



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1795

Introduced 2/17/2021, by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Trust Code. Moves the definitions of "appointive property" and "permissible appointee" from the Trust Decanting Article and the Uniform Powers of Appointment Law to the definitions Section for the entire Code. Makes changes in provisions concerning: definitions; default and mandatory rules; governing law; nonjudicial settlement agreements; representation; representation by holders of certain powers; trust creation; trusts created in other jurisdictions; trusts for domestic animals; modifications to achieve settlor's objectives; creditor claims; revocation by divorce or annulment; directed trusts; the trustee's duty to inform and account; distribution upon termination; life insurance; conversion by agreement; trust decanting; powers of appointment; and applicability. In the Mental Health and Developmental Disabilities Code, changes a cross-reference to the Illinois Trust Code.

LRB102 10214 LNS 15537 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by changing Section 3-605 as
6 follows:

7 (405 ILCS 5/3-605) (from Ch. 91 1/2, par. 3-605)

8 Sec. 3-605. (a) In counties with a population of 3,000,000
9 or more, upon receipt of a petition and certificate prepared
10 pursuant to this Article, the county sheriff of the county in
11 which a respondent is found shall take a respondent into
12 custody and transport him to a mental health facility, or may
13 make arrangements with another public or private entity
14 including a licensed ambulance service to transport the
15 respondent to the mental health facility. In the event it is
16 determined by such facility that the respondent is in need of
17 commitment or treatment at another mental health facility, the
18 county sheriff shall transport the respondent to the
19 appropriate mental health facility, or the county sheriff may
20 make arrangements with another public or private entity
21 including a licensed ambulance service to transport the
22 respondent to the mental health facility.

23 (b) The county sheriff may delegate his duties under

1 subsection (a) to another law enforcement body within that
2 county if that law enforcement body agrees.

3 (b-5) In counties with a population under 3,000,000, upon
4 receipt of a petition and certificate prepared pursuant to
5 this Article, the Department shall make arrangements to
6 appropriately transport the respondent to a mental health
7 facility. In the event it is determined by the facility that
8 the respondent is in need of commitment or treatment at
9 another mental health facility, the Department shall make
10 arrangements to appropriately transport the respondent to
11 another mental health facility. The making of such
12 arrangements and agreements with public or private entities is
13 independent of the Department's role as a provider of mental
14 health services and does not indicate that the respondent is
15 admitted to any Department facility. In making such
16 arrangements and agreements with other public or private
17 entities, the Department shall include provisions to ensure
18 (i) the provision of trained personnel and the use of an
19 appropriate vehicle for the safe transport of the respondent
20 and (ii) that the respondent's insurance carrier as well as
21 other programs, both public and private, that provide payment
22 for such transportation services are fully utilized to the
23 maximum extent possible.

24 The Department may not make arrangements with an existing
25 hospital or grant-in-aid or fee-for-service community provider
26 for transportation services under this Section unless the

1 hospital or provider has voluntarily submitted a proposal for
2 its transportation services. This requirement does not
3 eliminate or reduce any responsibility on the part of a
4 hospital or community provider to ensure transportation that
5 may arise independently through other State or federal law or
6 regulation.

7 (c) The transporting authority acting in good faith and
8 without negligence in connection with the transportation of
9 respondents shall incur no liability, civil or criminal, by
10 reason of such transportation.

11 (d) The respondent and the estate of that respondent are
12 liable for the payment of transportation costs for
13 transporting the respondent to a mental health facility. If
14 the respondent is a beneficiary of a trust described in
15 Section 509 ~~1213~~ of the Illinois Trust Code, the trust shall
16 not be considered a part of the respondent's estate and shall
17 not be subject to payment for transportation costs for
18 transporting the respondent to a mental health facility under
19 this Section except to the extent permitted under Section 509
20 ~~1213~~ of the Illinois Trust Code. If the respondent is unable to
21 pay or if the estate of the respondent is insufficient, the
22 responsible relatives are severally liable for the payment of
23 those sums or for the balance due in case less than the amount
24 owing has been paid. If the respondent is covered by
25 insurance, the insurance carrier shall be liable for payment
26 to the extent authorized by the respondent's insurance policy.

1 (Source: P.A. 101-48, eff. 1-1-20.)

2 Section 10. The Illinois Trust Code is amended by changing
3 Sections 103, 105, 107, 111, 301, 302, 401, 402, 403, 408, 416,
4 505, 605, 808, 813.1, 813.2, 817, 913, 1103, 1202, 1211, 1215,
5 1302, 1324, and 1506 as follows:

6 (760 ILCS 3/103)

7 Sec. 103. Definitions. In this Code:

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

10 (1.5) "Appointive property" means the property or property
11 interest subject to a power of appointment.

12 (2) "Ascertainable standard" means a standard relating to
13 an individual's health, education, support, or maintenance
14 within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of
15 the Internal Revenue Code and any applicable regulations.

16 (3) "Beneficiary" means a person that:

17 (A) has a present or future beneficial interest in a
18 trust, vested or contingent, assuming nonexercise of
19 powers of appointment, excluding the right of a settlor to
20 be reimbursed for tax obligations as provided in paragraph
21 (3) of subsection (a) of Section 505;

22 (B) in a capacity other than that of trustee, holds a
23 power of appointment over trust property; or

24 (C) is an identified charitable organization that will

1 or may receive distributions under the terms of the trust.
2 "Beneficiary" does not include a permissible appointee of
3 power of appointment, other than the holder of a presently
4 exercisable general power of appointment, until the power is
5 exercised in favor of such appointee.

6 (4) "Charitable interest" means an interest in a trust
7 that:

8 (A) is held by an identified charitable organization
9 and makes the organization a qualified beneficiary;

10 (B) benefits only charitable organizations and, if the
11 interest were held by an identified charitable
12 organization, would make the organization a qualified
13 beneficiary; or

14 (C) is held solely for charitable purposes and, if the
15 interest were held by an identified charitable
16 organization, would make the organization a qualified
17 beneficiary.

18 (5) "Charitable organization" means:

19 (A) a person, other than an individual, organized and
20 operated exclusively for charitable purposes; or

21 (B) a government or governmental subdivision, agency,
22 or instrumentality, to the extent it holds funds
23 exclusively for a charitable purpose.

24 (6) "Charitable purpose" means the relief of poverty, the
25 advancement of education or religion, the promotion of health,
26 municipal or other governmental purpose, or another purpose

1 the achievement of which is beneficial to the community.

2 (7) "Charitable trust" means a trust, or portion of a
3 trust, created for a charitable purpose.

4 (8) "Community property" means all personal property,
5 wherever situated, that was acquired as or became, and
6 remained, community property under the laws of another
7 jurisdiction, and all real property situated in another
8 jurisdiction that is community property under the laws of that
9 jurisdiction.

