection (9).</p>

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	<p><u>beneficiaries. If the settler makes a waiver or modification pursuant to this division, the trustee shall provide the notices, information, and reports to the beneficiary surrogate or surrogates in lieu of providing them to the current beneficiaries. The beneficiary surrogate or surrogates shall act in good faith to protect the interests of the current beneficiaries for whom the notices, information, or reports are received. A waiver of modification made under this division shall be effective for so long as the beneficiary surrogate or surrogates, or their successor or successors designated in accordance with the terms of the trust instrument, act in that capacity.</u></p>	<p><u>(k) The ability to modify a trust under s. 736.0412, except as provided in s. 736.0412(4)(b).</u></p> <p><u>(m) The trustee’s duty under s. 736.05053 to pay expenses and obligations of the settlor’s estate.</u></p> <p><u>(n) The trustee’s duty under s. 736.05055 to file a notice of trust at the settlor’s death.</u></p> <p><u>(o) The right of a trustee under s. 736.0701 to decline a trusteeship and the right of a trustee under s. 736.0705 to resign a trusteeship.</u></p> <p><u>(s) The duty under s. 736.0813(1)(c) and (d) to provide a complete copy of the trust instrument and to account to qualified beneficiaries.</u></p> <p><u>(t) The duty under s. 736.0813(1)(e) to respond to the request of a qualified beneficiary of an irrevocable trust for relevant information about the assets and liabilities of the trust and the particulars relating to trust administration.</u></p> <p><u>(w) The effect of a penalty clause for contesting a trust under s. 736.1108.</u></p>		<p>In paragraph (14) adds “...jurisdiction of the court <u>described in Chapter 7 (relating to orphans’ court divisions)</u> and venue...”</p>
§106				
§107	<p style="text-align: center;">X</p> <p>Compacts this entire section into a single paragraph but leaves the language largely uncharged.</p>	<p style="text-align: center;">X</p> <p>Changes subsection (1) to read: “...designated in the terms <u>of the trust</u>, <u>provided there is a sufficient nexus to the designated jurisdiction at the time of the creation of the trust or during the trust administration, including, but not limited</u></p>		<p style="text-align: center;">X</p> <p>In the introductory language adds “...provisions of a trust <u>instrument shall be</u> determined by”</p> <p>In subsection (1) changes the language to read: “...designated in the <u>trust</u></p>

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		<p><u>to, the location of real property held by the trust or the residence or location of an office of the settler, trustee, or any beneficiary; or</u></p> <p>Changes subsection (2) to read: “...the law of the jurisdiction where <u>the settler resides at the time the trust is first created.</u>”</p> <p>Adds an unnumbered subsection reading: <u>Notwithstanding subsection (1) or subsection (2), a designation in the terms of a trust is not controlling as to any matter for which the designation would be contrary to a strong public policy of this state.</u></p>		<p><u>instrument, but the mandatory rules of section 7705(b) (relating to trust instrument controls; mandatory rules – UTC 105) shall govern if different from the law of the jurisdiction designated in the trust instrument; or”</u></p> <p>Changes subsection (2) to read: “...in the <u>trust instrument</u>, the law of the jurisdiction <u>in which the settler is domiciled when the trust becomes irrevocable.</u>”</p>
§108	<p>X</p> <p>In subsection (A) removes the division into paragraphs (A)(1) and (A)(2).</p>	<p>X</p> <p>In subsection (1) [UTC (a)] adds: “<u>Terms of a trust designating the principal place of administration of the trust are valid only if there is a sufficient connection with the designated jurisdiction.</u>” Also omits the phrase “with the designated jurisdiction.”</p> <p>Adds new subsection (2): <u>Unless otherwise validly designated in the trust instrument, the principal place of administration of a trust is the trustee’s usual place of business where the records pertaining to the trust are kept or, if the trustee has no place of business, the trustee’s residence. In the case of cotrustees, the principal place of administration is:</u></p> <p><u>(a) The usual place of business of the corporate trustee, if there is only one corporate trustee;</u></p> <p><u>(b) The usual place of business or</u></p>	<p>X</p> <p>Changes subsection (b) to read: <u>A trustee shall administer the trust at a place appropriate to its purposes, its administration, and the interests of the beneficiaries; provided, however, a trustee shall not be required to transfer the trust’s principal place of administration to another state or to a jurisdiction outside of the United States.</u></p> <p>In subsection (c) omits “<i>in furtherance of the duty prescribed in subsection (b)</i>” and adds: “...<u>provided that the transfer is to a place appropriate to the trust’s purposes, its administration and the interests of the beneficiaries.</u>”</p> <p>In subsection (d) adds: “...place of administration to another state or to a jurisdiction outside of the United States not less than...” and changes the time period to 30 days rather than 60.</p>	<p>X</p> <p>In subsection (a) replaces “terms” with “<u>provisions,</u>” “trust” with “<u>trust instrument,</u>” and “place of administration” with “<u>situs of the trust.</u>”</p> <p>Adds paragraph (a)(3): <u>one or more of the beneficiaries resides in the designated jurisdiction.</u></p> <p>Replaces subsection (b) with the following: <u>Unspecified in trust instrument.—If the trust instrument does not specify a situs:</u></p> <p><u>(1) The situs of a testamentary trust shall be:</u></p> <p><u>(i) in the county where letters were granted to the personal representative;</u></p> <p><u>(ii) if letters under subparagraph (i) have not been granted, in a county where the letters might have been granted; or</u></p> <p><u>(iii) if letters under subparagraph (i) have not been granted and are not subject</u></p>

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		<p><u>residence of the individual trustee who is a professional fiduciary, if there is only one such person and no corporate cotrustee; or otherwise</u></p> <p><u>(c) The usual place of business or residence of any of the cotrustees as agreed on b the cotrustees.</u></p> <p>Adds new subsection (3): <u>Notwithstanding any other provision of this section, the principal place of administration of a trust, for which ha bank, association, or trust company organized under the laws of this state or bank or savings association organized under the laws of the United States with its main office in this state has been appointed trustee, shall not be moved or otherwise affected solely because the trustee engaged in an interstate merger transaction with an out-of-state bank pursuant to s. 658.2953 in which the out-of-state bank is the resulting bank.</u></p> <p>In subsection (4) [UTC (b)] omits “...and the interests of the beneficiaries.”</p> <p>Changes subsection (7) [UTC (e)] to read: “The authority of a trustee <u>to act</u> under this section <u>without court approval</u> to transfer a trust’s principal place of administration is suspended if a qualified beneficiary <u>files a lawsuit objecting to the proposed transfer on or before the date specified in the notice. The suspension is effective until the lawsuit is dismissed or withdrawn.</u></p> <p>In subsection (8) [UTC (f)] replaces “some or all of the trust property” with “<u>any</u> of the trust property”</p>	<p>In paragraph (d)(5) changes the time period to 30 days rather than 60 days.</p> <p>Adds to subsection (e): “...place of administration to another state or to a <u>jurisdiction outside of the United States terminates if...</u>”</p> <p>Adds new subsection (g): <u>Unless otherwise designated in the trust instrument, the principal place of administration of a trust is the usual place where the day-to-day activity of the trust is carried on by the trustee or its representative who is primarily responsible for the administration of the trust. If the principal place of administration of the trust cannot be determined pursuant to the foregoing sentence, then it shall be determined as follows:</u></p> <p><u>(1) If the trust has a single trustee, then the principal place of administration of the trust is the trustee’s residence or usual place of business.</u></p> <p><u>(2) If the trust has more than one trustee, then the principal place of administration of the trust is (i) the usual place of business of the corporate trustee if there is but one corporate co-trustee, or (ii) the usual place of business or residence of the individual trustee who is the professional fiduciary if there is but one such person and no corporate co-trustee. If neither (i) nor (ii) apply, then the principal place of administration shall be the usual place of business or residence of any of the co-trustees.</u></p>	<p><u>to being granted, in a county in which any trustee resides or has a place of business.</u></p> <p><u>(2) The situs of an inter vivos trust whose settler is domiciled in this Commonwealth when the trust becomes irrevocable or, in the case of a revocable trust, when the first application is made to a court concerning the trust shall be:</u></p> <p><u>(i) during the settlor’s lifetime, either in the county of the settlor’s principal residence or in the county in which any of the trustees resides or has a place of business.</u></p> <p><u>(ii) after the settlor’s death:</u></p> <p><u>(A) in the county in which letters have been granted to the settlor’s personal representative.</u></p> <p><u>(B) in a county in which letters might have been granted;</u></p> <p><u>(C) in a county which is the principal place of the trust’s administration; or</u></p> <p><u>(D) in a county in which any trustee resides or has a place of business.</u></p> <p><u>(3) The situs of an inter vivos trust, whose settler either is living and not domiciled in this Commonwealth at the time when the first application is made to a court concerning the trust or was not domiciled in this Commonwealth at the settlor’s death after which the first application to a court concerning the trust is made thereafter, shall be a county where:</u></p> <p><u>(i) a trustee’s principal place of business is located or a trustee is a resident;</u></p> <p><u>(ii) all or part of the trust administration occurs; or</u></p> <p><u>(iii) one or more of the beneficiaries reside.</u></p>

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				<p>Replaces subsection (c) with the following: <u>By complying with subsections (d) and (e), the trustee may transfer the trust's situs to another jurisdiction if either immediately before or immediately after the proposed transfer:</u></p> <p><u>(1) a trustee's principal place of business is located in or a trustee is a resident of the proposed jurisdiction;</u></p> <p><u>(2) all or part of the trust administration occurs in the proposed jurisdiction; or</u></p> <p><u>(3) one or more of the beneficiaries reside in the proposed jurisdiction.</u></p> <p>In subsection (d) replaces "principal place of administration" with "<u>situs</u>" and changes language to read: "<u>...60 days before the date as of which the trustee intends to change the situs.</u>"</p> <p>Omits UTC paragraph (5); adds new paragraphs (5)-(7):</p> <p><u>(5) A statement that if the situs is changed as the trustee proposes, venue will thereafter be in the county of the new situs consistent with section 7714 (relating to venue – UTC 204).</u></p> <p><u>(6) The name and address of the court before which judicial actions involving the trust will be heard after the situs is changed as the trustee proposes.</u></p> <p><u>(7) A statement that the change in situs will occur only if all qualified beneficiaries of the trust consent in writing to the change.</u></p> <p>Replaces the language of subsection (e) as follows: <u>A trustee may transfer a trust's situs under this section without court approval if all the qualified beneficiaries of the trust consent in</u></p>

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				<p><u>writing to the change.</u></p> <p>In subsection (f) replaces “principal place of administration” with “<u>situs</u>” and “terms” with “<u>trust instrument.</u>”</p> <p>Adds new subsection (g): <u>Court-directed change in situs.—A court having jurisdiction of a testamentary or inter vivos trust, on application of a trustee or any party in interest, after notice as the court shall direct and aided if necessary by the report of a master, and after accounting as the court shall require, may direct, notwithstanding, any other provision of this chapter, that the situs of the trust shall be changed to any other place within or without this Commonwealth if the court shall find the change necessary or desirable for the proper administration of the trust.</u></p> <p>Adds new subsection (h): <u>Claims not discharged.—A change in situs under this section does not discharge any claim against the trustee.</u></p>
§109	<p style="text-align: center;">X</p> <p>Changes subsection (C) to read: “<u>The person to be notified or sent a document may waive notice or the sending of a document under Chapters 5801. to 5811. of the Revised Code.</u>”</p>	<p style="text-align: center;">X</p> <p>In subsection (1) [UTC (a)] adds: “...a property directed <u>facsimile or other</u> electronic message.”</p> <p>In subsection (4) [UTC (d)] replaces “applicable rules of civil procedure” with “<u>Florida Rules of Civil Procedure.</u>”</p>	<p style="text-align: center;">X</p> <p>In subsection (a) replaces “document” with “information” and “sending” with “transmission” and adds: “...electronic message, <u>or any method otherwise provided in the Alabama Rules of Civil Procedure.</u>”</p>	<p style="text-align: center;"><u>X</u></p> <p>Adds to subsection (b): “...trustee, <u>but the trustee shall create and maintain indefinitely a written record of the steps the trustee took to identify or locate the person.</u>”</p> <p>In subsection (c) adds: “...waived in <u>writing</u> by the person...”</p>
§110	<p style="text-align: center;">X</p> <p>Changes the language of subsection (A) to read: “Whenever <u>Chapters 5801. to</u></p>	<p style="text-align: center;">X</p> <p>Omits UTC subsection (a).</p>	<p style="text-align: center;">X</p> <p>Changes subsection (d) to read: “...qualified beneficiary <u>when the</u></p>	<p style="text-align: center;">X</p> <p>In subsection (a) adds “...qualified <u>or current</u> beneficiaries...” and later</p>

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	<p><u>5811. of the Revised Code require notice to current or</u> qualified beneficiaries of a trust, <u>the trustee shall also</u> give notice to any other beneficiary who has sent the trustee a request for notice.”</p> <p>Omits UTC subsections (b) and (d).</p> <p>In subsection (B) [UTC (c)] changes “qualified” beneficiary to “<u>current</u>” beneficiary.</p>	<p>In subsection (3) [UTC (d)] adds: “the Attorney General <u>may assert</u> the rights...”</p>	<p><u>charitable interest to be represented would qualify under subsection (b) but no charitable organization has been expressly designated to receive distribution under the terms of a charitable trust.</u></p>	<p>“...trustee a <u>written</u> request...”</p> <p>In subsection (b) changes language to read: “...expressly <u>named in the trust instrument</u> to receive...” and omits the language: “...<i>if the charitable organization, on the date the charitable organization’s qualification is being determined:</i>”</p> <p>Omits UTC paragraphs (b)(A) through (b)(C).</p> <p>In subsection (c) omits “<i>qualified</i>” before beneficiary.</p> <p>Changes subsection (d) to read: “The Office of Attorney General has the rights of a <u>charitable organization expressly named in the trust instrument to receive distributions from a trust having its situs in this Commonwealth and the right to notice of any proceeding or nonjudicial settlement agreement in which there is a charitable interest or purpose.</u></p>
§111	<p>X</p> <p>Omits the language of the UTC, providing instead a section that’s somewhat similar but significantly longer and more complex. [5801.10]</p>	<p>X</p> <p>In subsection (1) [UTC (a)] changes language to read: “...means persons whose <u>interest would be affected by a settlement agreement.</u>”</p> <p>In subsection (3) [UTC (c)] changes the language to read: A nonjudicial settlement agreement <u>among the trustee and trust beneficiaries</u> is valid only to the extent <u>the terms and conditions could be properly approved by the court.</u> A <u>nonjudicial settlement may not be used to produce a result not authorized by other provisions of this code, including, but not</u></p>	<p>X</p> <p>Adds paragraph (d)(7): <u>partial or final settlements.</u></p>	<p>X</p> <p>Omits the language of UTC subsection (a).</p> <p>In subsection (b) replaces “interested persons” with “<i>all beneficiaries and trustees of a trust</i>” and adds: “<u>The rules of Subchapter C (relating to representation) shall apply to a settlement agreement under this section.</u>”</p> <p>In paragraph (d)(1) replaces “terms of the trust” with “<u>provisions of a trust instrument.</u>”</p>