10 (9) "Current beneficiary" means a beneficiary that on the
11 date the beneficiary's qualification is determined is a
12 distributee or permissible distributee of trust income or
13 principal. The term "current beneficiary" includes the holder
14 of a presently exercisable general power of appointment but
15 does not include a person who is a beneficiary only because the
16 person holds any other power of appointment. In a revocable
17 trust, "current beneficiary" does not include a person who may
18 receive trust assets only through the exercise of a power to
19 make a gift on behalf of the settlor.

20 (10) "Directing party" means any investment trust advisor,
21 distribution trust advisor, or trust protector.

22 (11) "Donor", with reference to a power of appointment,
23 means a person that creates a power of appointment.

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

1 (13) "General power of appointment" means a power of
2 appointment exercisable in favor of a powerholder, the
3 powerholder's estate, a creditor of the powerholder, or a
4 creditor of the powerholder's estate.

5 (14) "Guardian of the estate" means a person appointed by
6 a court to administer the estate of a minor or adult
7 individual.

8 (15) "Guardian of the person" means a person appointed by
9 a court to make decisions regarding the support, care,
10 education, health, and welfare of a minor or adult individual.

11 (16) "Incapacitated" or "incapacity" means the inability
12 of an individual to manage property or business affairs
13 because the individual is a minor, adjudicated incompetent,
14 has an impairment in the ability to receive and evaluate
15 information or make or communicate decisions even with the use
16 of technological assistance; or is at a location that is
17 unknown and not reasonably ascertainable. Without limiting the
18 ways in which incapacity may be established, an individual is
19 incapacitated if:

20 (i) a plenary guardian has been appointed for the
21 individual under subsection (c) of Section 11a-12 of the
22 Probate Act of 1975;

23 (ii) a limited guardian has been appointed for the
24 individual under subsection (b) of Section 11a-12 of the
25 Probate Act of 1975 and the court has found that the
26 individual lacks testamentary capacity; or

1 (iii) the individual was examined by a licensed
2 physician who determined that the individual was
3 incapacitated and the physician made a signed written
4 record of the physician's determination within 90 days
5 after the examination and no licensed physician
6 subsequently made a signed written record of the
7 physician's determination that the individual was not
8 incapacitated within 90 days after examining the
9 individual.

10 (17) "Internal Revenue Code" means the Internal Revenue
11 Code of 1986 as amended from time to time and includes
12 corresponding provisions of any subsequent federal tax law.

13 (18) "Interested persons" means: (A) the trustee; and (B)
14 all beneficiaries, or their respective representatives
15 determined after giving effect to the provisions of Article 3,
16 whose consent or joinder would be required in order to achieve
17 a binding settlement were the settlement to be approved by the
18 court. "Interested persons" includes a trust advisor,
19 investment advisor, distribution advisor, trust protector, or
20 other holder, or committee of holders, of fiduciary or
21 nonfiduciary powers, if the person then holds powers material
22 to a particular question or dispute to be resolved or affected
23 by a nonjudicial settlement in accordance with Section 111 or
24 by a judicial proceeding.

25 (19) "Interests of the beneficiaries" means the beneficial
26 interests provided in the trust instrument.

1 (20) "Jurisdiction", with respect to a geographic area,
2 includes a State or country.

3 (21) "Legal capacity" means that the person is not
4 incapacitated.

5 (22) "Nongeneral power of appointment" means a power of
6 appointment that is not a general power of appointment.

7 (22.5) "Permissible appointee" means a person in whose
8 favor a powerholder may exercise a power of appointment.

9 (23) "Person" means an individual, estate, trust, business
10 or nonprofit entity, public corporation, government or
11 governmental subdivision, agency, or instrumentality, or other
12 legal entity.

13 (24) "Power of appointment" means a power that enables a
14 powerholder acting in a nonfiduciary capacity to designate a
15 recipient of an ownership interest in or another power of
16 appointment over the appointive property. The term "power of
17 appointment" does not include a power of attorney.

18 (25) "Power of withdrawal" means a presently exercisable
19 general power of appointment other than a power:

20 (A) exercisable by the powerholder as trustee that is
21 limited by an ascertainable standard; or

22 (B) exercisable by another person only upon consent of
23 the trustee or a person holding an adverse interest.

24 (26) "Powerholder" means a person in which a donor creates
25 a power of appointment.

26 (27) "Presently exercisable power of appointment" means a

1 power of appointment exercisable by the powerholder at the
2 relevant time. The term "presently exercisable power of
3 appointment":

4 (A) includes a power of appointment exercisable only
5 after the occurrence of a specified event, the
6 satisfaction of an ascertainable standard, or the passage
7 of a specified time only after:

8 (i) the occurrence of the specified event;

9 (ii) the satisfaction of the ascertainable
10 standard; or

11 (iii) the passage of the specified time; and

12 (B) does not include a power exercisable only at the
13 powerholder's death.

14 (28) "Presumptive remainder beneficiary" means a
15 beneficiary of a trust, as of the date of determination and
16 assuming nonexercise of all powers of appointment, who either:

17 (A) would be a distributee or permissible distributee ~~eligible~~
18 ~~to receive a distribution~~ of trust income or principal if the
19 trust terminated on that date; or (B) would be a distributee or
20 permissible distributee ~~eligible to receive a distribution~~ of
21 trust income or principal if the interests of all distributees
22 ~~beneficiaries~~ currently eligible to receive income or
23 principal from the trust terminated ~~ended~~ on that date without
24 causing the trust to terminate.

25 (29) "Property" means anything that may be the subject of
26 ownership, whether real or personal, legal or equitable, or

1 any interest therein.

2 (30) "Qualified beneficiary" means each current
3 beneficiary and presumptive remainder beneficiary. ~~a~~
4 ~~beneficiary who, on the date the beneficiary's qualification~~
5 ~~is determined and assuming nonexercise of powers of~~
6 ~~appointment.~~

7 ~~(A) is a distributee or permissible distributee of~~
8 ~~trust income or principal;~~

9 ~~(B) would be a distributee or permissible distributee~~
10 ~~of trust income or principal if the interests of the~~
11 ~~distributees described in subparagraph (A) terminated on~~
12 ~~that date without causing the trust to terminate; or~~

13 ~~(C) would be a distributee or permissible distributee~~
14 ~~of trust income or principal if the trust terminated on~~
15 ~~that date.~~

16 (31) "Revocable", as applied to a trust, means revocable
17 by the settlor without the consent of the trustee or a person
18 holding an adverse interest. A revocable trust is deemed
19 revocable during the settlor's lifetime.

20 (32) "Settlor", except as otherwise provided in Sections
21 113 and 1225, means a person, including a testator, who
22 creates, or contributes property to, a trust. If more than one
23 person creates or contributes property to a trust, each person
24 is a settlor of the portion of the trust property attributable
25 to that person's contribution except to the extent another
26 person has the power to revoke or withdraw that portion.

1 (33) "Sign" means, with present intent to authenticate or
2 adopt a record:

3 (A) to execute or adopt a tangible symbol; or

4 (B) to attach to or logically associate with the
5 record an electronic symbol, sound, or process.

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

9 (35) "State" means a State of the United States, the
10 District of Columbia, Puerto Rico, the United States Virgin
11 Islands, or any territory or insular possession subject to the
12 jurisdiction of the United States. The term "state" includes
13 an Indian tribe or band recognized by federal law or formally
14 acknowledged by a state.

15 (36) "Terms of the trust" means:

16 (A) except as otherwise provided in paragraph (B), the
17 manifestation of the settlor's intent regarding a trust's
18 provisions as:

19 (i) expressed in the trust instrument; or

20 (ii) established by other evidence that would be
21 admissible in a judicial proceeding; or

22 (B) the trust's provisions as established, determined,
23 or modified by:

24 (i) a trustee or other person in accordance with
25 applicable law;

26 (ii) a court order; or

1 (iii) a nonjudicial settlement agreement under
2 Section 111.

3 (37) "Trust" means (A) a trust created by will, deed,
4 agreement, declaration, or other written instrument, or (B) an
5 oral trust under Section 407.

6 (38) "Trust accounting" means one or more written
7 communications from the trustee with respect to the accounting
8 year that describe: (A) the trust property, liabilities,
9 receipts, and disbursements, including the amount of the
10 trustee's compensation; (B) the value of the trust assets on
11 hand at the close of the accounting period, to the extent
12 feasible; and (C) all other material facts related to the
13 trustee's administration of the trust.

14 (39) "Trust instrument" means the written instrument
15 stating the terms of a trust, including any amendment, any
16 court order or nonjudicial settlement agreement establishing,
17 construing, or modifying the terms of the trust in accordance
18 with Section 111, Sections 410 through 416, or other
19 applicable law, and any additional trust instrument under
20 Article 12.

21 (40) "Trustee" includes an original, additional, and
22 successor trustee, and a co-trustee.

23 (41) "Unascertainable beneficiary" means a beneficiary
24 whose identity is uncertain or not reasonably ascertainable.

25 (Source: P.A. 101-48, eff. 1-1-20.)

1 (760 ILCS 3/105)

2 Sec. 105. Default and mandatory rules.

3 (a) The trust instrument may specify the rights, powers,
4 duties, limitations, and immunities applicable to the trustee,
5 beneficiary, and others and those terms, if not otherwise
6 contrary to law, shall control, except to the extent
7 specifically provided otherwise in this Section. The
8 provisions of this Code apply to the trust to the extent that
9 they are not inconsistent with the ~~specific~~ terms of the
10 trust.

11 (b) Terms ~~Specific terms~~ of the trust prevail over any
12 provision of Articles 1 through 10 of this Code except:

13 (1) the requirements for creating a trust;

14 (2) the duty of a trustee to act in good faith;

15 (3) the requirement that a trust have a purpose that
16 is lawful and not contrary to public policy;

17 (4) the rules governing designated representatives as
18 provided in Section 307;

19 (5) the 21-year limitation contained in subsection (b)
20 ~~(a)~~ of Section 409;

21 (6) the power of the court to modify or terminate a
22 trust under Sections 411 through 416 ~~417~~;

23 (7) the effect of a spendthrift provision and the
24 rights of certain creditors and assignees to reach a trust
25 as provided in Article 5;

26 (8) the requirement under subsection (e) of Section

1 602 that an agent under a power of attorney must have
2 express authorization in the agency to exercise a
3 settlor's powers with respect to a revocable trust;

4 (9) the power of the court under subsection (b) of
5 Section 708 to adjust a trustee's compensation specified
6 in the trust instrument that is unreasonably low or high;

7 (10) for trusts becoming irrevocable after the
8 effective date of this Code, the trustee's duty under
9 paragraph (b) (1) of Section 813.1 to provide information
10 to the qualified beneficiaries;

11 (11) for trusts becoming irrevocable after the
12 effective date of this Code, the trustee's duty under
13 paragraph (b) (2) of Section 813.1 to provide accountings
14 to the current beneficiaries of the trust;

15 (12) for trusts becoming irrevocable after the
16 effective date of this Code, the trustee's duty under
17 paragraph (b) (4) of Section 813.1 to provide accountings
18 to beneficiaries receiving a distribution of the residue
19 of the trust upon a trust's termination;

20 (12.5) for trusts becoming irrevocable after the
21 effective date of this Code, the right of a qualified
22 beneficiary under paragraph (6) of subsection (b) of
23 Section 813.1 to request the portions of the trust
24 instrument that set forth the terms of the trust in which
25 the qualified beneficiary has an interest as a qualified
26 beneficiary;

1 (13) the effect of an exculpatory term under Section
2 1008;

3 (14) the rights under Sections 1010 through 1013 of a
4 person other than a trustee or beneficiary; and

5 (15) the power of the court to take such action and
6 exercise such jurisdiction as may be necessary in the
7 interests of equity.

8 (Source: P.A. 101-48, eff. 1-1-20.)

9 (760 ILCS 3/107)

10 Sec. 107. Governing law.

11 (a) The meaning and effect of a trust instrument are
12 determined by:

13 (1) the law of the jurisdiction designated in the
14 trust instrument; or

15 (2) in the absence of a designation in the trust
16 instrument, the law of the jurisdiction having the most
17 significant relationship to the matter at issue.

18 (b) Except as otherwise expressly provided by the trust
19 instrument or by court order, the laws of this State govern the
20 administration of a trust while the principal place of
21 administration is ~~trust is administered in~~ this State.

22 (Source: P.A. 101-48, eff. 1-1-20.)

23 (760 ILCS 3/111)

24 Sec. 111. Nonjudicial settlement agreements.

1 (a) Interested persons, or their respective
2 representatives determined after giving effect to Article 3,
3 may enter into a binding nonjudicial settlement agreement with
4 respect to any matter listed in subsection (b) ~~involving a~~
5 ~~trust as provided in this Section.~~

6 (b) The following matters may be resolved by a nonjudicial
7 settlement agreement:

8 (1) Validity, interpretation, or construction of the
9 terms of the trust.

10 (2) Approval of a trustee's report or accounting.

11 (3) Exercise or nonexercise of any power by a trustee.

12 (4) The grant to a trustee of any necessary or
13 desirable administrative power ~~if the grant does not~~
14 ~~conflict with a clear material purpose of the trust.~~

15 (5) Questions relating to property or an interest in
16 property held by the trust ~~if the resolution does not~~
17 ~~conflict with a clear material purpose of the trust.~~

18 (6) Removal, appointment, or removal and appointment
19 of a trustee, trust advisor, investment advisor,
20 distribution advisor, trust protector, or other holder, or
21 committee of holders, of fiduciary or nonfiduciary powers,
22 including without limitation designation of a plan of
23 succession or procedure to determine successors to any
24 such office.

25 (7) Determination of a trustee's or other fiduciary's
26 compensation.

1 (8) Transfer of a trust's principal place of
2 administration, including, without limitation, to change
3 the law governing administration of the trust.

4 (9) Liability or indemnification of a trustee for an
5 action relating to the trust.