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		<p><u>limited to, terminating or modifying a trust in an impermissible manner.</u></p> <p>In subsection (5) [UTC (e) omits all language after “...settlement agreement.”</p>		<p>In subsection (d)(2) adds: “...<u>or waiver of the preparation of a trustee’s report or accounting.</u>”</p> <p>In subsection (d)(3) adds: “..a trustee <u>to perform or refrain...</u>” and omits all language after “particular act.”</p> <p>In paragraph (d)(5) replaces “principal place of administration” with “<u>situs</u>”.</p> <p>In paragraph (d)(6) adds “<u>Liability or release from liability</u> of a trustee...”</p> <p>Adds new paragraphs under (d): <u>(7) The grant to a trustee of any necessary or desirable power.</u> <u>(8) The exercise or nonexercise of any power by a trustee.</u> <u>(9) Questions relating to the property or an interest in property held as part of a trust.</u> <u>(10) An action or proposed action by or against a trust or trustee.</u> <u>(11) The modification or termination of a trust.</u> <u>(12) An investment decision, policy, plan or program of a trustee.</u> <u>(13) Any other matter concerning the administration of a trust.</u></p> <p>In subsection (e) replaces “interested person” with “<u>beneficiary or trustee of a trust</u>” and replaces “and to determine” with “<u>or.</u>”</p>
§112 (optional section)	<p style="text-align: center;">X</p> <p>Omits this section.</p>	<p style="text-align: center;">X</p> <p>Omits this section</p>	<p style="text-align: center;">X</p> <p>Changes this section to read: <u>Except as otherwise provided in this chapter, the rules of construction under Title 43, Chapter 8, Article 8, and the</u></p>	<p style="text-align: center;">X</p> <p>Changes the language to read: “...that apply in this <u>Commonwealth</u> to the provisions of testamentary trusts also apply as appropriate to the <u>provisions of</u></p>

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			<u>miscellaneous provisions of Article 9 that apply in this state to the interpretation of and disposition of property by will also apply as appropriate to the interpretation of the terms of a trust and the disposition of the trust property.</u>	<u>inter vivos trusts.”</u>
§201	X Changes subsection (b) to read: “ <u>An inter vivos trust is not subject to continuing judicial supervision unless ordered by the court. Trusts created pursuant to a section of the Revised Code or a judgment or decree of a court are subject to continuing judicial supervision to the extent provided by the section, judgment, or decree or by court order.</u> ”	X Adds new subsection (1): <u>Except as provided in subsection (5) and s. 736.0206, proceedings concerning trusts shall be commenced by filing a complaint and shall be governed by the Florida Rules of Civil Procedure.</u> Adds language to subsection (4) [UTC (c)] reading: “...may relate to <u>the validity, administration, or distribution of a trust, including proceedings to:</u> <u>(a) Determine the validity of all or part of a trust;</u> <u>(b) Appoint or remove a trustee;</u> <u>(c) Review trustees’ fees;</u> <u>(d) Review and settle interim or final accounts;</u> <u>(e) Ascertain beneficiaries; determine any question arising in the administration or distribution of any trust, including questions of construction of trust instruments; instruct trustees; and determine the existence or nonexistence of any immunity, power, privilege, duty, or right;</u> <u>(f) Obtain a declaration of rights; or</u> <u>(g) Determine any other matters involving trustees and beneficiaries.</u> Adds new subsection (5): <u>A proceeding for the construction of a testamentary trust may be filed in the probate proceeding for the testator’s estate. The</u>	X Adds new subsection (d): <u>A judicial proceeding involving a trust may relate to any matter involving the trust’s administration, including, but not being limited to a proceeding to:</u> Subsection (d) then goes on to list 19 separate types of proceedings including proceedings to request instructions, to accept a trustee’s resignation, or to determine liability of the trust for debts of the beneficiary,	X In subsection (c) changes language to read: “...a request for <u>declaratory judgment.</u> ”

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		<u>proceeding shall be governed by the Florida Probate Rules.</u>		
§202		<p style="text-align: center;">X</p> <p>At the end of subsection (2) [UTC (b)] replaces “trust” with “<u>distribution.</u>”</p>	<p style="text-align: center;">X</p> <p>In subsection (a), the phrase beginning “By accepting...” and running to the first comma is move into a paragraph (a)(2) under subsection (a).</p> <p>Adds new paragraph (a)(1): <u>by accepting the trusteeship of a trust whose settler was a resident of this state at the time of the trust’s creation, or in the case of testamentary trusts, the settler was a resident of this state at death;</u></p> <p>Adds new paragraph (a)(3): <u>by moving the principal place of administration of the trust to this state.</u></p> <p>Adds an unnumbered section reading: <u>Notwithstanding the foregoing, subsection (a)(1) shall not apply if the settler designates the law of a jurisdiction other than this state to govern the trust.</u></p>	<p style="text-align: center;">X</p> <p>Throughout this section replaces “principal place of administration” with “<u>situs</u>” and “State” with “<u>Commonwealth.</u>”</p> <p>In subsection (b) changes language to read: “...the trust. <u>By not releasing or disclaiming the beneficiary’s beneficial interest in the trust, a beneficiary of a trust having its situs in this Commonwealth</u> submits personally...”</p>
§203	<p style="text-align: center;">X</p> <p>Replaces this section with the following language: <u>The probate division of the court of common pleas has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders and to hear and determine any action that involves an inter vivos trust.</u></p>	<p style="text-align: center;">X</p> <p>Replaces this section with the following: <u>The circuit court has original jurisdiction in this state of all proceedings arising under this code.</u></p>	<p style="text-align: center;">X</p> <p>In subsection (a) adds: “<u>Except as provided in subsection (b),...</u>”</p> <p>Changes subsection (b) to read: <u>A probate court granted statutory equitable jurisdiction has concurrent jurisdiction with the circuit court in any proceeding involving a testamentary or inter vivos trust.</u></p>	<p style="text-align: center;">X</p> <p>Omits this section.</p>
§204	X	X	X	X

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	Omits this section.	Replaces this section with the following: <u>Venue for actions and proceedings concerning trusts, including those under a. 736.0201, may be laid in:</u> <u>(1) Any county where the venue is proper under chapter 47;</u> <u>(2) Any county where the beneficiary suing or being sued resides or has its principal place of business; or</u> <u>(3) The county where the trust has its principal place of administration.</u>	Changes subsection (a) to read: “Except as otherwise provided in subsection (b), venue for <u>actions and proceedings</u> involving a trust is <u>proper (i) in any county where venue is proper for civil actions generally, pursuant to Title 6, Chapter 3; (ii) in the county of this state where the trust has its principal place of administration; or (iii) in the case of a trust whose principal place of administration is in a jurisdiction other than this state, in the county where the settler resided at the creation of the trust, or in the case of a testamentary trust, where the settlor’s estate was administered.</u> ”	In subsection (a), replaces “principal place of administration” with “ <u>situs.</u> ” Moves the language of UTC subsection (b) to UTC paragraph (b)(1) and subparagraphs thereunder. Adds new paragraph (b)(2): <u>The venue of proceedings that are pending on the effective date o this section shall not be disturbed.</u>
§301		X Changes subsection (1) [UTC (a)] to read: “ <u>Notice, information, accountings, or reports given</u> to a person who may represent and bind another person under this part <u>may serve as a substitute for and have</u> the same effect as notice, <u>information, accountings, or reports given</u> directly to the other person.” Changes subsection (2) [UTC (b)] to read: <u>Actions taken by a person who represents the interests of another person under this part are binding on the person whose interests are represented to the same extent as if the actions had been taken by the person whose interests are represented.</u> Omits optional UTC subsection (d). Adds new subsection (4): <u>A trustee is not liable for giving notice, information,</u>		X Pennsylvania omits the language of UTC Article 3 in its entirety, but includes its own section on Representation which covers much of the same territory.

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		<u>accountings, or reports to a beneficiary who is represented by another person under this part and nothing in this part prohibits the trustee from giving notice, information, accountings, or reports to the person represented.</u>		
§302		<p style="text-align: center;">X</p> <p>Replaces the text of this section with the following:</p> <p><u>(1) The holder of a power of appointment may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.</u></p> <p><u>(2) Subsection (1) does not apply to:</u></p> <p><u>(a) Any matter determined by the court to involve fraud or bad faith by the trustee;</u></p> <p><u>(b) A power of a trustee to distribute trust property; or</u></p> <p><u>(c) A power of appointment held by a person while the person is the sole trustee.</u></p>	<p style="text-align: center;">X</p> <p>Adds subsection (a): <u>The holder of a lifetime power to appoint to oneself may represent and bind all persons whose interests are subject to the power, including but without limitation, permissible appointees and takers in default.</u></p> <p>The UTC language is moved to subsection (b) where “<i>general testamentary</i>” is omitted and “...power of appointment, other than a power <u>enumerated in subsection (a),</u> and the..” is added.</p>	<p style="text-align: center;">X</p> <p>Omits this section. See §301.</p>
§303	<p style="text-align: center;">X</p> <p>In the introductory paragraph adds: “...question or dispute, <u>all of the following apply:</u>”</p> <p>Throughout this section “conservator” is replaced with “<u>guardian of the estate</u>” and “guardian” is replaced with “<u>guardian of the person.</u>”</p> <p>In subsection (D) [UTC (4)] adds: “<u>Except as provided in division (F) of section 5801.10 of the Revised Code, a trustee...</u>”</p>	<p style="text-align: center;">X</p> <p>Replaces all occurrences of “conservator” with “<u>guardian of the property.</u>”</p> <p>Omits UTC subsection (2).</p> <p>Changes subsection (5) [UTC (6)] slightly to read: “...the parent’s unborn child, <u>or the parent’s minor child if a guardian of the property for the minor child</u> has not been appointed.”</p>		<p style="text-align: center;">X</p> <p>Omits this section. See §301.</p>

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§304			X Adds new subsection (b): <u>A presumptive remainder beneficiary may represent contingent successor remainder beneficiaries with respect to matters in which there is no conflict of interest.</u>	X Omits this section. See §301.
§305		X In subsection (1) [UTC (a)] adds: “ <u>If not precluded by a conflict of interest</u> , a representative may...” In subsection (3) [UTC (c)] adds: “...members of the <u>represented</u> individual’s family.”	X Throughout this section the placeholder [representative] is replaced with “ <u>guardian ad litem or other representative</u> ” The last sentence of UTC subsection (a) is moved to new subsection (d).	X Omits this section. See §301.
§401	X In the introductory paragraph adds: “A trust may be created by <u>any of the following methods</u> :” Adds new subsection (D): “ <u>A court order.</u> ”		X Adds new subsection (4): <u>a court in the exercise of its equitable powers.</u>	X In subsection (1) adds “property <u>under a written instrument</u> to another...” In subsection (2) adds: “ <u>written declaration, signed by or on behalf and at the discretion of the owner of property as required by section 7732 (relating to requirements for creation - UTC 402),</u> that the owner holds identifiable property as trustee;”
§402	X Adds to the introductory language: “...is created only if <u>all of the following apply</u> :” In paragraphs (A)(1) and (A)(2) adds “ <u>of the trust, other than the settler of a trust created by a court order.</u> ” after “The settler”.			X In paragraph (a)(2) adds: “the settler <u>signs a writing that indicates an intention to create the trust and contains provisions of the trust.</u> ” Omits UTC subsection (b), adds new subsection (b.1): <u>A trust instrument other than a will may be signed by mark or by a</u>

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	<p>Adds subsection (D): <u>A trust is valid regardless of the existence, size, or character of the corpus of the trust. This division applies to any trust that was executed prior to, or is executed on or after, the effective date of Chapters 5801. to 5811 of the Revised Code.</u></p> <p>Adds subsection (E): <u>A trust is not invalid because a person, including, but not limited to, the creator of the trust, is or may become the sole trustee and the sole holder of the present beneficial enjoyment of the corpus of the trust, provided that one or more other persons hold a vested, contingent, or expectant interest relative to the enjoyment of the corpus of the trust upon the cessation of the present beneficial enjoyment. A merger of the legal and equitable titles to the corpus of a trust described in this division does not occur in its creator, and notwithstanding any contrary provision of Chapter 2107 of the Revised Code, the trust is not a testamentary trust that is required to comply with that chapter in order for its corpus to be legally distributed to other beneficiaries in accordance with the provisions of the trust upon the cessation of the present beneficial enjoyment. This division applies to any trust that satisfies the provisions of this division, whether the trust was executed prior to, on, or after October 10, 1991.</u></p>			<p><u>person other than the settler on behalf of and at the discretion of the settler in the same manner as a power of attorney under Chapter 56 (relating to powers of attorney).</u></p> <p>In subsection (c) adds: “If the power <u>with respect to a noncharitable trust</u> is not exercised...”</p>
§403		<p style="text-align: center;">X</p> <p>The introductory language of UTC §403 is moved to subsection (1), ending with: “...at the time of creation, <u>the settler was domiciled.</u>” Subsections (1) through (3) in the UTC version are omitted.</p>		<p style="text-align: center;">X</p> <p>In the introductory language adds “A <u>written</u> trust...” and under subsection (1) replaces “abode” with “<u>residence.</u>”</p>

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		<p>Adds new subsection (2): <u>Notwithstanding subsection (1):</u> <u>(a) No trust or confidence of or in any messuages, lands, tenements, or hereditaments shall arise or result unless the trust complies with the provisions of s. 689.05.</u> <u>(b) The testamentary aspects of a revocable trust, executed by a settler who is a domiciliary of this state at the time of execution, are invalid unless the trust instrument is executed by the settler with the formalities required for the execution of a will in this state. For purposes of this subsection, the term “testamentary aspects” means those provisions of the trust instrument that dispose of the trust property on or after the death of the settler other than to the settlor’s estate.</u></p> <p>Adds new subsection (3): <u>Paragraph (2)(b) does not apply to trusts established as part of an employee annuity described in s. 403 of the Internal Revenue Code of 1986, as amended, an individual retirement account as described in s. 408 of the Internal Revenue Code of 1986, as amended, a Keogh (HR-10) Plan, or a retirement or other plan that is qualified under s. 401 of the Internal Revenue Code of 1986, as amended.</u></p> <p>Adds new subsection (4): <u>Paragraph (2)(b) applies to trusts created on or after the effective date of this code. Section 737.111, as in effect prior to the effective date of this code, continues to apply to trusts created before the effective date of this code.</u></p>		
§404	X			X

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	Replaces the second sentence of this section with: “ <u>A trust exists, and its assets shall be held, for the benefit of its beneficiaries in accordance with the interests of the beneficiaries in the trust.</u> ”			Changes this section to read: “...are lawful and not contrary to public policy.” Subsequent language in the UTC is omitted.
§405		X Changes subsection (1) [UTC (a)] to read: “A trust may be created for <u>charitable purposes</u> . <u>Charitable purposes include, but are not limited to,</u> the relief of poverty; the advancement of <u>arts, sciences,</u> education or religion; and the promotion of health, governmental, or municipal purposes. In subsection (3) [UTC (c)] replaces “may maintain a proceeding” to “has standing”.		X In subsection (b) adds “...trust <u>instrument</u> do not indicate <u>or authorize the trustee to select</u> a particular...” Replaces subsection (c) with the following: <u>A proceeding to enforce a charitable trust may be brought by the settlor during the settlor’s lifetime or at any time by the Attorney General, a charitable organization expressly named in the trust instrument to receive distributions from the trust or any other person who has standing to do so.</u>
§406	X Adds to this section: <u>As used in this section, fraud,” “duress,” and “undue influence” have the same meanings for trust validity purposes as they have for purposes of determining the validity of a will.</u>	X Changes this section to read: “A trust is void <u>if the creation of the trust is procured</u> by fraud, duress, <u>mistake,</u> or undue influence. <u>Any part of the trust is void if procured by such means, but the remainder of the trust not procured by such means is valid if the remainder is not invalid for other reasons.</u>		X Changes this section slightly to read: “A trust <u>or an amendment to a trust is voidable</u> to the extent...”
§407		X Changes the first sentence to read: “Except as required by <u>s. 736.0403 or a law</u> other than this code, ...”		X Pennsylvania omits this section, and provides quite differently that: “ <u>Oral trusts are unenforceable in this Commonwealth.</u> ”
§408	X	X		X