6 (10) Resolution of bona fide disputes related to trust
7 administration, investment, distribution, or other
8 matters.

9 (11) Modification of the terms of the trust pertaining
10 to the administration of the trust.

11 (12) Determining whether the aggregate interests of
12 each beneficiary in severed trusts are substantially
13 equivalent to the beneficiary's interests in the trusts
14 before severance.

15 (13) Termination of the trust, except that court
16 approval of the termination must be obtained in accordance
17 with subsection (d), and the court must find that
18 continuance of the trust is not necessary to achieve any
19 clear material purpose of the trust. The court shall
20 consider spendthrift provisions as a factor in making a
21 decision under this subsection, but a spendthrift
22 provision is not necessarily a material purpose of a
23 trust, and the court is not precluded from modifying or
24 terminating a trust because the trust instrument contains
25 spendthrift provisions. Upon termination, the court shall
26 order the distribution of the trust property as agreed by

1 the parties to the agreement, or if the parties cannot
2 agree, then as the court determines is equitable and
3 consistent with the purposes of the trust.

4 (c) If a trust contains a charitable interest, the parties
5 to any proposed nonjudicial settlement agreement affecting the
6 trust shall deliver to the Attorney General written notice of
7 the proposed agreement at least 60 days before its effective
8 date. The Bureau is not required to take action, but if it
9 objects in a writing delivered to one or more of the parties
10 before the proposed effective date, the agreement shall not
11 take effect unless the parties obtain court approval.

12 (d) Any beneficiary or other interested person may request
13 the court to approve any part or all of a nonjudicial
14 settlement agreement, including, without limitation, whether
15 any representation is adequate and without material conflict
16 of interest, if the petition for approval is filed within 60
17 days after the effective date of the agreement.

18 (e) An agreement entered into in accordance with this
19 Section, or a judicial proceeding pursued in accordance with
20 this Section, is final and binding on the trustee, on all
21 beneficiaries of the trust, both current and future, and on
22 all other interested persons as if ordered by a court with
23 competent jurisdiction over the trust, the trust property, and
24 all interested persons ~~parties in interest~~.

25 (f) In the trustee's sole discretion, the trustee may, but
26 is not required to, obtain and rely upon an opinion of counsel

1 on any matter relevant to this Section, including, without
2 limitation:

3 (1) if required by this Section, that the agreement
4 proposed to be made in accordance with this Section does
5 not conflict with a clear material purpose of the trust;

6 (2) in the case of a trust termination, that
7 continuance of the trust is not necessary to achieve any
8 clear material purpose of the trust;

9 (3) that there is no material conflict of interest
10 between a representative and the person represented with
11 respect to the particular question or dispute; and

12 (4) that the representative and the person represented
13 have substantially similar interests with respect to the
14 particular question or dispute.

15 (g) This Section shall be construed as pertaining to the
16 administration of a trust and shall be available to any trust
17 that has its principal place of administration ~~is administered~~
18 in this State, including a trust whose principal place of
19 administration has been changed to this State, or that is
20 governed by the Illinois law of this State for the purpose of
21 determining ~~with respect to~~ the meaning and effect of ~~its~~
22 terms of the trust or construction of terms of the trust,
23 except to the extent the trust instrument expressly prohibits
24 the use of this Section by specific reference to this Section
25 or a prior corresponding law. A provision in the trust
26 instrument in the form: "Neither the provisions of Section 111

1 of the Illinois Trust Code nor any corresponding provision of
2 future law may be used in the administration of this trust", or
3 a similar provision demonstrating that intent, is sufficient
4 to preclude the use of this Section.

5 (Source: P.A. 101-48, eff. 1-1-20.)

6 (760 ILCS 3/301)

7 Sec. 301. Representation: basic effect.

8 (a) Except as provided in Section 602 and subsection (c):

9 (1) Notice, information, accountings, or reports given
10 to a person who may represent and bind another person
11 under this Article have the same effect as if given
12 directly to the person represented.

13 (2) Actions, including, but not limited to, the
14 execution of an agreement, taken by a person who may
15 represent and bind another person under this Article are
16 binding on the person represented to the same extent as if
17 the actions had been taken by the person represented.

18 (b) Except as otherwise provided in Section 602, a person
19 under this Article who represents a settlor who is
20 incapacitated may, on the settlor's behalf: (i) receive
21 notice, information, accountings, or reports; (ii) give a
22 binding consent; or (iii) enter a binding agreement.

23 (c) A settlor may not represent and bind a beneficiary
24 under this Article with respect to a nonjudicial settlement
25 agreement under Section 111, the termination or modification

1 of a trust under subsection (a) of Section 411, or an exercise
2 of the decanting power under Article 12.

3 (d) If pursuant to this Article a person may be
4 represented by 2 or more representatives, then the first of
5 the following representative who has legal capacity and is
6 willing to act as representative, ~~in the following order of~~
7 ~~priority~~, shall represent and bind the person:

8 (1) a representative or guardian ad litem appointed by
9 a court under Section 305;

10 (2) the holder of a power of appointment under Section
11 302;

12 (3) a designated representative under Section 307;

13 (4) a court-appointed guardian of the estate, or, if
14 none, a court-appointed guardian of the person under
15 subsection (b) of Section 303;

16 (5) an agent under a power of attorney for property
17 under subsection (c) of Section 303;

18 (6) a parent of a person under subsection (d) of
19 Section 303;

20 (7) another person having a substantially similar
21 interest with respect to the particular question or
22 dispute under subsection (a) of Section 304; and

23 (8) a representative under this Article for a person
24 who has a substantially similar interest to a person who
25 has a representative under subsection (b) of Section 304.

26 (e) A trustee is not liable for giving notice,

1 information, accountings, or reports to a person who is
2 represented by another person under this Article, and nothing
3 in this Article prohibits the trustee from giving notice,
4 information, accountings, or reports to the person
5 represented.

6 (Source: P.A. 101-48, eff. 1-1-20.)

7 (760 ILCS 3/302)

8 Sec. 302. Representation by holders of certain powers.

9 (a) The holder of a testamentary or a presently
10 exercisable power of appointment that is: (1) a general power
11 of appointment; or (2) exercisable in favor of all persons
12 other than the powerholder, the powerholder's estate, a
13 creditor of the powerholder, or a creditor of the
14 powerholder's estate, may represent and bind all persons,
15 including ~~permissible appointees and~~ takers in default, whose
16 interests may be eliminated by the exercise ~~or nonexercise~~ of
17 the power.

18 (b) To the extent there is no conflict of interest between
19 a holder and the persons represented with respect to the
20 particular question or dispute, the holder of a testamentary
21 or presently exercisable power of appointment, other than a
22 power described in subsection (a), may represent and bind all
23 persons, including ~~permissible appointees and~~ takers in
24 default, whose interests may be eliminated by the exercise ~~or~~
25 ~~nonexercise~~ of the power.