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	In subsection (B) rephrases the first sentence slightly and in the second sentence adds: “...welfare of an animal <u>that is provided care by a trust authorized by this section</u> may request...”	In subsection (3) [UTC (c)] changes language to read: “...if living, otherwise <u>as part of the settlor’s estate.</u> ”		In subsection (b) replaces “terms of the trust” with “ <u>trust instrument.</u> ”
§409	X In subsection (A) [UTC (1)] changes the language slightly to read: “ <u>A trust created for a noncharitable purpose</u> may not be enforced...”	X In subsection (3) [UTC (c)] changes language to read: “...if living, otherwise <u>as part of the settlor’s estate.</u> ”		X Throughout this section, “terms of the trust” is replaced by “ <u>trust instrument.</u> ”
§410	X Changes subsection (A) to read: “...expires pursuant to its terms, <u>a court determines that no purpose of the trust remains to be achieved, or a court determines that the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.</u> ” While subsection (B) uses essentially the same language, it is somewhat rearranged.	X Changes subsection (1) [UTC (a)] to read: “...the trust expires or is revoked <u>or is properly distributed pursuant to the terms of the trust.</u> ” In subsection (2) [UTC (b)] omits “to approve or” and changes the language to read “commenced by <u>any</u> beneficiary.” The remainder of the UTC subsection is omitted. Adds new subsection (3): <u>A proceeding to disapprove a proposed termination under s. 736.0414(1) may be commenced by any qualified beneficiary.</u>	X In subsection (b) omits the optional language.	X In subsection (a) omits “ <i>In addition to the methods of termination prescribed by Sections 411 through 414,</i> ” also omits “... <i>or impossible to achieve.</i> ” Adds to the end of the section: <u>In addition, a trust may be terminated by the methods prescribed by sections 7740.1 (relating to modification or termination of noncharitable irrevocable trust by consent – UTC 411) through 7740.4 (relating to modification or termination of noncharitable trust – UTC 414).</u> Reverses the clauses in the first sentence of subsection (b) but retains essentially the same language.
§411	X In subsection (A) omits the first optional clause, then goes on to read: <u>An agent under a power of attorney may exercise a settlor’s power to consent to a trust’s modification or termination only to the extent expressly authorized by both the power of attorney and the terms of the</u>	X Omits this section.	X In subsection (a) omits both the first and last optional clauses. Adds to subsection (c): <u>This subsection applies only to irrevocable trusts created on or after the effective date of this Code, and to revocable trusts which become</u>	X In subsection (a) omits the second and the last optional clauses and changes language as follows: “...may be exercised by a <u>guardian, an agent under the settlor’s general power of attorney or an agent under the settlor’s limited power of attorney that specifically authorizes that</u>

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	<p><u>trust. The settlor’s guardian of the estate may exercise a settlor’s power to consent to a trust’s modification or termination with the approval of the court supervising the guardianship if an agent is not so authorized. The guardian of the settlor’s person may exercise a settlor’s power to consent to a trust’s modification or termination with the approval of the court supervising the guardianship if an agent is not so authorized and a guardian of the estate has not been appointed. This division applies only to irrevocable trusts created on or after the effective date of Chapters 5801 to 5811 of the Revised Code and to revocable trusts that become irrevocable on or after the effective date of Chapters 5801 to 5811 of the Revised Code. This division does not apply to a noncharitable irrevocable trust distributed in 42 USC 1396p(d)(4).</u></p> <p>Changes and expands subsection (B) to read: ...if the court concludes that <u>continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified, but not to remove or replace the trustee, upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust. A spendthrift provision in the terms of the trust may, but is not presumed to, constitute a material purpose of the trust.</u></p> <p>Note that the final sentence of subsection (B) incorporates UTC (c).</p>		<p><u>irrevocable on or after the effective date of this Code.</u></p>	<p><u>action. Notwithstanding Subchapter C (relating to representation), the settler may not represent a beneficiary in the modification or termination of a trust under this subsection.”</u></p> <p>In subsection (b) reverses the order of the two sentences and adds “...beneficiaries <u>only</u> if...” in both sentences.</p> <p>UTC subsection (c) is moved to Pennsylvania subsection (b.1) and the word “not” is omitted, effectively reversing its meaning.</p>
§412	<p style="text-align: center;">X</p> <p>In subsection (A) omits reference to</p>	<p style="text-align: center;">X</p> <p>Omits this section, substituting a §412 on</p>		<p style="text-align: center;">X</p> <p>Changes the language of subsection (a) as</p>

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	<p>“wasteful”.</p> <p>Adds to paragraph (A)(3): <u>In accordance with section 109.25 of the Revised Code, the attorney general is a necessary party to a judicial proceeding brought under this section.</u></p> <p>In subsection (b), deletes all language following “...to modify or terminate the trust” including paragraphs (b)(1) and (b)(2).</p>	Nonjudicial modification of irrevocable trusts.		<p>follows: “...provisions of a <u>noncharitable irrevocable trust, make an allowance from the principal of the trust or terminate the trust</u> if, because of circumstances <u>that apparently were</u> not anticipated by the settler, modification, <u>allowance</u> or termination will further the purposes of the trust. To the extent practicable, the modification <u>or allowance shall approximate</u> the settlor’s probable intention.”</p> <p>Changes subsection (b) to read: “...the administrative <u>provisions of a noncharitable irrevocable trust if adherence to the existing provisions</u> would be...”</p>
§413		<p style="text-align: center;">X</p> <p>In subsection (1) [UTC (a)] omits “Except as otherwise provided in subsection (b)”, and incorporates UTC paragraph (a)(3) into the subsection.</p> <p>UTC paragraphs (a)(1) and (a)(2) along with all of subsection (b) are omitted.</p> <p>Adds new subsection (2): <u>A proceeding to modify or terminate a trust under this section may be commenced by a settler, a trustee, or any qualified beneficiary.</u></p>		<p style="text-align: center;">X</p> <p>In subsection (a) omits the phrase “<i>impossible to achieve.</i>”</p> <p>Changes paragraph (a)(3) to read: “the court <u>shall</u> apply cy pres to <u>fulfill as nearly as possible the settlor’s charitable intention, whether it be general or specific.</u>”</p> <p>In subsection (b) omits all language after “...to apply cy pres.” Also omits paragraphs (b)(1) and (b)(2).</p> <p>Adds new subsection (c): <u>A court may modify an administrative provision of a charitable trust to the extent necessary to preserve the trust.</u></p> <p>Adds new subsection (d): <u>A trust solely for charitable purposes having assets of less than \$100,000 may be terminated at its inception or at any time thereafter by</u></p>

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				<p><u>the trustee with the consent of the attorney General and all charitable organizations that are designated as beneficiaries by name in the trust instrument. Upon termination, the assets, subject to the approval of the attorney general, shall be delivered to the organizations, if any, designated in the trust instrument or, if none, to organizations selected by the trustee, in either case to be held and applied for the general or specific charitable purposes and on the terms that will, in the trustee's discretion, fulfill as nearly as possible the settlor's intention.</u></p> <p>Adds new subsection (e): <u>If the separate existence of a trust, whenever created, solely for charitable purposes results or will result in administrative expense or other burdens unreasonably out of proportion to the charitable benefits, the court may, upon application of the trustee or any interested person and after notice to the Attorney General, terminate the trust, either at its inception or at any time thereafter, and award the assets outright, free of the trust, to the charitable organizations, if any, designated in the trust instrument or, if none, to charitable organizations selected by the court, in either case for the purposes and on the terms that the court may direct to fulfill as nearly as possible the settlor's intentions other than any intent to continue the trust, if the court is satisfied that the charitable organizations will properly use or administer the assets.</u></p>
§414	X	X		X
	Moves UTC subsection (A) to paragraph	In subsection (2) [UTC (b)] adds “ <u>Upon</u>		Changes subsection (a) to read: <u>A trustee</u>

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	<p>(A)(1), raises the property value to \$100,000 and adds: “<u>Except as provided in division (A)(2) of this section, after notice...</u>”</p> <p>Adds new paragraph (A)(2): <u>Division (A)(1) of this section does not apply to any of the following:</u></p> <p><u>(a) A charitable trust that has one or more charitable organizations as qualified beneficiaries;</u></p> <p><u>(b) A charitable trust the terms of which authorize or direct the trustee to distribute trust income or principal to one or more chaitable organizations to be selected by the trustee, or for one or more charitable purposes described in Division (A) of section 5804.05 of the Revised Code, if any of the following apply:</u></p> <p><u>(i) The distributions may be made on the date that the trust would be terminated under division (A)(1) of this section.</u></p> <p><u>(ii) The distributions could be made n the date that the trust would be terminated under division (A)(1) of this section if the interests of the current beneficiaries of the trust terminated on that date, but the termination of those interests would not cause the trust to terminate.</u></p> <p><u>(iii) The distributions could be made on the date that the trust would be terminated under division (A)(1) of this section, if the trust terminated on that date but not under that division.</u></p> <p>In subsection (B) adds: “<u>If an inter vivos trust consists of trust property having a total value of less than one hundred thousand dollars, the court may...</u>”</p> <p>Changes subsection (C) to read: “<u>Upon termination of a trust pursuant to division</u></p>	<p><u>application of a trustee or any qualified beneficiary, the court may...</u>”</p> <p>Adds to subsection (3) [UTC (c)]: <u>The trustee may enter into agreements or make such other provisions that the trustee deems necessary or appropriate to protect the interests of the beneficiaries and the trustee and to carry ot the intent and purposes of the trust.</u></p> <p>Adds new subsection (4): <u>The existence of a spendthrift provision in the trust does not make this section inapplicable unless the trust instrument expressly provides that the trustee may not terminate the trust pursuant to this section.</u></p>		<p><u>of a noncharitable trust may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration, the trustee has given written notice to the qualified beneficiaries at least 60 days before the proposed termination and no qualified beneficiary provides the trustee with a written objection to the proposed termination on or before the date specified in the notice.</u></p> <p>In subsection (b) adds: “...terminate a <u>noncharitable</u> trust...”</p> <p>Omits UTC subsection (d).</p>

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	<p><u>(A)(1) of this section, the trustee shall distribute the trust estate in accordance with any provision specified in the trust instrument for the premature termination of the trust. If there is no provision of that nature in the trust instrument, the trustee shall distribute the trust estate among the beneficiaries of the trust in accordance with their respective beneficial interests and in a manner that the trustee determines to be equitable. For purposes of distributing the trust estate among the beneficiaries of the trust under this division, the trustee shall consider all of the following:</u></p> <p><u>(1) The existence of any agreement among the beneficiaries with respect to their beneficial interests;</u></p> <p><u>(2) The actuarial values of the separate beneficial interests of the beneficiaries;</u></p> <p><u>(3) Any expression of preference of the beneficiaries that is contained in the trust instrument.</u></p> <p>Adds new subsection (D): <u>Upon termination of a trust pursuant to division (B) of this section, the probate court shall order the distribution of the trust estate in accordance with any provision specified in the trust instrument for the premature termination of the trust. If there is no provision of that nature in the trust instrument, the probate court shall order the distribution of the trust estate among the beneficiaries of the trust in accordance with their respective beneficial interests and in a manner that the court determines to be equitable. For purposes of ordering the distribution of the trust estate among the beneficiaries of the trust under this division, the court shall consider the three factors listed in</u></p>			

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	<u>division (C) of this section.</u> Adds new subsection (E): <u>The existence of a spendthrift or similar provision in a trust instrument or will does not preclude the termination of a trust pursuant to this section.</u> UTC subsection (d) is moved to (F).			
§415		<p style="text-align: center;">X</p> Adds “ <u>Upon application of a settlor or any interested person, the court...</u> ” Adds “...convincing evidence that both the <u>accomplishment of the settlor’s intent...</u> ” Finally, adds: <u>In determining the settlor’s original intent, the court may consider evidence relevant to the settlor’s intent even though the evidence contradicts an apparent plain meaning of the trust instrument.</u>		<p style="text-align: center;">X</p> Changes language to read: “...reform a <u>trust instrument</u> , even if unambiguous, to conform to the settlor’s <u>probable</u> intention if it is proved by a clear and convincing evidence that the settlor’s intent <u>as expressed in the trust instrument</u> was affected...” and adds: <u>The court may provide that the modification have retroactive effect.</u> ”
§416		<p style="text-align: center;">X</p> At the beginning of the section adds “ <u>Upon application of any interested person, ...</u> ”		<p style="text-align: center;">X</p> Reverses the clauses in the first sentence and replaces “terms of the trust” with “ <u>trust instrument.</u> ”
§417		<p style="text-align: center;">X</p> Moves UTC language to subsection (1) and changes the language slightly to read “...the purposes of the <u>trusts or trust, respectively.</u> ” Adds new subsection (2): <u>Subject to the terms of the trust, the trustee may take into consideration differences in federal</u>		<p style="text-align: center;">X</p> Replaces this section with language unique to Pennsylvania. Three subsections cover (a) division without court approval; (b) division with court approval; (c) and separate funds for trust property prior to actual distribution.

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		<u>tax attributes and other pertinent factors in administering the trust property of any separate account or trust, in making applicable tax elections, and in making distributions. A separate trust created by severance must be treated as a separate trust for all purposes from the date on which the severance is effective. The effective date of the severance may be retroactive to a date before the date on which the trustee exercises such power.</u>		
§501	X Omits this section.			X Changes this section to read: <u>A judgment creditor or assignee of the beneficiary may reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means to the extent the beneficiary's interest is not subject to a spendthrift provision.</u>
§502	X Adds to subsection (A): "...of a beneficiary's interest <u>or if it restrains involuntary transfer of a beneficiary's interest and permits voluntary transfer of a beneficiary's interest only with the consent of a trustee who is not the beneficiary.</u> Adds to subsection (C): <u>Real property or tangible personal property that is owned by the trust but that is made available for a beneficiary's use or occupancy in accordance with the trustee's authority under the trust instrument shall not be considered to have been distributed by the trustee or received by the beneficiary for purposes of allowing a creditor or</u>	X Adds to subsection (1) [UTC (a)]: <u>"This subsection does not apply to any trust in existence on the effective date of this code."</u> Changes subsection (3) [UTC (c)] to read: <u>"...trustee before receipt of the interest or distribution by the beneficiary."</u> Adds new subsection (4): <u>A valid spendthrift provision does not prevent the appointment of interests through the exercise of a power of appointment.</u>		X In subsection (b) replaces "terms of the trust" with <u>"trust instrument."</u> In subsection (c) separates the first clause into its own sentence and adds "...the beneficiary <u>of a spendthrift trust</u> may not reach..." in the second sentence.

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	<u>assignee of the beneficiary to reach the property.</u>			
§503	<p style="text-align: center;">X</p> <p>Changes subsection (B) to read: “<u>Subject to section 5805.03 of the Revised Code, a spendthrift provision is unenforceable against either of the following:</u>”</p> <p>In paragraph (B)(1) drops reference to former spouse and adds “<u>but only if distributions can be made for the beneficiary’s support or the beneficiary is entitled to receive mandatory distributions under the terms of the trust;</u>”</p> <p>Omits UTC paragraph (b)(2).</p> <p>Adds new subsection (C): <u>A spendthrift provision is enforceable against the beneficiary’s former spouse.</u></p> <p>In subsection (D) [UTC (c)] adds “<u>A claimant described in division (B) of this section...</u>” and omits “against which a spendthrift provision cannot be enforced.” Also adds: “<u>...under the circumstances, considering among any other factors determined appropriate by the court the support needs of the beneficiary, the beneficiary’s spouse, and the beneficiary’s dependent children or, with respect to a beneficiary who is the recipient of public benefits, the supplemental needs of the beneficiary if the trust was not intended to provide for the beneficiary’s basic support.</u>”</p> <p>Adds new subsection (E): <u>The only exceptions to the effectiveness of a spendthrift provision are those described</u></p>	<p style="text-align: center;">X</p> <p>In subsection (2) [UTC (b)] adds: “<u>To the extent provided in subsection (3), a spendthrift...</u>”</p> <p>In subsection (3) [UTC (c)] adds: “<u>Except as otherwise provided in this subsection, a claimant against which a spendthrift provision may not be enforced may obtain from a court, or pursuant to the Uniform Interstate Family Support Act, an order attaching...</u>”. Also adds: “<u>Notwithstanding this subsection, the remedies provided in this subsection apply to a claim by a beneficiary’s child, spouse, former spouse, or a judgment creditor described in paragraph (2)(a) or paragraph (2)(b) only as a last resort upon an initial showing that traditional methods of enforcing the claim are insufficient.</u>”</p>		<p style="text-align: center;">X</p> <p>Moves UTC subsection (a) to subsection (d), reserves subsection (a).</p> <p>In paragraph (b)(1) omits “former spouse” and adds: “<u>...maintenance, to the extent of the beneficiary’s interests in the income and principal of the trust.</u>”</p> <p>Adds new paragraph (b)(2): <u>any other person who has a judgment or court order against the beneficiary for support or maintenance, to the extent of the beneficiary’s interest in the trust’s income;</u>”</p>

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	<u>in divisions (B) or (D) of this section, in division (B) of section 5805.05 of the Revised Code, and in sections 5805.06 and 5810.04 of the Revised Code.</u>			
§504	<p style="text-align: center;">X</p> <p>Changes subsection (B) to incorporate UTC paragraphs (b)(1) and (b)(2), and extends the “except as provided in” language to include subsection (D).</p> <p>Adds new subsection (C): <u>Division (B) of this section does not apply to this state for any claim for support of a beneficiary in a state institution if the terms of the trust do not include a spendthrift provision and do include a standard for distributions to or for the beneficiary under which the trustee may make distributions for the beneficiary’s support.</u></p> <p>Changes subsection (D) [UTC (c)] to read: <u>Unless the settler has explicitly provided in the trust that the beneficiary’s child or spouse or both are excluded from benefiting from the trust to the extent a trustee of a trust that is not a wholly discretionary trust has not complied with a standard of distribution or has abused a discretion, both of the following apply:</u></p> <p>Changes paragraph (D)(1) [UTC (c)(1)] to read: <u>The court may order a distribution to satisfy a judgment or court order against the beneficiary for support of the beneficiary’s child or spouse, provided that the court may order the distributions only if distributions can be made for the beneficiary’s support under the terms of the trust and that the court may not order any distributions under this</u></p>	<p style="text-align: center;">X</p> <p>Omits UTC subsection (a).</p> <p>In subsection (1) [UTC (b)] omits “Except as otherwise provided in subsection (c), ...”</p> <p>Omits UTC subsection (c).</p> <p>In subsection (2) [UTC (e)] omits references to “cotrustee.”</p> <p>Renumbers UTC subsection (d) as subsection (3).</p>	<p style="text-align: center;">X</p> <p>In subsection (a) adds “...”child”, “spouse”, or “former spouse” include...” and “...for child <u>or spousal</u> support...”</p> <p>Changes subsection (e) to read: <u>A creditor may not reach the interest of a beneficiary who is also a trustee or co-trustee, or otherwise compel a distribution, if the trustee’s discretion to make distributions for the trustee’s own benefit is limited by an ascertainable standard.</u></p>	<p style="text-align: center;">X</p> <p>Moves UTC subsection (a) to subsection (f), reserves subsection (a).</p> <p>Adds new paragraph (b)(3): <u>the beneficiary is the trustee or a cotrustee of the trust.</u></p> <p>In paragraph (c)(1) adds: “a distribution from the trust’s income, principal, or both may be...” and then: “...child to the extent of the beneficiary’s interests in the trust’s income, principal or both, and the court shall direct the trustee to pay the child from the trust an amount that is <u>equitable under the circumstances, but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion; and</u>”</p> <p>Changes paragraph (c)(2) to read: <u>a distribution from trust income may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of any person other than the beneficiary’s child to the extent of the beneficiary’s interest in the income of the trust, and the court shall direct the trustee to pay the person an amount from the income of the trust as is equitable under the circumstances, but not more than the amount of income the trustee...</u>”</p>

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	<p><u>division to satisfy a judgment or court order against the beneficiary for support of the beneficiary's former spouse.</u></p> <p>In paragraph (D)(2) [UTC (c)(2)] omits reference to “former spouse”.</p> <p>Changes subsection (E) [UTC (d)] to read: “<u>Even if a trust does not contain a spendthrift provision, to the extent a beneficiary's interest in a trust is subject to the exercise of the trustee's discretion, whether or not such discretion is subject to one or more standards of distribution, the interest may not be ordered sold to satisfy or partially satisfy a claim of the beneficiary's creditor or assignee.</u>”</p>			Omits UTC subsection (e).
§505	<p style="text-align: center;">X</p> <p>Changes paragraph (a)(3) to read: <u>With respect to a trust described in 42 USC section 1396p(d)(4)(A) or (C), the court may limit the award of a settlor's creditor under division (A)(1) or (2) of this section to the relief that is appropriate under the circumstances, considering among any other factors determined appropriate by the court, the supplemental needs of the beneficiary.</u></p> <p>In subsection (B) adds: “For purposes of this section, <u>all of the following apply:</u>”</p> <p>In paragraph (B)(1) moves the language “during the period the power may be exercised” to the end of the paragraph.</p> <p>Divides paragraph (B)(2) into subparagraphs following the language “...exceeds the greatest of.” They read: <u>(a) The amount specified in section</u></p>	<p style="text-align: center;">X</p> <p>In paragraph (1)(a) [UTC (a)(1)] rearranges the phrasing slightly and adds: “<u>...to the extent the property would not otherwise be exempt by law if owned directly by the settlor.</u>”</p> <p>Changes paragraph (1)(c) [UTC (a)(3)] to read: <u>Notwithstanding the provisions of paragraph (b), the assets of an irrevocable trust may not be subject to the claims of an existing or subsequent creditor or assignee of the settler, in whole or in part, solely because of the existence or subsequent creditor or assignee of the settler, in whole or in part, solely because of the existence of a discretionary power granted to the trustee by the terms of the trust, or any other provision of law, to pay directly to the taxing authorities or to reimburse the settler for any tax on trust income or principal which is payable by the settler under the law imposing such</u></p>	<p style="text-align: center;">X</p> <p>In paragraph (a)(3) changes “at the settlor's death” to “<u>immediately prior to the settlor's death</u>”. Also adds “<u>...disposal of remains, and homestead allowance, exempt property and family allowance to a surviving...</u>” and “<u>...expenses, and homestead allowance, exempt property and family allowance.</u>”</p> <p>Adds new subsection (b): <u>With respect to claims, expenses, and taxes in connection with the settlement of a trust that was revocable at the settlor's death:</u> <u>(1) Any claim of a creditor which would be barred against the fiduciary of a decedent's estate, the estate of the decedent, or any creditor or beneficiary of the decedent's estate, shall be barred against the trustee, the trust property, and the creditors and beneficiaries of the trust.</u> <u>(2) A trustee at any time may give notice to any person the trustee has reason</u></p>	<p style="text-align: center;">X</p> <p>The introductory language [UTC (a)] is changed to read: “<u>...spendthrift provision and notwithstanding section 7744 (relating to discretionary trusts; effect of standard – UTC 504).</u>”</p> <p>In subsection (2) [UTC (a)(2)] changes language to read: “A <u>judgment</u> creditor or assignee of the settler <u>of an irrevocable trust</u> may reach...” and then omits “<i>the amount</i>” and “<i>...may not</i>”</p> <p>In subsection (3) [UTC (a)(3)] replaces “trust that was revocable at the settlor's death” with “<u>revocable trust</u>” and replaces “[statutory allowances] to a surviving spouse and children” to “<u>family exemption.</u>” Adds: “<u>...and no other statute specifically exempts the property from those claims.</u>”</p> <p>UTC subsection (b) is moved to a</p>

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	<p><u>2041(b)(2) or 2514(e) of the Internal Revenue Code;</u></p> <p><u>(b) If the donor of the property subject to the holder's power of withdrawal is not married at the time of the transfer of the property to the trust, the amount specified in section 2503(b) of the Internal Revenue Code;</u></p> <p><u>(c) If the donor of the property subject to the holder's power of withdrawal is married at the time of the transfer of the property to the trust, twice the amount specified in section 2503(b) of the Internal Revenue Code.</u></p>	<p><u>tax.</u></p> <p>In paragraph (2)(b) [UTC (b)(2)] citations to the IRC are separated into subparagraphs (1) and (2).</p>	<p><u>to believe may have a claim against the settlor at death. The notice shall contain the name and address of the trustee to whom the claim must be presented. If the person fails to present the claim in writing within 90 days from the date of the notice, then the person shall be forever barred from asserting or recovering on the claim from the trustee, the trust property and the creditors and beneficiaries of the trust. Any person who presents a claim on or before the date specified in the notice may not later increase the claim following the expiration of the 90-day period.</u></p> <p><u>(3) If a claim is not presented in writing to the personal representative of the settlor's estate or to the trustee (i) within six months from the date of the appointment of the initial personal representative of the settlor's estate, or (ii) if no personal representative is appointed within six months from the settlor's date of death and a claim is not presented in writing to the trustee within six months from the settlor's date of death, then no trustee shall be chargeable for any assets that the trustee may pay or distribute in good faith in satisfaction of any lawful claims, expenses, or taxes or to any beneficiary before the claim was presented. A payment or distribution of assets by a trustee shall be deemed to have been made in good faith unless the creditor can prove that the trustee had actual knowledge of the claim at the time of the payment or distribution. The six-month period shall not be interrupted or affected by the death, resignation, or removal of a trustee, except that the time during which there is no trustee in office shall not be counted as part of the period.</u></p>	<p>different section (§7748) and changed to read: <u>Trust property that is subject to a power of withdrawal, during the period the power may be exercised and after its lapse, release or waiver, may be reached by a creditor or an assignee of the holder of the power whether or not the interest of the holder in the trust is subject to a spendthrift provision.</u></p>

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			<u>(4) The provisions of Section 43-2-371 dealing with the priority of payment of claims, expenses, and taxes from the probate estate of a decedent shall apply to a revocable trust to the extent the assets of the decedent's probate estate are inadequate.</u>	
§506	X Omits this section.		X In subsection (a) replaces “does not include” with “ <u>excludes,</u> ” and changes the language to read: “...trustee’s discretion <u>regardless of whether the terms of the trust (i) include a support or other standard to guide the trustee in making distribution decisions or (ii) provide that the trustee “may” or “shall” make discretionary distributions, including distributions pursuant to a support or other standard.</u> In subsection (b) replaces “may reach” with “may <u>compel</u> ” and “designated distribution” with <u>mandatory</u> distribution.”	X UTC subsection (a) is moved to subsection (b). Language is changed to read: “...is required <u>by the terms of the trust instrument</u> to make to a beneficiary, including...” Changes the second sentence to read: “...discretion <u>regardless of whether the trust instrument includes a support or other standard to guide the trustee in making distribution decisions or provides that the trustee “may” or “shall” make discretionary distributions, including distributions pursuant to a support or other standard.</u> ” Changes subsection (a) [UTC (b)] to read: “Whether or not <u>the interest of the beneficiary in the trust is subject to a spendthrift provision, a creditor...</u> ” and replaces “designated” with “ <u>mandated.</u> ”
§507		X Adds: “ <u>Except to the extent of the trustee’s interest in the trust other than as a trustee, trust property...</u> ”		
§601				
§602	X Adds new paragraph (B)(3): <u>Upon the revocation or amendment of the trust by less than all of the settlers, the trustee</u>	X Adds paragraph (c) to subsection (2) [UTC (b)]: <u>Upon the revocation or amendment of the trust by fewer than all</u>	X Adds new paragraph (b)(3): <u>upon the revocation or amendment of the trust by fewer than all of the settlers, the trustee</u>	X Slightly rearranges the language in subsection (a) but retains the same meaning.

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	<p><u>shall promptly notify the other settlers of the revocation or amendment.</u></p> <p>In subsection (C), merges the introductory language and UTC paragraph (c)(1) and then changes the remainder to read: “...in the terms of the trust, or if the terms of the trust do not provide a method, <u>by any other method manifesting clear and convincing evidence of the settlor’s intent, provided that a revocable trust may not be revoked or amended by a will or codicil, regardless of whether it refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust unless the terms of the trust expressly allow it to be revoked or amended by a will or codicil.</u></p> <p>Changes subsection (E) to read: “<u>An agent under a power of attorney may exercise a settlor’s powers with respect to revocation, amendment, or distribution of trust property only to the extent...</u>”</p> <p>In subsection (F) replaces “conservator” with “guardian of the estate” and “guardian” with “guardian of the person.”</p>	<p><u>of the settlers, the trustee shall promptly notify the other settlers of the revocation or amendment.</u></p> <p>In subsection (3) [UTC (c)] adds: “<u>Subject to s. 736.0403(2), the settlor...</u>”</p> <p>In paragraph (3)(b) [UTC (c)(2)] omits “<i>...or the method provided in the terms is not expressly made exclusive</i>”</p> <p>In subsection (5) [UTC (e)] changes the language to read: “...power of attorney only <u>as authorized by s. 709.08.</u>”</p> <p>In subsection (6) [UTC (f)] substitutes “guardian of the property” for conservator, and omits the language “<i>or, if no [conservator] has been appointed, a guardian of the settler</i>”. Changes the end of the subsection to read: “...trust property only <u>as provided in s. 744.441.</u>”</p> <p>In subsection (7) [UTC (g)] omits “<i>...to the settler or settlor’s successors in interest...</i>”</p>	<p><u>shall promptly notify the other settlers of the revocation or amendment.</u></p> <p>In subparagraph (c)(2)(B) adds: <u>provided, however, that a written revocable trust may only be amended and revoked by a later written instrument delivered to the trustee.</u></p> <p>In subsection (g) changes “does not know” to “does not <u>have actual knowledge</u>”</p>	<p>Changes paragraph (b)(1) to read: “...community property, <u>either spouse alone who notifies the other spouse may revoke the trust, but the trust</u> may be amended...”</p> <p>In paragraph (b)(2) replaces “regard” with “<u>respect</u>” and adds: “<u>...upon notice to each other settler.</u>”</p> <p>Adds new paragraph (b)(3): <u>upon the revocation or amendment of the trust by fewer than all the settlers, the trustee shall promptly notify the other settlers of the revocation or amendment.</u>”</p> <p>In subsection (c) adds :”...revocable trust <u>only.</u>”</p> <p>Rewords paragraph (c)(1) slightly but retains the same meaning.</p> <p>In paragraph (c)(2) replaces “terms of the trust” with “<u>trust instrument</u>” and changes the section to read: “...made exclusive, by a <u>later writing, other than a will or codicil, that is signed by the settler and expressly refers to the trust or specifically conveys property that would otherwise have passed according to the trust instrument.</u>” Omits subparagraphs (c)(2)(A) and (B).</p> <p>In subsection (e) omits “distribution,” and makes the following changes: “...of the <u>nondispositive provisions of or withdrawal of property from a trust</u> may be exercised...” and replaces “terms of the trust” with “trust instrument.” Finally, adds: “<u>The agent under a power of attorney that expressly authorizes the</u></p>