1 (c) Subsection (a), except with respect to a presently
2 exercisable general power of appointment, and subsection (b)
3 do not apply to:

4 (1) any matter determined by the court to involve
5 fraud or bad faith by the trustee; or

6 (2) a power of appointment held by a person while the
7 person is the sole trustee.

8 (Source: P.A. 101-48, eff. 1-1-20.)

9 (760 ILCS 3/401)

10 Sec. 401. Methods of creating trust. A trust may be
11 created by:

12 (1) transfer of property to another person as trustee
13 during the settlor's lifetime or by will or other
14 disposition taking effect upon the settlor's death;

15 (2) declaration by the owner of property that the
16 owner holds identifiable property as trustee; ~~or~~

17 (3) exercise of a power of appointment in favor of a
18 trustee;

19 (4) order of a court; or

20 (5) exercise by an authorized fiduciary of the powers
21 granted in Article 12.

22 (Source: P.A. 101-48, eff. 1-1-20.)

23 (760 ILCS 3/402)

24 Sec. 402. Requirements for creation.

1 (a) A trust is created only if:

2 (1) the settlor or other person creating the trust has
3 capacity to create a trust;

4 (2) the settlor or other person creating the trust
5 indicates an intention to create the trust;

6 (3) the trust has a definite beneficiary or is:

7 (A) a charitable trust;

8 (B) a trust for the care of an animal, as provided
9 in Section 408; or

10 (C) a trust for a noncharitable purpose, as
11 provided in Section 409;

12 (4) the trustee has duties to perform; and

13 (5) the same person is not the sole trustee and sole
14 beneficiary.

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

18 (c) A power in a trustee to select a beneficiary from an
19 indefinite class is valid. If the power is not exercised
20 within a reasonable time, the power fails and the property
21 subject to the power passes to the persons who would have taken
22 the property had the power not been conferred.

23 (Source: P.A. 101-48, eff. 1-1-20.)

24 (760 ILCS 3/403)

25 Sec. 403. Trusts created in other jurisdictions. A trust

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

5 (1) the person creating the trust ~~settlor~~ was
6 domiciled, had a place of abode, or was a national;

7 (2) a trustee was domiciled or had a place of
8 business; or

9 (3) any trust property was located.

10 (Source: P.A. 101-48, eff. 1-1-20.)

11 (760 ILCS 3/408)

12 Sec. 408. Trusts for domestic or pet animals.

13 (a) A trust for the care of one or more designated domestic
14 or pet animals is valid. The trust terminates when no living
15 animal is covered by the trust. A trust instrument shall be
16 liberally construed to bring the transfer within this Section,
17 to presume against a merely precatory or honorary nature of
18 its disposition, and to carry out the general intent of the
19 transferor. Extrinsic evidence is admissible in determining
20 the transferor's intent.

21 (b) A trust for the care of one or more designated domestic
22 or pet animals is subject to the following provisions:

23 (1) Except as expressly provided otherwise in the
24 trust instrument ~~creating the trust~~, no portion of the
25 principal or income of the trust may be converted to the

1 use of the trustee or to a use other than for the trust's
2 purposes or for the benefit of a covered animal.

3 (2) Upon termination, the trustee shall transfer the
4 unexpended trust property in the following order:

5 (A) as directed in the trust instrument;

6 (B) to the settlor, if then living;

7 (C) if there is no direction in the trust
8 instrument and if the trust was created in a
9 non-residuary clause in the transferor's will, then
10 under the residuary clause in the transferor's will;

11 (D) to the transferor's heirs under Section 2-1 of
12 the Probate Act of 1975.

13 (3) The intended use of the principal or income may be
14 enforced by an individual designated for that purpose in
15 the trust instrument or, if none, by an individual
16 appointed by a court having jurisdiction of the matter and
17 parties, upon petition to it by an individual.

18 (4) Except as ordered by the court or required by the
19 trust instrument, no filing, report, registration,
20 periodic accounting, separate maintenance of funds,
21 appointment, or fee is required by reason of the existence
22 of the fiduciary relationship of the trustee.

23 (5) The court may reduce the amount of the property
24 transferred if it determines that the amount substantially
25 exceeds the amount required for the intended use. The
26 amount of the reduction, if any, passes as unexpended

1 trust property under paragraph (2).

2 (6) If a trustee is not designated or no designated
3 trustee is willing and able to serve, the court shall name
4 a trustee. The court may order the transfer of the
5 property to another trustee if the transfer is necessary
6 to ensure that the intended use is carried out, and if a
7 successor trustee is not designated in the trust
8 instrument or if no designated successor trustee agrees to
9 serve and is able to serve. The court may also make other
10 orders and determinations as are advisable to carry out
11 the intent of the transferor and the purpose of this
12 Section.

13 (7) The trust is exempt from the operation of the
14 common law rule against perpetuities.

15 (Source: P.A. 101-48, eff. 1-1-20.)

16 (760 ILCS 3/416)

17 Sec. 416. Modification to achieve settlor's ~~tax~~
18 objectives. To achieve the settlor's tax objectives or
19 objective to qualify for government benefits, the court may
20 modify the terms of a trust in a manner that is not contrary to
21 the settlor's probable intention. The court may provide that
22 the modification has retroactive effect.

23 (Source: P.A. 101-48, eff. 1-1-20.)

24 (760 ILCS 3/505)

1 Sec. 505. Creditor's claim against settlor.

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

4 (1) During the lifetime of the settlor, the property
5 of a revocable trust is subject to claims of the settlor's
6 creditors to the extent the property would not otherwise
7 be exempt by law if owned directly by the settlor.

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

15 (3) Notwithstanding paragraph (2), the assets of an
16 irrevocable trust may not be subject to the claims of an
17 existing or subsequent creditor or assignee of the
18 settlor, in whole or in part, solely because of the
19 existence of a discretionary power granted to the trustee
20 by the terms of the trust, or any other provision of law,
21 to pay directly to the taxing authorities or to reimburse
22 the settlor for any tax on trust income or principal that
23 is payable by the settlor under the law imposing the tax.

24 (4) Paragraph (2) does not apply to the assets of an
25 irrevocable trust established for the benefit of a person
26 with a disability that meets the requirements of 42 U.S.C.

1 1396p(d)(4) or similar federal law governing the transfer
2 to such a trust.