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				<p><u>agent to do so may amend the dispositive provisions of a revocable trust as the court may direct.”</u></p> <p>Changes subsection (f) to read: “A guardian of the settlor’s estate may exercise the settlor’s power with respect to revocation <u>or amendment of or withdrawal of property from a revocable trust as the court may direct.”</u></p> <p>In subsection (g) adds “...successors in interest <u>or the beneficiaries</u> for distributions...”</p>
§603	<p style="text-align: center;">X</p> <p>Changes subsection (A) to read: <u>During the lifetime of the settler of a revocable trust, whether or not the settler has capacity to revoke the trust, the rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settler. If the trustee breaches its duty during the lifetime of the settler, any recovery obtained from the trustee after the settler becomes incapacitated or dies shall be apportioned by the court. If the settler is living when the recovery is obtained, the court shall apportion the recovery between the settler and the trust, or allocate the entire recovery to the settler or the trust, as it determines to be equitable under the circumstances. If the settler is not living when the recovery is obtained, the court shall apportion the recovery between the settlor’s estate and the trust, or allocate the entire recovery to the settlor’s estate or the trust, as it determines to be equitable under the circumstances.</u></p>	<p style="text-align: center;">X</p> <p>In subsection (1) [UTC (a)] omits: “...<i>[and the settler has capacity to revoke the trust], rights of the beneficiaries are subject to the control of, and ...</i>”</p>	<p style="text-align: center;">X</p> <p>Omits the optional language in subsection (a).</p>	<p style="text-align: center;">X</p> <p>Changes subsection (a) to read: “<u>Regardless of the legal capacity of the settler, the rights of...</u>” and adds: “...the settler <u>while a trust is revocable.</u>”</p> <p>In paragraph (b) omits “During the period the power may be exercised” and adds: “...subject to the power <u>during the period the power may be exercised.</u>”</p>

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§604	X Omits the uniform language, but renumbers an existing trust provision regarding limitations on challenges as §5806.04.	X Adds new introductory language reading: <u>An action to contest the validity of a trust that was revocable at the settlor's death is barred, if not commenced within the earlier of:</u> Adds new subsection (1): <u>The time as provided in chapter 95; or</u> UTC paragraph (a)(2) becomes subsection (2) and 120 days is changed to six months. UTC paragraph (a)(1) and subsections (b) and (c) are omitted.	X Adds "...the validity of <u>all or part of the terms of a trust...</u> " in subsection (a). In paragraph (a)(1) changes the time to two years rather than three, and in (a)(2) to six months rather than 120 days. In paragraph (b)(1) replaces "know" with " <u>has actual knowledge</u> " and adds "...validity of <u>all or part of the terms of the trust...</u> " In paragraph (b)(2) adds " <u>if, prior to the trustee's actual distribution, a potential...</u> " Changes subsection (c) to read: "...been invalid <u>in whole or in part</u> is liable to return any distribution received <u>to the extent that the invalidity applies to the distribution.</u> "	X Omits the uniform section completely, but includes other somewhat similar similar in §7754 and §7755.
§701	X Combines UTC subsection (a) and paragraphs (a)(1) and (a)(2) into one subsection (A). In subsection (c) adds: "...may <u>do either or both of the following:</u> "	X Changes paragraph (3)(a) [UTC (c)(1) to read: "...person sends <u>to a qualified beneficiary a written statement declining the trusteeship.</u> "		X Throughout this section replaces "terms of the trust" with " <u>trust instrument,</u> " and in paragraph (c)(1) adds "sends a <u>written rejection</u> "
§702		X Changes subsection (2) to read: "...the amount of a bond, <u>the trustee's liabilities under the bond,</u> and whether..."	X Omits optional subsection (c).	X In subsection (a) replaces "terms of the trust" with " <u>provisions of the trust instrument.</u> " In subsection (c) omits "regulated financial-service" and replaces "Terms of the trust" with " <u>trust instrument.</u> "

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§703	<p style="text-align: center;">X</p> <p>Changes subsection (A) to read: “<u>If there are three or more cotrustees serving, the cotrustees may act by majority decision.</u>”</p> <p>Changes subsection (E) to read: <u>A trustee may delegate to a cotrustee duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances. A delegation made under this division shall be governed by section 5808.07 of the Revised Code. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.</u></p> <p>Adds to subsection (F): “Except as otherwise provided in division (G) <u>of this section, and subject to divisions (C) and (E) of this section,</u> a trustee who...”</p> <p>Incorporates paragraphs (g)(1) and (g)(2) into subsection (G) and adds “<u>Except as otherwise provided in this divison</u>” to the beginning. Also adds: <u>A trustee is not required to exercise reasonable care of that nature under this division, and a trustee is not liable for resulting losses, when section 5815.25 of the Revised Code is applicable or there is more than one other trustee and the other trustees act by majority vote.</u></p> <p>In subsection (h) omits “...unless the action is a serious breach of trust.”</p>	<p style="text-align: center;">X</p> <p>In subsection (2) [UTC (b)] adds: “...<u>remaining trustees or a majority of the remaining cotrustees</u> may act...”</p> <p>In paragraph (7)(b) [UTC (g)(2)] omits “serious” in “serious breach of trust.”</p> <p>In subsection (8) [UTC (h)] omits: “...<i>for the action unless the action is a serious breach of trust.</i>”</p>	<p style="text-align: center;">X</p> <p>In subsection (a) adds: “...unanimous decision <u>after consultation among all the co-trustees</u> may act...”</p> <p>In subsection (c) adds: “...trustee’s function <u>and consult with the other co-trustees unless...</u>”</p> <p>Changes subsection (e) to read: “...performance of <u>any function other than a function that the terms of the trust expressly require</u> the trustees...”</p>	<p style="text-align: center;">X</p> <p>Adds new subsection (a.1): <u>When a dispute arises among trustees as to the exercise or nonexercise of any of their powers and there is no agreement by a majority of them, unless otherwise provided by the trust instrument, the court in its discretion, upon petition filed by any of the trustees or any party in interest, aided if necessary by the report of a master, may direct the exercise or nonexercise of the power as it deems necessary for the best interest of the trust.</u>”</p> <p>In subsection (c) replaces “other temporary incapacity” with “<u>other reason.</u>”</p> <p>In subsection (d) omits “...<i>because of absence, illness, disqualification under the law, or other temporary incapacity,</i> ...”</p> <p>In paragraphs (g)(1) and (g)(2) as well as subsection (h), “breach of the trust” is changed to “breach of the trust <u>involving fraud or self-dealing</u>” Where applicable, “serious” is dropped.</p> <p>Adds to subsection (h): <u>A dissenting trustee shall join the majority to carry out a majority decision requiring affirmative action and may be ordered to do so by the court.</u></p>
§704	<p style="text-align: center;">X</p> <p>Adds new paragraph (C)(2): <u>By a person appointed by someone designated in the</u></p>	<p style="text-align: center;">X</p> <p>Changes paragraph (1)(f) [UTC (a)(6)] to read: <u>A trustee is adjudicated to be</u></p>	<p style="text-align: center;">X</p> <p>Changes paragraph (c)(2) to read: “...of the <u>adult</u> qualified beneficiaries <u>and any</u></p>	<p style="text-align: center;">X</p> <p>Changes paragraph (a)(6) to read: “<u>a trustee is determined by the court to be</u></p>

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	<p><u>terms of the trust to appoint a successor trustee;</u></p> <p>Adds new paragraph (D)(2): <u>By a person appointed by someone designated in the terms of the trust to appoint a successor trustee;</u></p> <p>Omits the optional language from paragraph (D)(3) [UTC (d)(2)].</p>	<p><u>incapacitated.</u></p> <p>In paragraph (3)(a) [UTC (c)(1)] changes language to read: “By a person <u>named or designated pursuant</u> to the terms...”</p> <p>In paragraph (4)(a) [UTC (d)(1)] changes language to read: “By a person <u>named or designated pursuant</u> to the terms...”</p> <p>In paragraph (4)(b) [UTC (d)(2)] adds “..selected by <u>unanimous agreement of the ...</u>” and omits all language after “...terms of the trust.”</p> <p>Rearranges the phrasing of subsection (5) [UTC (e)] but retains the same language.</p>	<p><u>entity which is a qualified beneficiary; or”</u></p> <p>Adds new subsection (e): <u>A vacancy in a trusteeship of a trust that is both noncharitable and charitable and that is required to be filled must be filled in the following order of priority:</u> <u>(1) by a person designated in the terms of the trust to act as successor trustee;</u> <u>(2) by a person appointed by unanimous agreement of the adult qualified beneficiaries, any entity which is a qualified beneficiary and the charitable organizations expressly designated to receive distributions under the terms of the trust; or</u> <u>(3) by a person appointed by the court.</u></p> <p>Adds new subsection (f): <u>If a person is acting as the sole trustee of a trust and if there is no provision in the trust for a successor trustee; then the sole trustee and the adult qualified beneficiaries, by unanimous written agreement, may designate a successor trustee, which shall become trustee of the trust upon the vacancy in the trusteeship. The agreement may be recorded in the probate court or filed in the records of the trust.</u></p>	<p><u>incapacitated pursuant to section 5511 (relating to petition and hearing; independent evaluation).”</u></p> <p>Reverses the clauses in the first sentence of subsection (b) and adds: “...remain in office <u>and the trust instrument does not require that it be filled.</u>”</p> <p>In paragraph (c)(1) changes language to read: “...designated in <u>or pursuant to the provisions of the trust instrument</u> to act..”</p> <p>In paragraph (c)(2) adds “unanimous <u>written</u> agreement.”</p> <p>In paragraph (d)(1) changes language to read: “...designated in <u>or pursuant to the provisions of the trust instrument</u> to act..”</p> <p>In paragraph (d)(2) changes language to read: “...selected by <u>unanimous written agreement of the qualified beneficiaries</u> if the ...”</p> <p>Adds new subsection (f): <u>An appointment of a trustee and an acceptance of an appointment of a trustee may be filed with the clerk of court having jurisdiction over the trust.</u></p>
§705	<p>X</p> <p>In subsection (A) incorporates the paragraphs into the language of the subsection and adds “...notice to the qualified beneficiaries, <u>the settler, if living,</u> and all cotrustees...”</p>	<p>X</p> <p>Changes paragraph (1)(a) [UTC (a)(1)] to read: “...the qualified beneficiaries, <u>the settler, if living,</u> and all cotrustees”</p>	<p>X</p> <p>Changes paragraph (a)(1) to read: “...the qualified beneficiaries, <u>the settler, if living,</u> and all cotrustees”</p>	<p>X</p> <p>Omits the uniform section and replaces it with a section relating to Resignation unique to Pennsylvania.</p>
§706	<p>X</p> <p>Omits UTC paragraph (a)(4).</p>		<p>X</p> <p>Divides paragraph (a)(4) into</p>	<p>X</p> <p>In subsection (b) adds: “...trustee if <u>it</u></p>

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			subparagraphs (4)(A) through (C) but retains the same language.	<p><u>finds that removal of the trustee best serves the interests of the beneficiaries of the trust and is not inconsistent with a material purpose of the trust, a suitable cotrustee or successor trustee is available and;</u></p> <p>Changes paragraph (b)(3) to read as follows: <u>the trustee has not effectively administered the trust because of the trustee’s unfitness, unwillingness or persistent failures; or</u></p> <p>In paragraph (b)(4) omits all language after “change of circumstances.”</p> <p>Adds new subsection (d): <u>The procedure for removal and discharge of a trustee and the effect of removal and discharge shall be the same as that set forth in sections 3183 (relating to procedure for and effect of removal) and 3184 (relating to discharge of personal representative and surety).</u></p>
§707		<p style="text-align: center;">X</p> <p>Changes subsection (2) [UTC (b)] to read: “A trustee who has resigned or been removed shall <u>within a reasonable time</u> deliver the trust property within the trustee’s possession to the cotrustee, successor trustee, or other person entitled to <u>the property, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes. The provisions of this subsection are in addition to and are not in derogation of the rights of a removed or resigning trustee under the common law.</u></p>	<p style="text-align: center;">X</p> <p>In subsection (a) divides the language beginning “the duties of a trustee” into paragraphs (a)(1) and (a)(2).</p>	<p style="text-align: center;">X</p> <p>Slightly rearranges the language of subsection (a) but retains the same meaning.</p>
§708	X	X	X	X

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	Incorporates paragraphs (b)(1) and (b)(2) into subsection (b).	Adds new subsection(3): <u>If the trustee has rendered other services in connection with the administration of the trust, the trustee shall also be allowed reasonable compensation for the other services rendered in addition to reasonable compensation as trustee.</u>	<p>Changes subsection (b) to read: “...trustee’s compensation, <u>the trustee has entered into a written fee agreement with the settler, or the trustee has entered into a written fee agreement with the adult current permissible distributees of income and, in the event the trustee’s compensation is allocated to principal, the adult presumptive remainder beneficiaries of the trust, then the trustee is entitled to be compensated as specified in the applicable agreement, but the court...</u>”</p> <p>In paragraph (b)(1) adds: “...was created or when the <u>applicable agreement was executed.</u>”</p> <p>In paragraph (b)(2) adds: “...terms of the trust or the <u>applicable agreement</u> would be unreasonable...”</p> <p>Adds new subsection (c): <u>A trustee who invests in any common trust fund or other collective investment fund maintained by any regulated financial institution, or securities of, or other interests in any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, as from time to time amended, to which the trustee, or its affiliate, provides services such as investment advisor, sponsor, distributor, custodian, transfer agent, registrar, broker, or otherwise, may be compensated by the investment company or investment trust for providing those services out of fees charged to the investment company or to the investment trust or to the trust, if the trustee at least annually notifies the persons entitled under Section 19-3B-813(a) to receive a</u></p>	<p>Changes subsection (a): <u>If neither the trust instrument nor a separate written agreement signed by the settler or anyone who is authorized by the trust instrument to do so specifies the trustee’s compensation, the trustee is entitled to compensation that is reasonable under the circumstances. Neither a compensation provision in a trust instrument nor a fee agreement governs compensation payable from trust principal unless it explicitly so provides.</u></p> <p>Changes subsection (b) to read: <u>If a trust instrument or written fee agreement signed by the settler or anyone who is authorized by the trust instrument to do so specifies a trustee’s compensation, the trustee is entitled to the specified compensation. The court may allow reasonable compensation that is more or less than that specified if:</u></p> <p>Changes paragraph (b)(1) to read: “...of the trustee <u>have become</u> substantially...” and adds “...created or when the <u>fee agreement was executed.</u>”</p> <p>Changes paragraph (b)(2) to read: “...specified in the <u>trust instrument or fee agreement</u> would be unreasonable;”</p> <p>Adds new paragraph (b)(3): <u>the trustee performed extraordinary services, and the trust instrument or fee agreement does not specify the trustee’s compensation for those services.</u></p> <p>Adds new subsection (c): <u>None of the following shall bar a trustee’s entitlement to compensation from the income or principal of the trust:</u></p>