3 (5) After the death of a settlor, and subject to the
4 settlor's right to direct the source from which
5 liabilities will be paid, the property of a trust that was
6 revocable at the settlor's death is subject to claims of
7 the settlor's creditors, costs of administration of the
8 settlor's estate, the expenses of the settlor's funeral
9 and disposal of remains, and statutory awards ~~allowances~~
10 to a surviving spouse and children to the extent the
11 settlor's probate estate is inadequate to satisfy those
12 claims, costs, expenses, and awards ~~allowances~~.
13 Distributees of the trust take property distributed after
14 payment of such claims; subject to the following
15 conditions:

16 (A) sums recovered by the personal representative
17 of the settlor's estate must be administered as part
18 of the decedent's probate estate, and the liability
19 created by this subsection does not apply to any
20 assets to the extent that the assets are otherwise
21 exempt under the laws of this State or under federal
22 law;

23 (B) with respect to claims, expenses, and taxes in
24 connection with the settlement of the settlor's
25 estate, any claim of a creditor that would be barred
26 against the personal representative of a settlor's

1 estate or the estate of the settlor is barred against
2 the trust property of a trust that was revocable at the
3 settlor's death, the trustee of the revocable trust,
4 and the beneficiaries of the trust; and

5 (C) Sections 18-10 and 18-13 of the Probate Act of
6 1975, detailing the classification and priority of
7 payment of claims, expenses, and taxes from the
8 probate estate of a decedent, or comparable provisions
9 of the law of the deceased settlor's domicile at death
10 if not Illinois, apply to a revocable trust to the
11 extent the assets of the settlor's probate estate are
12 inadequate and the personal representative or creditor
13 or taxing authority of the settlor's estate has
14 perfected its right to collect from the settlor's
15 revocable trust.

16 (6) After the death of a settlor, a trustee of a trust
17 that was revocable at the settlor's death is released from
18 liability under this Section for any assets distributed to
19 the trust's beneficiaries in accordance with the governing
20 trust instrument if:

21 (A) the trustee made the distribution 9 ~~6~~ months
22 or later after the settlor's death; and

23 (B) the trustee did not receive a written notice
24 from the decedent's personal representative asserting
25 that the decedent's probate estate is or may be
26 insufficient to pay allowed claims or, if the trustee

1 received such a notice, the notice was withdrawn by
2 the personal representative or revoked by the court
3 before the distribution.

4 (b) For purposes of this Section:

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

9 (2) upon the lapse, release, or waiver of the power,
10 the holder is treated as the settlor of the trust only to
11 the extent the value of the property affected by the
12 lapse, release, or waiver exceeds the greater of the
13 amount specified in Section 2041(b)(2) or 2514(e) of the
14 Internal Revenue Code.

15 (Source: P.A. 101-48, eff. 1-1-20.)

16 (760 ILCS 3/605)

17 Sec. 605. Revocation of provisions in revocable trust by
18 divorce or annulment.

19 (a) As used in this Section:

20 (1) "Judicial termination of marriage" includes, but
21 is not limited to, divorce, dissolution, annulment or
22 declaration of invalidity of marriage.

23 (2) "Provision pertaining to the settlor's former
24 spouse" includes, but is not limited to, every present or
25 future gift or interest or power of appointment given to

1 the settlor's former spouse or right of the settlor's
2 former spouse to serve in a fiduciary capacity.

3 (3) "Trust" means a trust created by a nontestamentary
4 instrument executed after January 1, 1982.

5 (4) Notwithstanding the definition of "revocable" in
6 Section 103, a provision is revocable by the settlor if
7 the settlor has the power at the time of the entry of the
8 judgment of ~~or~~ judicial termination of marriage of the
9 settlor to revoke, modify, or amend the provision, either
10 alone or in conjunction with any other person or persons.

11 (b) Unless the trust instrument or the judgment of
12 judicial termination of marriage expressly provides otherwise,
13 judicial termination of marriage of the settlor of a trust
14 revokes every provision that is revocable by the settlor
15 pertaining to the settlor's former spouse in a trust
16 instrument or amendment executed by the settlor before the
17 entry of the judgment of judicial termination of marriage of
18 the settlor and any such trust shall be administered and
19 construed as if the settlor's former spouse had died upon
20 entry of the judgment of judicial termination of marriage.

21 (c) A trustee who has no actual knowledge of a judgment of
22 judicial termination of marriage of the settlor is not liable
23 for any action taken or omitted in good faith on the assumption
24 that the settlor is married. The preceding sentence is
25 intended to affect only the liability of the trustee and shall
26 not affect the disposition of beneficial interests in any

1 trust.

2 (d) Notwithstanding Section 102, this Section may be made
3 applicable by specific reference in the trust instrument to
4 this Section in any (1) land trust; (2) voting trust; (3)
5 security instrument such as a trust deed or mortgage; (4)
6 liquidation trust; (5) escrow; (6) instrument under which a
7 nominee, custodian for property or paying or receiving agent
8 is appointed; or (7) trust created by a deposit arrangement in
9 a bank or savings institution, commonly known as "Totten
10 Trust".

11 (e) If provisions of a trust are revoked solely by this
12 Section, they are revived by the settlor's remarriage to the
13 former spouse.

14 (Source: P.A. 101-48, eff. 1-1-20.)

15 (760 ILCS 3/808)

16 Sec. 808. Directed trusts.

17 (a) In this Section:

18 (1) "Distribution trust advisor" means any one or more
19 persons given authority by the trust instrument to direct,
20 consent to, veto, or otherwise exercise all or any portion
21 of the distribution powers and discretions of the trust,
22 including, but not limited to, authority to make
23 discretionary distribution of income or principal.

24 (2) "Excluded fiduciary" means any fiduciary that by
25 the trust instrument is directed to act in accordance with

1 the exercise of specified powers by a directing party, in
2 which case the specified powers are deemed granted not to
3 the fiduciary but to the directing party and the fiduciary
4 is deemed excluded from exercising the specified powers.
5 If a trust instrument provides that a fiduciary as to one
6 or more specified matters is to act, omit action, or make
7 decisions only with the consent of a directing party, then
8 the fiduciary is an excluded fiduciary with respect to the
9 matters. Notwithstanding any provision of this Section, a
10 person does not fail to qualify as an excluded fiduciary
11 solely by reason of having effectuated, participated in,
12 or consented to a transaction, including, but not limited
13 to, any transaction described in Section 111 or 411 or
14 Article 12 invoking this Section with respect to any new
15 or existing trust.

16 (3) "Fiduciary" means any person expressly given one
17 or more fiduciary duties by the trust instrument,
18 including, but not limited to, a trustee.

19 (4) "Investment trust advisor" means any one or more
20 persons given authority by the trust instrument to direct,
21 consent to, veto, or otherwise exercise all or any portion
22 of the investment powers of the trust.

23 (5) "Power" means authority to take or withhold an
24 action or decision, including, but not limited to, an
25 expressly specified power, the implied power necessary to
26 exercise a specified power, and authority inherent in a

1 general grant of discretion.

2 (6) "Trust protector" means any one or more persons
3 given any one or more of the powers specified in
4 subsection (d), regardless of whether the power is
5 designated with the title of trust protector by the trust
6 instrument.