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			<p><u>copy of the trustee's annual report, prospectus, or other report, of the rate and method by which the compensation was determined.</u></p> <p>Adds new subsection (d): <u>Compensation paid to a business entity affiliated with the trustee shall be presumed to be reasonable if the compensation is consistent with the published fee schedule maintained by the affiliated business entity in the ordinary course of business.</u></p>	<p><u>(1) The trust is perpetual or for any other reason has not yet terminated.</u></p> <p><u>(2) The trustee's term of office has not yet ended.</u></p> <p><u>(3) The trustee of a testamentary trust also acted as a personal representative of the settler and was or might have been compensated for services as a personal representative from the principal of the settlor's estate.</u></p> <p>Adds new subsection (d): <u>In determining reasonable compensation, the court may consider, among other facts, the market value of the trust and may determine compensation as a fixed or graduated percentage of the trust's market value. The court may allow compensation from principal, income or both and determine the frequency with which compensation may be collected. Compensation at levels that arise in a competitive market shall be presumed to be reasonable in the absence of compelling evidence to the contrary.</u></p> <p>Adds new subsection (e): <u>The authority in this section to pay compensation from trust principal shall not apply to trusts created by cemetery lot owners as endowments for the endowed care and maintenance of burial or cemetery lots if the principal sum involved is less than \$20,000. Compensation shall be paid exclusively from the income of such trusts.</u></p>
§709	X In subsection (a) removes the division into paragraphs.	X In subsection (1) [UTC (a)] incorporates UTC paragraph (1), omits UTC paragraph (2), and adds: "...for <u>reasonable</u> expenses that..."	X In paragraph (a)(1) adds" ...of the trust, <u>including the defense or prosecution of any action, whether successful or not, unless the trustee is determined to have</u>	

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			<u>willfully or wantonly committed a material breach of the trust; and”</u>	
§801				
§802	<p style="text-align: center;">X</p> <p>In paragraph (B)(1) adds: “...by the terms of the trust <u>or by other provisions of the Revised Code.</u>”</p> <p>Omits UTC subsection (d).</p> <p>Changes subsection (E) [UTC (f)] to read: <u>An investment b a trustee that is permitted by other provisions of the Revised Code is not presumed to be affected by a conflict between personal and fiduciary interests of the investment otherwise complies with the prudent investor rule of Chapter 5809. of the Revised Code.</u></p> <p>In subsection (G) [UTC (h)] omits the language “...if fair to the beneficiaries”.</p> <p>Adds new paragraph (G)(2): <u>Unless the beneficiaries establish that it is unfair, any of the following:</u></p> <p>UTC paragraphs (h)(1)-(5) are moved to subparagraphs (G)(2)(a)-(e).</p> <p>Changes subparagraph (G)(2)(d) [UTC (h)(4)] to read: “...financial-services institution <u>that is an affiliate of the trustee.</u>”</p>	<p style="text-align: center;">X</p> <p>In subsection (1) [UTC (a)] adds “<u>As between a trustee and the beneficiaries, a trustee shall...</u>”</p> <p>Changes paragraph (2)(e) [UTC (b)(5)] to read: “...by the trustee <u>when that person had not become or contemplated becoming trustee...</u>”</p> <p>Adds new paragraph (2)(f): <u>The transaction was consented to in writing by a settler of the trust while the trust was revocable.</u></p> <p>In subsection (3) [UTC (c)] adds: “...interests if <u>the sale, encumbrance, or other transaction</u> is entered into...”</p> <p>In paragraph (3)(c) [UTC (c)(3)] adds: “<u>An officer, director, employee,</u> agent or attorney...”</p> <p>Changes subsection (4) [UTC (d)] to read: “A transaction <u>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.</u></p> <p>Replaces UTC subsection (f) with a language far too lengthy to reproduce here; the general focus of the new language is on the trustee’s rights and obligations with regards to investing trust</p>	<p style="text-align: center;">X</p> <p>Omits UTC subsection (d).</p> <p>Adds new subsection (e): <u>A trustee that is a regulated financial institution may engage in transactions with departments of the institution, with related affiliates of the institution, or other business entities of the institution. Transactions are not presumed to be affected by a conflict of interest between a trustee’s personal and fiduciary interests provided that the transaction and any investment made pursuant to the transaction otherwise complies with the Prudent Investor Rule of Article 9. Transactions may include, but not be limited to, the following:</u> <u>(1) investment by a trustee in securities of, or other interests in, any entity to which the trustee, or its affiliates, provides services, including, without limitation, any common trust fund or other collective investment fund maintained by any regulated financial institution, any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, as from time to time amended, (the “Investment Company Act”), or any entity that is exempt from the definition of investment company by Section 3(c) of the Investment Company Act;</u> <u>(2) an investment by a trustee in an insurance contract purchased from an insurance agency owned by or affiliated with the trustee or its affiliate;</u></p>	<p style="text-align: center;">X</p> <p>Changes subsection (b) to read: “...a sale, <u>purchase, exchange, encumbrance or other disposition of property between a trust and either the trustee in the trustee’s individual capacity or one of the persona identified in subsection (c) is voidable by a court upon application</u> by a ...”</p> <p>Changes subsection (c) to read: “A sale, <u>purchase, exchange, encumbrance or other disposition of property</u> is presumed...”</p> <p>Changes paragraph (c)(2) to read: “the trustee’s <u>parent or a spouse of the parent;</u>”</p> <p>Adds new paragraph (c)(3): <u>a descendant of the trustee’s parent or a spouse of the descendant;</u></p> <p>Changes paragraph (c)(4) [UTC (c)(3)] to read: “an agent <u>of the trustee unless the trustee is a corporation and the agent is an affiliate of the corporation or the transaction is authorized by section 7209 (relating to mutual funds);</u></p> <p>Adds to paragraph (c)(5) [UTC (c)(4)]: “...judgment, <u>but this paragraph does not apply to an affiliate of a corporate trustee or to a transaction authorized by section 7209; or</u>”</p> <p>Adds new paragraph (c)(6): <u>the trustee personally.</u></p>

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		<p>property.</p> <p>Adds new subsection (8): <u>This section does not preclude the employment of persons, including, but not limited to, attorneys, accountants, investment advisers, or agents, even if they are the trustee, an affiliate of the trustee, or otherwise associated with the trustee, to advise or assist the trustee in the exercise of any of the trustee’s powers and to pay reasonable compensation and costs incurred in connection with such employment from the assets of the trust; to act without independent investigation on their recommendations; and, instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.</u></p> <p>Adds new subsection (10): <u>Payment of costs or attorney’s fees incurred in any trust proceeding from the assets of the trust may be made by the trustee without the approval of any person and without court authorization, except that court authorization shall be required if an action has been filed or defense asserted against the trustee based upon a breach of trust. Court authorization is not required if the action or defense is later withdrawn or dismissed by the party that is alleging a breach of trust or resolved without a determination by the court that the trustee has committed a breach of trust.</u></p>	<p><u>(3) the placing of securities transactions by a trustee through a securities broker-dealer that is a part of the same company as the trustee, is owned by the trustee, or is affiliated with the trustee;</u></p> <p><u>(4) the borrowing of funds or entering into any lending relationship by a trustee with a related department or its affiliate company; and</u></p> <p><u>(5) the purchase of bonds for which the trustee in another capacity performed services as underwriter of the bonds or participates in the distribution of the bonds. If the trustee receives compensation for any transaction described in this subsection in addition to fees charged to the trust, or from the affiliate business entity, then the trustee must at least annually notify the persons entitled under Section 19-3B-813(a) to receive a copy of the trustee’s annual report, prospectus, or other report, of the rate and method by which the compensation was determined.</u></p> <p>In subsection (f) [UTC (g)] omits “<i>In voting shares of stock or in exercising powers of control over similar interests...</i>”</p> <p>Adds to paragraph (g)(5) [UTC (h)(5)]: “...of the trust and for any or all expenses, losses, and liabilities sustained in the administration of the trust or as a result of the holding or ownership of any asset by the trust.”</p>	<p>In subsection (d) adds: “...is voidable <u>by a court upon application</u> by the beneficiary...”</p> <p>Subsection (f) is omitted by the section number is reserved.</p> <p>In subsection (g) changes “enterprise” to “<u>business enterprise.</u>”</p> <p>Adds to paragraph (h)(2): “...to the trustee <u>and payment of reasonable compensation to affiliates of a corporate trustee if the compensation is disclosed to the current beneficiaries.</u>”</p> <p>Adds new paragraph (h)(6): <u>a transaction authorized by section 7209.</u></p> <p>Omits subsection (i) but reserves the section number.</p>
§803		X	X	X
		Changes this section to read: “...shall act impartially in <u>administering</u> the trust property...”	Adds: “...respective interests <u>and the purposes of the trust.</u> ”	Adds: “...respective interests <u>in light of the purposes of the trust. The duty to act impartially does not mean that the trustee</u>

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				<u>must treat the beneficiaries equally. Rather, the trustee must treat the beneficiaries equitably in light of the purposes of the trust.</u>
§804				
§805	X Changes this section to read: <u>Except as otherwise permitted by law</u> , in administering a trust, a trustee may incur only costs that are <u>appropriate and</u> reasonable in relation to the <u>assets</u> , the purposes...		X Omits the word “only” in the phrase “may incur <i>only</i> costs”	
§806				X Adds slightly: “...or expertise <u>relevant to a trust</u> or who...” and “...expertise <u>relevant to a trust</u> shall use those special skills or expertise <u>in the administration of the trust.</u> ”
§807	X Throughout this section, changes all references to the agent to the “agent, <u>cotrustee, or other fiduciary</u> ” In subsection (A) adds “ <u>In accordance with this division, a trustee shall exercise...</u> ” In subsection (D) adds: “...or to the trust for <u>the decisions or</u> actions of the agent...”		X In subsection (b) adds: “...reasonable care, <u>skill, and caution</u> to comply...”	X In paragraph (a)(3) changes language to read “ <u>reviewing periodically</u> the agent’s...” and adds: “...the <u>scope and specific</u> terms of the delegation.” Changes subsection (b) to read: <u>The agent shall comply with the scope and terms of the delegation and shall exercise the delegated duties and powers with reasonable care, skill and caution and shall be liable to the trust for failure to do so. An agent who represents having special skills or expertise shall use those special skills or that expertise.</u> Changes subsection (d): <u>An agent who accepts the delegation of duties or powers</u>

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				<p><u>from a trustee who is subject to the jurisdiction of a court of this Commonwealth shall be deemed to have submitted to the jurisdiction of that court even if the terms of the delegation provide for a different jurisdiction or venue.</u></p> <p>Adds new subsection (e): <u>A trustee may delegate duties and powers to another trustee if the delegating trustee reasonably believes that the other trustee has greater skills than the delegating trustee with respect to those duties and powers and the other trustee accepts the delegation. The delegating trustee shall not be responsible for the decisions, actions or inactions of the trustee to whom those duties and powers have been delegated if the delegating trustee has exercised reasonable care, skill and caution in establishing the scope and specific terms of the delegation and in reviewing periodically the performance of the trustee to whom the duties and powers have been delegated and that trustee's compliance with the scope and specific terms of the delegation.</u></p>
§808	<p>X</p> <p>Changes subsection (B) to read: <u>As provided in section 5815.25 of the Revised Code, a trustee is not liable for losses resulting from certain actions or failures to act when other persons are granted certain powers with respect to the administration of the trust.</u></p>	<p>X</p> <p>Changes subsection (1) [UTC (a)] to read: <u>Subject to ss. 736.0403(2) and 736.0602(3)(a), the trustee may follow a direction of the settler that is contrary to the terms of the trust while a trust is revocable.</u></p>		<p>X</p> <p>Throughout this section replaces “terms of the trust” with “<u>trust instrument.</u>”</p> <p>In subsection (a) adds: “<u>.follow a written direction...</u>”</p> <p>In subsection (d) adds: “<u>...to direct certain actions of a trustee is presumptively...</u>”</p>
§809				X

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				In subsection (c) adds: “...subsection (d) and section 3321 (relating to nominee registration; corporate fiduciary as agent; deposit of securities in a clearing corporation; book-entry securities), a trustee...”
§810	X Changes subsection (C) to read: Except as otherwise provided in <u>division (D) of this section and in section 2131.21 of the Revised Code</u> , a trustee <u>not subject to federal or state banking regulation</u> shall cause the trust...	X In subsection (1) [UTC (a)] replaces “adequate” with “ <u>clear, distinct, and accurate</u> ”.		
§811				X Adds: “Except as provided in section <u>7770 (relating to liability of successor trustee)</u> , a trustee shall take reasonable steps to enforce claims of the trust and to defend claims against the trust. <u>When one or several trustees is individually liable to the trust, the other trustee or trustees shall take any legal action against that trustee necessary to protect the trust.</u> ”
§812	X Changes this section to read: A trustee shall take reasonable steps to <u>collect trust property held by third persons</u> . The responsibility of a successor trustee with respect to the administration of the trust <u>by a prior trustee shall be governed by section 5815.24 of the Revised Code</u> .	X Adds: “...to the trustee and, <u>except as provided in s.736.08125</u> , to redress...”		X Omits this section.
§813	X Replaces “qualified” in subsection (A)	X Moves and shortens the language of UTC	X Changes subsection (a) to read: “ <u>Except</u>	X Omits UTC §813, but replaces it with a

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	<p>with “current.”</p> <p>Adds to paragraph (B)(1): <u>If the settler of a revocable trust that has become irrevocable has completely restated the terms of the trust, the trust instrument furnished by the trustee shall be the restated trust instrument, including any amendments to the restated trust instrument. Nothing in division (B)(1) of this section limits the ability of a beneficiary to obtain a copy of the original trust instrument, any other restatements of the original trust instrument, or amendments to the original trust instrument and any other restatements of the original trust instrument in a judicial proceeding with respect to the trust.</u></p> <p>In subsection (C) changes the language to read: “A trustee shall send to the <u>current beneficiaries, and to other beneficiaries who request it</u>, at least annually...” and later “...a report <u>for the period during which the former trustee served</u> must be sent to the <u>current</u> beneficiaries...”</p> <p>Adds new subsection (E): <u>The trustee may provide information and reports to beneficiaries to whom the provided information and reports are not required to be provided under this section.</u></p> <p>In subsection (F) changes “before” to “on or after” in all cases.</p>	<p>subsection (a) into an introductory paragraph reading: “The trustee shall keep the qualified beneficiaries of the trust reasonably informed of the trust and <u>its administration.</u>”</p> <p>UTC subsection (b) becomes subsection (1) and is expanded to read: “<u>The trustee’s duty to inform and account includes, but is not limited to, the following:</u>”</p> <p>Paragraph (b)(1) is omitted.</p> <p>UTC paragraph (b)(2) becomes paragraph (1)(a) and is reworded to: “Within 60 days after <u>acceptance of the trust, the trustee shall give notice to the qualified beneficiaries of the acceptance of the trust and the full name and address of the trustee.</u>”</p> <p>Paragraph (b)(3) becomes (1)(b) and is changed to read: “...a copy of the trust instrument, and the right to <u>accountings under this section.</u>”</p> <p>Adds new paragraph (1)(c): <u>Upon reasonable request, the trustee shall provide a qualified beneficiary with a complete copy of the trust instrument.</u></p> <p>UTC subsection (c) is shortened and changed to read: <u>A trustee of an irrevocable trust shall provide a trust accounting, as set forth in s. 736.08135, to each qualified beneficiary annually and on termination of the trust or on change of the trustee.</u></p> <p>Adds new subsection (e): <u>Upon reasonable request, the trustee shall</u></p>	<p><u>as otherwise provided in Section 19-3B-603, the following rules apply:</u>”</p> <p>UTC subsection (a) is divided into paragraphs (a)(1) and (a)(2). In (a)(1) the language is changed to read: “...shall keep the <u>current permissible distributives of income or principal of the trust</u> reasonably informed...” and in paragraph (a)(2) “<u>qualified</u>” is added before beneficiary.</p> <p>Paragraph (b)(3) is changed to read: “within 60 days after <u>accepting the trusteeship of an irrevocable trust, or the date the trustee acquires knowledge...</u>” and adds at the end: “...<u>except no notice shall be required to be given to any beneficiary of a split interest charitable trust whose interest is not irrevocable until that beneficiary’s interest becomes that of a current permissible distributee;</u> and”</p> <p>In paragraph (b)(4) replaces “qualified beneficiaries” with “<u>permissible distributives of income or principal of the trust.</u>”</p> <p>In subsection (c) omits “<i>and at the termination of the trust</i>” from the first sentence and adds: “...respective market values, and, <u>upon termination of the trust, a final report commencing with the date of the most recent annual report through the last transaction of the trust.</u>”</p> <p>Flips the structure of subsection (e), replacing “do not apply” with “shall apply only” and replacing “before” with “on or after.” The meaning remains the same.</p>	<p>similar section on the Duty to Inform and Report unique to Pennsylvania. Found at §7780.3.</p>

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		<p><u>provide a qualified beneficiary with relevant information about the assets and liabilities of the trust and the particulars relating to administration.</u></p> <p>Adds an unnumbered paragraph similar to UTC subsection (e) reading: <u>Paragraphs (a) and (b) do not apply to an irrevocable trust created before the effective date of this code, or to a revocable trust that becomes irrevocable before the effective date of this code. Paragraph (a) does not apply to a trustee who accepts a trusteeship before the effective date of this code.</u></p> <p>Adds new subsection (2): <u>A qualified beneficiary may waive the trustee's duty to account under paragraph (1)(d). A qualified beneficiary may withdraw a waiver previously given. Waivers and withdrawals of prior waivers under this subsection must be in writing. Withdrawals of prior waivers are effective only with respect to accountings for future periods.</u></p> <p>Adds new subsection (3): <u>The representation provisions of part III apply with respect to all rights of a qualified beneficiary under this section.</u></p> <p>Adds new subsection (4): <u>As provided in s. 736.0603(1), the trustee's duties under this section extend only to the settler while a trust is revocable.</u></p> <p>Adds new subsection (5): <u>This section applies to trust accountings rendered for accounting periods beginning on or after January 1, 2008.</u></p>		

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§814	<p style="text-align: center;">X</p> <p>Changes subsection (A) to read: <u>The judicial standard of review for discretionary trusts is that the trustee shall exercise a discretionary power reasonably, in good faith, and in accordance with the terms and purposes of the trust and the interests of the beneficiaries, except that a reasonableness standard shall not be applied to the exercise of discretion by the trustee of a wholly discretionary trust. The greater the grant of discretion by the settler to the trustee, the broader the range of permissible conduct by the trustee in exercising it.</u></p> <p>In paragraphs (D)(1) and (D)(3) omits language after “Internal Revenue Code.”</p>	<p style="text-align: center;">X</p> <p>Adds to subsection (1) [UTC (a)]: <u>A court shall not determine that a trustee abused its discretion merely because the court would have exercised the discretion in a different manner or would not have exercised the discretion.</u></p> <p>Adds to subsection (2) [UTC (b)]: “...subsection does not apply, a person who is a beneficiary and a trustee may not.”</p> <p>UTC paragraph (b)(1) is omitted, though new paragraphs (2)(a) and (b) are somewhat similar.</p> <p>New paragraph (2)(a): <u>Make discretionary distributions of either principal or income to or for the benefit of that trustee, except to provide for that trustee’s health, education, maintenance, or support as described under ss. 2041 and 2514 of the Internal Revenue Code.</u></p> <p>New paragraph (2)(b) reads: <u>Make discretionary allocations of receipts or expenses between principal and income, unless the trustee acts in a fiduciary capacity whereby the trustee has no power to enlarge or shift any beneficial interest except as an incidental consequence of the discharge of the trustee’s fiduciary duties;</u></p> <p>Changes paragraph (2)(c) [UTC (b)(2)] to read: <u>Make discretionary distributions of either rprincipal or income to satisfy any of the trustee’s legal support obligations; or;</u></p>		<p style="text-align: center;">X</p> <p>Replaces the UTC language with the following: <u>The trustee shall exercise a discretionary power in good faith and in accordance with the provisions and purposes of the trust and the interests of the beneficiaries, notwithstanding the breadth of discretion granted to a trustee in the trust instrument, including the use of such terms as “absolute,” “sole” or “uncontrolled.”</u></p>

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		<p>Adds new paragraph (2)(d): <u>Exercise any other power, including, but not limited to, the right to remove or to replace any trustee, so as to cause the powers enumerated in paragraph (a), paragraph (b), or paragraph (c) to be exercised on behalf of, or for the benefit of, a beneficiary who is also a trustee.</u></p> <p>Adds new paragraph (3)(a): <u>A power held by the settler of the trust;</u></p> <p>UTC paragraphs (c)(1) through (c)(3) are renumbered (3)(b) through (3)(d).</p> <p>Adds new subsection (4): <u>A power whose exercise is limited or prohibited by subsection (2) may be exercised by the remaining trustees whose exercise of the power is not so limited or prohibited. If there is no trustee qualified to exercise the power, on petition by any qualified beneficiary, the court may appoint an independent trustee with authority to exercise the power.</u></p> <p>Adds new subsection (5): <u>A person who has the right to remove or to replace a trustee does not possess nor may that person be deemed to possess, by virtue of having that right, the powers of the trustee that is subject to removal or to replacement.</u></p>		
§815	<p style="text-align: center;">X</p> <p>Merges subsection (A) and paragraphs (A)(1) and (A)(2), and moves subparagraphs thereunder to subsections (A)(1) et. seq.</p>	<p style="text-align: center;">X</p> <p>Adds to subsection (1) [UTC (a)]: “...may, <u>except as limited or restricted by this code, exercise:</u>”</p>		<p style="text-align: center;">X</p> <p>Changes subsection (a) to read: <u>Except as otherwise provided in the trust instrument or in other provisions of this title, a trustee has all the powers over the trust property that an unmarried competent owner has over individually owned</u></p>

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				<u>property and may exercise those powers without court approval from the time of creation of the trust until final distribution of the assets of the trust.</u>
§816	<p style="text-align: center;">X</p> <p>Changes subsection (Q) [UTC (17)] to read: “...to the trustee, exercise rights <u>under any employee benefit or retirement plan, annuity, or life insurance policy payable to the trustee</u>, including the right to...”</p> <p>Changes subsection (S) [UTC (19)] to read: “Pledge the property <u>of a revocable trust</u> to guarantee loans made by others to the <u>settler of the revocable trust</u>, or if the settler so directs, to <u>guarantee loans made by others to a third party.</u>”</p> <p>Changes paragraph (U)(2) [UTC (21)(b)] to read: “...to the beneficiary’s custodian under <u>sections 5814.01 to 5814.09 of the Revised code</u> and, for that purpose...”</p>	<p style="text-align: center;">X</p> <p>Changes the introductory language to read: <u>Except as limited or restricted by this code</u>, a trustee may:</p> <p>Expands subsection (1): “...from a settler, <u>including an asset in which the trustee is personally interested, and hold property in the name of a nominee or in other form without disclosure of the trust so that title to the property may pass by delivery but the trustee is liable for any act of the nominee in connection with the property so held.</u></p> <p>Adds new subsection (3): <u>Acquire an undivided interest in a trust asset, including, but not limited to, a money market mutual fund, mutual fund, or common trust fund, in which asset the trustee holds an undivided interest in any trust capacity, including any money market or other mutual fund from which the trustee or any affiliate or associate of the trustee is entitled to receive reasonable compensation for providing necessary services as an investment adviser, portfolio manager, or servicing agent. A trustee or affiliate or associate of the trustee may receive compensation for such services in addition to fees received for administering the trust provided such compensation is fully disclosed in writing to all qualified beneficiaries.</u></p>	<p style="text-align: center;">X</p> <p>In paragraph (a)(1) adds: “...person, <u>including, but not limited to, the authority to receive, collect, hold, and retain common or preferred stock or other interests in the trustee or any related party.</u>”</p> <p>Changes subsection (13) to read: “with respect to <u>environmental law</u>, exercise those powers <u>granted a fiduciary by applicable law.</u>”</p> <p>Adds to subparagraph (a)(21)(D): “...<u>and the trustee shall not be under any duty to see to the application of the payment so made if the trustee acted as a prudent person in the selection of the person, including the minor or incompetent, to whom the payments were made; and the receipt of the person shall be full acquittance to the trustee.</u>”</p> <p>Adds to paragraphs (a)(23) and (24): “...<u>and to employ counsel, expert witnesses, or other agents</u>”</p> <p>Adds new paragraph (27): <u>create or join in the creation of a joint venture, 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</u></p>	<p style="text-align: center;">X</p> <p>Omits this section, but replaces it with a section on “Illustrative Powers of Trustee.” §7780.6. The Pennsylvania section is similar to UTC §816, including picking up UTC subsection §816(13) in its entirety, but also covers additional duties not listed under the UTC.</p>

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		<p>In subsection (6) [UTC (5)] adds: “..of the trust <u>and advance money for protection of the trust.</u>”</p> <p>Omits UTC subsection (13).</p> <p>Adds new subsection (16): <u>Allocate items of income or expense to trust income or principal, as provided by law.</u></p> <p>Omits UTC subsections (19) and (20).</p> <p>Adds new subsection (20): <u>Employ persons, including, but not limited to, attorneys, accountants, investment advisers, or agents, even if they are the trustee, an affiliate of the trustee, or otherwise associated with the trustee, to advise or assist the trustee in the exercise of any of the trustee’s powers and pay reasonable compensation and costs incurred in connection with such employment from the assets of the trust and act without independent investigation on the recommendations of such persons.</u></p> <p>Throughout subsection (21) replaces the general “it” with “<u>the amount</u>” as well as making other standard substitutions for guardian and conservator.</p> <p>Rephrases paragraph (21)(c) using the same language.</p> <p>Omits UTC subsection (23).</p> <p>Adds to subsection (23) [UTC (24)]: “Prosecute or defend, <u>including appeals</u>, an action...”</p> <p>Adds to subsection (25) [UTC (26)]: “...entitled to <u>the property, subject to the</u></p>	<p><u>changing the form of business organization or contributing additional capital;</u></p> <p>Adds new paragraph (28): <u>employ and compensate persons deemed by the trustee needful to advise or assist in the proper management and administration of the trust, including, but not limited to, agents, auditors, including public accountants, certified public accountants or internal auditors, brokers, attorneys-at-law, attorneys-in-fact, investment bankers, investment advisors, rental agents, realtors, appraisers, and tax specialists, including any related party, so long as the relationship and the fees charged are reasonable and disclosed in any reasonable manner to the current beneficiaries; and to do so without liability for any neglect, omission, misconduct, or default of the agent or representative, provided the trustee acted as a prudent person in selecting and monitoring the agent or representative. For purposes of the immediately preceding sentence, compensation charged by or paid to an affiliated business entity shall be presumed to be reasonable if the compensation is consistent with the published fee schedule maintained by the affiliated business entity in the ordinary course of business;</u></p> <p>Adds new paragraph (29): <u>pay any and all expenses reasonably necessary for the administration of the trust including interest, taxes, insurance premiums, assessments, agents’ fees or compensation, trustees’ fees or compensation, including additional fees for extraordinary services and fees to</u></p>	

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		<u>right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.”</u>	<u>related parties, and other expenses incurred in the collection, care, administration, and protection of the trust estate; and</u> Adds new paragraph (30): <u>in addition to the investments authorized by the document or any provision of law for the investment of funds held by a trustee, the trustee may invest in and hold (i) interests, however evidenced, in any common trust fund or other collective investment fund maintained by any national or state chartered bank or trust company having trust powers or (ii) securities of or other interests in any open-end or closed-end management type investment company or investment trust so long as the portfolio of such common trust fund, collective investment fund, or investment company or investment trust consists of investments authorized with respect to the trustee.</u> Adds new subsection (b): <u>Nothing contained in this section, insofar as such authorization may be prohibited by the Constitution of Alabama of 1901, shall authorize the investment of trust assets in the stock of any private corporation.</u>	
§817	X Collapses paragraphs (C)(1) and (2) into the main subsection (C).	X Omits UTC subsections (a) and (c). Adds to the section: <u>The provisions of this section are in addition to and are not in derogation of the rights of a trustee under the common law with respect to final distribution of a trust.</u>	X Changes paragraph (c)(2) to read: “...not know of <u>the material facts relating to the alleged breach and the trustee had actual knowledge of the facts relating...</u> ”	X Changes this section to read: <u>Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed to distribute the trust property within a reasonable time 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.</u>

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§1001		<p style="text-align: center;">X</p> <p>Adds new subsection (3): <u>As an illustration of the remedies available to the court and without limiting the court’s discretion as provided in subsection (2), if a breach of trust results in the favoring of any beneficiary to the detriment of any other beneficiary or consists of an abuse of the trustee’s discretion:</u> <u>(a) To the extent the breach of trust has resulted in no distribution to a beneficiary or a distribution that is too small, the court may require the trustee to pay from the trust to the beneficiary an amount the court determines will restore the beneficiary, in whole or in part, to his or her appropriate position.</u> <u>(b) To the extent the breach of trust has resulted in a distribution to a beneficiary that is too large, the court may restore the beneficiaries, the trust, or both, in whole or in part, to their appropriate positions by requiring the trustee to withhold an amount from one or more future distributions to the beneficiary who received the distribution that was too large or by requiring that beneficiary to return some or all of the distribution to the trust.</u></p>		<p style="text-align: center;">X</p> <p>In subsection (b) adds: “...the court may order any appropriate relief, including the following:”</p> <p>Changes the grammar of paragraphs under (b) slightly (e.g. “compel” to “compelling”).</p> <p>Changes paragraph (b)(5) to read: “<u>Taking any action authorized by Chapter 43 (relating to temporary fiduciaries).</u>”</p> <p>Omits paragraph (b)(6) but reserves the paragraph number.</p> <p>Breaks paragraph (b)(9) into subparagraphs (b)(9)(i) through (iii).</p> <p>Omits paragraph (b)(10) but reserves the paragraph number.</p>
§1002		<p style="text-align: center;">X</p> <p>In subsection (1) [UTC (a)] omits “...to the beneficiaries affected...”</p> <p>In paragraph (1)(a) [UTC (a)(1)] adds: “...not occurred, <u>including lost income, capital gain, or appreciation that would have resulted from proper administration;</u></p>	<p style="text-align: center;">X</p> <p>In subsection (a) omits “...<i>the greater of</i>”</p> <p>Adds new paragraph (a)(1): “<u>the greater of:</u>” and moves UTC (a)(1) and (a)(2) to subparagraphs (a)(1)(i) and (a)(1)(ii).</p> <p>Adds new paragraph (a)(2): <u>Any measure</u></p>	<p style="text-align: center;">X</p> <p>In subsection (a) omits “...<i>for the greater of</i>” and paragraphs (a)(1) and (2).</p> <p>Reformats subsection (b) into paragraphs and subparagraphs but uses identical language.</p>