7 (b) An investment trust advisor may be designated in the
8 trust instrument of a trust. The powers of an investment trust
9 advisor may be exercised or not exercised in the sole and
10 absolute discretion of the investment trust advisor, and are
11 binding on all other persons, including, but not limited to,
12 each beneficiary, fiduciary, excluded fiduciary, and any other
13 party having an interest in the trust. The trust instrument
14 may use the title "investment trust advisor" or any similar
15 name or description demonstrating the intent to provide for
16 the office and function of an investment trust advisor. Unless
17 the terms of the trust provide otherwise, the investment trust
18 advisor has the authority to:

19 (1) direct the trustee with respect to the retention,
20 purchase, transfer, assignment, sale, or encumbrance of
21 trust property and the investment and reinvestment of
22 principal and income of the trust;

23 (2) direct the trustee with respect to all management,
24 control, and voting powers related directly or indirectly
25 to trust assets, including, but not limited to, voting
26 proxies for securities held in trust;

1 (3) select and determine reasonable compensation of
2 one or more advisors, managers, consultants, or
3 counselors, including the trustee, and to delegate to them
4 any of the powers of the investment trust advisor in
5 accordance with Section 807; and

6 (4) determine the frequency and methodology for
7 valuing any asset for which there is no readily available
8 market value.

9 (c) A distribution trust advisor may be designated in the
10 trust instrument of a trust. The powers of a distribution
11 trust advisor may be exercised or not exercised in the sole and
12 absolute discretion of the distribution trust advisor, and are
13 binding on all other persons, including, but not limited to,
14 each beneficiary, fiduciary, excluded fiduciary, and any other
15 party having an interest in the trust. The trust instrument
16 may use the title "distribution trust advisor" or any similar
17 name or description demonstrating the intent to provide for
18 the office and function of a distribution trust advisor.
19 Unless the terms of the trust provide otherwise, the
20 distribution trust advisor has authority to direct the trustee
21 with regard to all decisions relating directly or indirectly
22 to discretionary distributions to or for one or more
23 beneficiaries.

24 (d) A trust protector may be designated in the trust
25 instrument of a trust. The powers of a trust protector may be
26 exercised or not exercised in the sole and absolute discretion

1 of the trust protector, and are binding on all other persons,
2 including, but not limited to, each beneficiary, investment
3 trust advisor, distribution trust advisor, fiduciary, excluded
4 fiduciary, and any other party having an interest in the
5 trust. The trust instrument may use the title "trust
6 protector" or any similar name or description demonstrating
7 the intent to provide for the office and function of a trust
8 protector. The powers granted to a trust protector by the
9 trust instrument may include but are not limited to authority
10 to do any one or more of the following:

11 (1) modify or amend the trust instrument to achieve
12 favorable tax status or respond to changes in the Internal
13 Revenue Code, federal laws, state law, or the rulings and
14 regulations under such laws;

15 (2) increase, decrease, or modify the interests of any
16 beneficiary or beneficiaries of the trust;

17 (3) modify the terms of any power of appointment
18 granted by the trust; however, such modification or
19 amendment may not grant a beneficial interest to any
20 individual, class of individuals, or other parties not
21 specifically provided for under the trust instrument;

22 (4) remove, appoint, or remove and appoint, a trustee,
23 investment trust advisor, distribution trust advisor,
24 another directing party, investment committee member, or
25 distribution committee member, including designation of a
26 plan of succession for future holders of any such office;

1 (5) terminate the trust, including determination of
2 how the trustee shall distribute the trust property to be
3 consistent with the purposes of the trust;

4 (6) change the situs of the trust, the governing law
5 of the trust, or both;

6 (7) appoint one or more successor trust protectors,
7 including designation of a plan of succession for future
8 trust protectors;

9 (8) interpret terms of the trust at the request of the
10 trustee;

11 (9) advise the trustee on matters concerning a
12 beneficiary; or

13 (10) amend or modify the trust instrument to take
14 advantage of laws governing restraints on alienation,
15 distribution of trust property, or to improve the
16 administration of the trust.

17 If a trust contains a charitable interest, a trust protector
18 must give notice to the Attorney General's Charitable Trust
19 Bureau at least 60 days before taking any of the actions
20 authorized under paragraph (2), (3), (4), (5), or (6) of this
21 subsection. The Attorney General may waive this notice
22 requirement.

23 (e) A directing party is a fiduciary of the trust subject
24 to the same duties and standards applicable to a trustee ~~of a~~
25 ~~trust as provided by applicable law unless the trust~~
26 ~~instrument provides otherwise, but the trust instrument may~~

1 ~~not, however, relieve or exonerate a directing party from the~~
2 ~~duty to act or withhold acting as the directing party in good~~
3 ~~faith reasonably believes is in the best interests of the~~
4 ~~trust.~~

5 (f) The excluded fiduciary shall act in accordance with
6 the trust instrument and comply with the directing party's
7 exercise of the powers granted to the directing party by the
8 trust instrument. Unless otherwise provided in the trust
9 instrument, an excluded fiduciary has no duty to monitor,
10 review, inquire, investigate, recommend, evaluate, or warn
11 with respect to a directing party's exercise or failure to
12 exercise any power granted to the directing party by the trust
13 instrument, including, but not limited to, any power related
14 to the acquisition, disposition, retention, management, or
15 valuation of any asset or investment. Except as otherwise
16 provided in this Section or the trust instrument, an excluded
17 fiduciary is not liable, either individually or as a
18 fiduciary, for any action, inaction, consent, or failure to
19 consent by a directing party, including, but not limited to,
20 any of the following:

21 (1) if a trust instrument provides that an excluded
22 fiduciary is to follow the direction of a directing party,
23 and such excluded fiduciary acts in accordance with such a
24 direction, then except in cases of willful misconduct on
25 the part of the excluded fiduciary in complying with the
26 direction of the directing party, the excluded fiduciary

1 is not liable for any loss resulting directly or
2 indirectly from following any such direction, including
3 but not limited to compliance regarding the valuation of
4 assets for which there is no readily available market
5 value;

6 (2) if a trust instrument provides that an excluded
7 fiduciary is to act or omit to act only with the consent of
8 a directing party, then except in cases of willful
9 misconduct on the part of the excluded fiduciary, the
10 excluded fiduciary is not liable for any loss resulting
11 directly or indirectly from any act taken or omitted as a
12 result of such directing party's failure to provide such
13 consent after having been asked to do so by the excluded
14 fiduciary; or

15 (3) if a trust instrument provides that, or for any
16 other reason, an excluded fiduciary is required to assume
17 the role or responsibilities of a directing party, or if
18 the excluded fiduciary appoints a directing party or
19 successor to a directing party other than in a nonjudicial
20 settlement agreement under Section 111 or in a second
21 trust under Article 12, then the excluded fiduciary shall
22 also assume the same fiduciary and other duties and
23 standards that applied to such directing party.

24 (g) By accepting an appointment to serve as a directing
25 party of a trust that is subject to the laws of this State, the
26 directing party submits to the jurisdiction of the courts of

1 this State even if investment advisory agreements or other
2 related agreements provide otherwise, and the directing party
3 may be made a party to any action or proceeding if issues
4 relate to a decision or action of the directing party.