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		<p>or”</p> <p>In subsection (2) [UTC (b)] all occurrences of “trustee” are replaced with “person” and the following language changes are made: “...if more than one <u>person, including a trustee or trustees, is</u> liable to the beneficiaries for a breach of trust, <u>each liable person</u> is entitled to <u>pro rata</u> contribution...” and “...contribution if the <u>person committed the breach of trust in bad faith.</u> A <u>person</u> who...”</p> <p>Adds subsection (3): <u>In determining the pro rata shares of liable persons in the entire liability for a breach of trust:</u></p> <p><u>(a) Their relative degrees of fault shall be the basis for allocation of liability.</u></p> <p><u>(b) If equity requires, the collective liability of some as a group shall constitute a single share.</u></p> <p><u>(c) Principles of equity applicable to contribution generally shall apply.</u></p> <p>Adds new subsection (4): <u>The right of contribution shall be enforced as follows:</u></p> <p><u>(a) Contribution may be enforced by separate action, whether or not judgment has been entered in an action against two or more liable persons for the same breach of trust,</u></p> <p><u>(b) When a judgment has been entered in an action against two or more liable persons for the same breach of trust, contribution may be enforced in that action by judgment in favor of one judgment defendant against any other judgment defendants by motion upon notice to all parties to the action.</u></p> <p><u>(c) If there is a judgment for breach of trust against the liable person seeking contribution, any separate action by that</u></p>	<p><u>of damage otherwise provided by law.</u></p>	

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		<p><u>person to enforce contribution must be commenced within 1 year after the judgment has become final by lapse of time for appeal or after appellate review.</u></p> <p><u>(d) If there is no judgment for the breach of trust against the liable person seeking contribution the person's right of contribution is barred unless the person has:</u></p> <p><u>1. Discharged by payment the common liability within the period of the statute of limitations applicable to the beneficiary's right of action against the liable person and the person has commenced an action for contribution within 1 year after payment, or</u></p> <p><u>2. Agreed, while action is pending against the liable person, to discharge the common liability and has within 1 year after the agreement paid the liability and commenced the person's action for contribution.</u></p> <p>Adds new subsection (5): <u>The beneficiary's recovery of a judgment for breach of trust against one liable person does not of itself discharge other liable persons from liability for the breach of trust unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.</u></p> <p>Adds new subsection (6): <u>The judgment of the court in determining the liability of several defendants to the beneficiary for breach of trust is binding upon such defendants in determining the right of such defendants to contribution.</u></p> <p>Adds new subsection (7): <u>Subsection (2) applies to all causes of action for breach of trust pending on July 1, 2007, under</u></p>		

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		<u>which causes of action the right of contribution among persons jointly and severally liable is involved and to all causes of action filed after July 1, 2007.</u>		
§1003	X Moves “Absent a breach of trust” to the beginning of subsection (A).	X Omits UTC subsection (a).		X In subsection (a) adds: “...any profit, <u>excluding reasonable compensation, made by...</u> ”
§1004	X Adds “...of a trust, <u>including a trust that contains a spendthrift provision, the court...</u> ” and later “...subject of the controversy, <u>or from a party’s interest in the trust that is the subject of the controversy.</u> ”	X Replaces this section with the following: <u>(1)(a) In all actions for breach of fiduciary duty or challenging the exercise of, or failure to exercise, a trustee’s powers; and</u> <u>(b) In proceedings arising under ss. 736.0410-736.0417, the court shall award taxable costs as in chancery actions, including attorney fees and guardian ad litem fees.</u> <u>(2) When awarding taxable costs under this section, including attorney fees and guardian ad litem fees, the court in its discretion may direct payment from a party’s interest, if any, in the trust or enter a judgment that may be satisfied from other property of the party, or both.</u>	X Omits this section.	X Omits this section.
§1005	X In subsection (A) changes the time limit to two years, adds references to “beneficiary surrogate” in addition to beneficiary and beneficiary representative, and adds at the end “...allowed for commencing a proceeding <u>against a trustee.</u> ” In subsection (C) adds “...does not apply.”	X This section is moved to ss. 736.1008. Though the UTC version and the Florida version share similar meanings, the language of the Florida section is entirely different. In addition, it makes several references to Chapter 95 of the Florida Code.	X In subsection (a) changes “one” year to “ <u>two</u> ” years and omits: “... <i>and informed the beneficiary of the time allowed for commencing a proceeding.</i> ” In subsection (c) changes “five” years to “ <u>two</u> ” years.	X Omits the UTC version of this section, but replaces it with similar language unique to Pennsylvania. §7785.

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	<p><u>not withstanding section 2305.09 of the Revised Code</u>, a judicial proceeding...” and changes the time limitation from five years to four years.</p> <p>Adds new paragraph (C)(4): <u>The time at which the beneficiary knew or should have known of the breach of trust.</u></p>			
§1006		[736.1009]		<p>X</p> <p>Changes language to read: “...reliance on the <u>express provisions of the trust instrument</u> is not liable...”</p>
§1007		[736.1010]		<p>X</p> <p>Adds: “...educational requirements, <u>attaining a specific age or death</u>...”</p>
§1008	<p>X</p> <p>Omits UTC subsection (b) and combines the paragraphs under (a) into a single section.</p>	<p>X</p> <p>[736.1011]</p> <p>In subsection (2) [UTC (b)] adds: “...communicated <u>directly</u> to the settler.”</p>	<p>X</p> <p>Adds: “<u>Except for terms intended to provide protection for carrying out a stated trust purpose</u>, an exculpatory...”</p>	<p>X</p> <p>In subsection (a) changes “term of a trust” to “<u>provision of a trust instrument</u>.”</p>
§1009	<p>X</p> <p>Combines all subsections into a single section and omits the language “while having capacity” from the first sentence.</p>	<p>X</p> <p>[736.1012]</p> <p>In the introductory paragraph omits “<i>while having capacity</i>”.</p>	<p>X</p> <p>In the introductory paragraph omits “<i>while having capacity</i>”.</p> <p>Changes subsection (2) to read: “...did not know of the <u>material facts relating to the alleged breach and the trustee had actual knowledge of the facts relating to the alleged breach</u>.”</p>	<p>X</p> <p>Combines the introductory paragraph with subsection (1), omits the language “<i>while having capacity</i>”, and omits subsection (2).</p>
§1010	<p>X</p> <p>In subsection (A) adds “...in the contract,</p>	<p>X</p> <p>[736.1013]</p>	<p>X</p> <p>In subsection (b) adds: “...only if the</p>	

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	for contracts entered into on or after March 22, 1984, a trustee...” and later adds: <u>The words “trustee,” “as trustee,” “fiduciary,” or “as fiduciary,” or other words that indicate one’s trustee capacity, following the name or signature of a trustee are sufficient disclosure for purposes of this division.</u>	In subsection (2) [UTC (b)] omits <i>“including liability for violation of environmental law.”</i> Adds new subsection (4): <u>Issues of liability between the trust estate and the trustee individually may be determined in a proceeding for accounting, surcharge, or indemnification or in any other appropriate proceeding.</u>	trustee, <u>the trustee’s employee, or the trustee’s agent</u> is personally at fault.”	
§1011 (optional section)	X In subsection (a) the uniform language is moved to (A)(1) and ends with “...capacity was disclosed.” Adds: <u>A partnership certificate that is filed pursuant to Chapter 1777, or another chapter of the Revised Code and that indicates that a trustee holds a general partnership interest in a fiduciary capacity by the use following the name or signature of the trustee of the words “as trustee” or other words that indicate the trustee’s fiduciary capacity constitutes a sufficient disclosure for purposes of this division.</u> Adds new paragraph (A)(2): <u>If a partnership certificate is not required to be filed pursuant to Chapter 1777, or another chapter of the Revised Code, a sufficient disclosure for purposes of division (A) of this section can be made by a trustee if a certificate that is filed with the recorder of the country in which the partnership’s principal office or place of business is situated and with the recorder of each county in which the partnership owns real estate satisfies all of the following requirements:</u>	X [736.1015] In subsection (1) and (2) [UTC (a) and (b)] omits <i>“Except as otherwise provided in subsection (c), or...”</i> Omits UTC subsection (c).		X Divides subsection (c) into paragraphs (1) through (3) using mostly the same language. Changes paragraph (c)(3) to read: “the trustee’s descendant, sibling or parent or the spouse of <u>a descendant, sibling or parent.</u> ”

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	<p><u>(a) The certificate states in full the names of all persons holding interests in the partnership and their places of residence.</u></p> <p><u>(b) The certificate is signed by all persons who are general partners in the partnership and is acknowledged by a person authorized to make acknowledgments of deeds.</u></p> <p><u>(c) The certificate uses the words “trustee under the (will or trust) of (name of decedent or settler),” or other words that indicate the trustee’s fiduciary capacity, following the trustee’s name or signature.</u></p> <p><u>(3) A contract or other written instrument that is delivered to a party that contracts with the partnership in which a trustee holds a general partnership interest in a fiduciary capacity and that indicates that the trustee so holds the interest constitutes a disclosure for purposes of division (A)(1) of this section with respect to transactions between the party and the partnership. IF a disclosure has been made by a certificate in accordance with division (A) of this section, a disclosure for purposes of division (A) of this section with respect to such transactions exists regardless of whether a contract or other instrument indicates the trustee holds the general partnership in a fiduciary capacity.</u></p>			
§1012	<p style="text-align: center;">X</p> <p>Changes subsection (B) to read: <u>Any trustee may sign or otherwise authenticate a certification of trust.</u></p>	[736.1016]		<p style="text-align: center;">X</p> <p>Omits UTC subsections (a) and (c) but reserves the section numbers.</p> <p>Adds new subsection (a.1): <u>Unless a person assisting or dealing with a trustee</u></p>

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				<p><u>has actual knowledge that the trustee is committing a breach of trust or has knowledge of such facts that the trustee's conduct amounts to bad faith, the person:</u></p> <p><u>(1) may assume without inquiry the existence of trust powers and their proper exercise by the trustee;</u></p> <p><u>(2) is not bound to inquire whether the trustee has power to act or is properly exercising the power; and</u></p> <p><u>(3) is fully protected in dealing with the trustee as if the trustee possessand properly exercised the powers the trustee purports to exercise.</u></p> <p>Adds new subsection (c.1): <u>A trustee's act may not be set aside or not specifically enforced because the trustee's act was not authorized by section 7780.5 (relating to powers of trustees – UTC 815) or 77080.6 (relating to illustrative powers of trustee) or because the trustee's act was authorized by the authority was improperly exercised. A court's power to set aside a transaction for fraud, accident, mistake or self-dealing is unaffected by this subsection.</u></p>
§1013		<p>X</p> <p>[736.1017]</p> <p>Omits UTC paragraph (a)(7).</p> <p>Omits UTC subsection (h).</p> <p>In subsection (8) [UTC (i)] adds: "...the trust instrument <u>when required to be furnished by law or in a judicial...</u>"</p>	<p>X</p> <p>In paragraph (a)(4) adds: "...of the trustee <u>in a pending transaction or relevant to the request</u>"</p> <p>Changes paragraph (a)(8) to read: "<u>the name in which title to trust property may be taken.</u>"</p>	<p>X</p> <p>In subsection (f) changes language to read: "...contained <u>in the certification</u> are incorrect..." and "<u>Knowledge of the provisions of the trust instrument</u> may not..."</p>
§1101		X	[Note: UTC Article 11 is moved to Alabama Article 12]	X

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		Omits this section.		Omits this section.
§1102				X Omits this section.
§1103	X Omits this section.			X Omits this section.
§1104	X Omits this section.	X Omits this section.	X Omits this section.	X Omits this section.
§1105	X Omits this section.	X Omits this section.	X Omits this section.	X Omits this section.
§1106				X Omits this section.
Sections unique to state	<p>Sec. 5804.18 [418]: <u>A trust described in 42 USC 1396p(d)(4) is irrevocable if the terms of the trust prohibit the settlor from revoking it, whether or not the settlor's estate or the settlor's heirs are named as the remainder beneficiary or beneficiaries of the trust upon the settlor's death.</u></p> <p><u>Sec. 5805.03. Notwithstanding anything to the contrary in division B of section 5805.02 of the Revised Code, no creditor or assignee of a beneficiary of a wholly discretionary trust may reach the beneficiary's interest in the trust, or a distribution by the trustee before its receipt by the beneficiary, whether by attachment of present or future distributions to or for the benefit of the beneficiary, by judicial sale, by obtaining an order compelling the trustee to make</u></p>	<p>736.0112. Qualification of foreign trustee.</p> <p>736.0205. Trust Proceedings; dismissal of matters relating to foreign trusts.</p> <p>736.0206. Proceedings for review of employment of agents and review of compensation of trustee and employees of trust.</p> <p>736.0207. Trust contests.</p> <p>736.0306. Designated representative</p> <p>736.04113. Judicial modification of irrevocable trust when modification is not inconsistent with settlor's purpose</p> <p>736.04115. Judicial modification of irrevocable trust when modification is in</p>	<p>§19-3B-205. Judicial accountings and settlements</p> <p>§19-3B-508. Qualified trusts under the Internal Revenue Code.</p> <p>§19-3B-818. Life insurance policies held by trustee.</p> <p>§19-3B-1101. Protection of Special Needs Trusts and Other Similar Trusts for Disabled Persons. (Note: this is the only section in Alabama's Article 11).</p>	<p>§7721. Scope; definitions of trust matter</p> <p>§7722. Representation of parties in interest in general.</p> <p>§7723. Representatives and persons represented.</p> <p>§7724. Appointment of representative.</p> <p>§7725. Notice of representative.</p> <p>§7726. Representation ineffective if person objects.</p> <p>§7740.8. Combination of Trusts.</p> <p>§7770. Liability of successor trustee.</p> <p>All sections under Article 11 [Penn.</p>

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	<p data-bbox="505 224 964 342"><u>distributions from the trust, or by any other means, regardless of whether the trust instrument includes a spendthrift provision.</u></p> <p data-bbox="505 375 610 402">§5805.05</p>	<p data-bbox="986 224 1292 251">best interest of beneficiaries.</p> <p data-bbox="986 284 1381 370">736.05053. Trustee’s duty to pay expenses and obligations of settlor’s estate.</p> <p data-bbox="986 402 1274 430">736.05055. Notice of trust.</p> <p data-bbox="986 462 1427 526">736.08105. Duty to ascertain marketable title of trust real property.</p> <p data-bbox="986 558 1365 613">736.08125. Protection of successor trustees.</p> <p data-bbox="986 646 1306 673">736.08135. Trust accountings</p> <p data-bbox="986 706 1360 769">736.08147. Duty to distribute trust income.</p> <p data-bbox="986 802 1435 920">736.08163. Powers of trustees relating to environmental or human health laws or to trust property contaminated with hazardous or toxic substances; liability.</p> <p data-bbox="986 953 1413 1016">736.08165. Administration pending outcome of contest or other proceeding.</p> <p data-bbox="986 1049 1424 1102">736.1005. Attorney’s fees for services to the trust</p> <p data-bbox="986 1135 1378 1162">736.1006. Costs in trust proceedings</p> <p data-bbox="986 1195 1365 1222">736.1007. Trustee’s attorney’s fees</p> <p data-bbox="986 1255 1424 1310">736.1014. Limitations on actions against certain trusts</p> <p data-bbox="986 1343 1360 1406">736.1018. Improper distribution or payment; liability of distributee.</p> <p data-bbox="986 1438 1360 1466">Article XI – Rules of Construction</p>		<p data-bbox="1948 224 2395 310">Subchapter JJ are omitted, though the subchapter remains titled “Miscellaneous Provisions.” All new sections are added.</p>

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		Article XII – Charitable Trusts		
Last Revised:	August 9, 2006	May 10, 2006	May 16, 2006	August 9, 2006