5 (h) Each directing party shall keep the excluded fiduciary
6 and any other directing party reasonably informed regarding
7 the administration of the trust with respect to any specific
8 duty or function being performed by the directing party to the
9 extent that the duty or function would normally be performed
10 by the excluded fiduciary or to the extent that providing such
11 information to the excluded fiduciary or other directing party
12 is reasonably necessary for the excluded fiduciary or other
13 directing party to perform its duties, and the directing party
14 shall provide such information as reasonably requested by the
15 excluded fiduciary or other directing party. Neither the
16 performance nor the failure to perform of a directing party's
17 duty to inform as provided in this subsection affects
18 whatsoever the limitation on the liability of the excluded
19 fiduciary as provided in this Section.

20 (i) Other required notices.

21 (1) A directing party shall:

22 (A) within 90 days after becoming a directing
23 party, notify each qualified beneficiary of the
24 acceptance and of the directing party's name, address,
25 and telephone number, except that the notice
26 requirement of this subdivision (A) does not apply

1 with respect to a succession of a business entity by
2 merger or consolidation with another business entity
3 or by transfer between holding company affiliates if
4 there is no change in the contact information for the
5 directing party, in which case the successor entity
6 has discretion to determine what timing and manner of
7 notice is appropriate;

8 (B) notify each qualified beneficiary in advance
9 of any change in the rate of or the method of
10 determining the directing party's compensation; and

11 (C) notify each qualified beneficiary of the
12 directing party's resignation.

13 (2) In the event of the incapacity, death,
14 disqualification, or removal of any directing party, a
15 directing party who continues acting as directing party
16 following such an event shall notify each qualified
17 beneficiary of the incapacity, death, disqualification, or
18 removal of any other directing party within 90 days after
19 the event.

20 (j) An excluded fiduciary may, but is not required to,
21 obtain and rely upon an opinion of counsel on any matter
22 relevant to this Section.

23 (k) On and after January 1, 2013, this Section applies to:

24 (1) all existing and future trusts that appoint or
25 provide for a directing party, including, but not limited
26 to, a party granted power or authority effectively

1 comparable in substance to that of a directing party as
2 provided in this Section; or

3 (2) any existing or future trust that:

4 (A) is modified in accordance with applicable law
5 or the terms of the trust to appoint or provide for a
6 directing party; or

7 (B) is modified to appoint or provide for a
8 directing party, including, but not limited to, a
9 party granted power or authority effectively
10 comparable in substance to that of a directing party,
11 in accordance with: (i) a court order; (ii) a
12 nonjudicial settlement agreement made in accordance
13 with Section 111; or (iii) an exercise of decanting
14 power under Article 12, regardless of whether the
15 order, agreement, or second-trust instrument specifies
16 that this Section governs the responsibilities,
17 actions, and liabilities of a person designated as a
18 directing party or excluded fiduciary.

19 (Source: P.A. 101-48, eff. 1-1-20.)

20 (760 ILCS 3/813.1)

21 Sec. 813.1. Duty to inform and account; trusts irrevocable
22 and trustees accepting appointment after effective date of
23 Code.

24 (a) This Section applies to all trusts created under a
25 trust instrument that became irrevocable after the effective

1 date of this Code and, subject to Section 603, to all revocable
2 trusts except with respect to a trustee of a revocable trust
3 who accepted such trustee's trusteeship before the effective
4 date of this Code. This Section is prospective only and does
5 not apply to any trust created under a trust instrument that
6 became ~~was~~ irrevocable before the effective date of this Code~~7~~
7 ~~or to a trustee who accepts a trusteeship before the effective~~
8 ~~date of this Code.~~ Subject to Section 105, this Section
9 supplants any common law duty of a trustee to inform and
10 account to trust beneficiaries. ~~This Section does not apply to~~
11 ~~trusts that became irrevocable before the effective date of~~
12 ~~this Code.~~

13 (b) General principles.

14 (1) The trustee shall notify each qualified
15 beneficiary:

16 (A) of the trust's existence;

17 (B) of the beneficiary's right to request a
18 complete copy of the trust instrument or, if the trust
19 instrument so provides, only the portion of the trust
20 instrument that set forth the terms of the trust in
21 which the qualified beneficiary has an interest as a
22 qualified beneficiary, as applicable; and

23 (C) whether the beneficiary has a right to receive
24 or request trust accountings.

25 The notice required by this paragraph (1) must be
26 given: (i) within 90 days of the trust becoming

1 irrevocable or if no trustee is then acting within 90 days
2 of the trustee's acceptance of the trusteeship; (ii)
3 within 90 days of the trustee acquiring knowledge that a
4 qualified beneficiary has a representative under Article 3
5 who did not previously receive notice; (iii) within 90
6 days of the trustee acquiring knowledge that a qualified
7 beneficiary who previously had a representative under
8 Article 3 no longer has a representative under Article 3;
9 and (iv) within 90 days of the trustee acquiring knowledge
10 that there is a new qualified beneficiary.

11 (2) A trustee shall send at least annually a trust
12 accounting to all current beneficiaries.

13 (3) A trustee shall send at least annually a trust
14 accounting to all presumptive remainder beneficiaries.

15 (4) Upon termination of a trust, a trustee shall send
16 a trust accounting to all beneficiaries entitled to
17 receive a distribution of the residue of the trust.

18 (5) Notwithstanding any other provision, a trustee in
19 its discretion may provide notice, information, trust
20 accountings, ~~or~~ reports, or a complete copy of the trust
21 instrument to any beneficiary of the trust regardless of
22 whether the communication is otherwise required to be
23 provided.

24 (6) Upon the reasonable request of a qualified
25 beneficiary, the trustee shall promptly furnish to the
26 qualified beneficiary a complete copy of the trust

1 instrument.

2 (7) Notwithstanding any other provision, a trustee is
3 deemed to have fully and completely discharged the
4 trustee's duties under this Section to inform and account
5 to all beneficiaries, at common law or otherwise, if the
6 trustee provides the notice required under paragraph (1)
7 to each qualified beneficiary and if the trustee provides
8 at least annually and on termination of the trust a trust
9 accounting required by paragraph (2), (3), or (4) to each
10 beneficiary entitled to a trust accounting.

11 (8) For each asset or class of assets described in a
12 trust accounting for which there is no readily available
13 market value, the trustee, in the trustee's discretion,
14 may determine whether to estimate the value or use a
15 nominal carrying value for such an asset, how to estimate
16 the value of such an asset, and whether and how often to
17 engage a professional appraiser to value such an asset.

18 (c) Upon a vacancy in a trusteeship, unless a co-trustee
19 remains in office, the trust accounting required by subsection
20 (b) must be sent to the beneficiaries entitled to the
21 accounting by the former trustee. A personal representative,
22 guardian of the estate, or guardian of the person may send the
23 trust accounting to the beneficiaries entitled to the
24 accounting on behalf of a deceased or incapacitated trustee.

25 (d) Other required notices.

26 (1) A trustee shall:

1 (A) within 90 days after accepting a trusteeship,
2 notify each qualified beneficiary of the acceptance
3 and of the trustee's name, address, and telephone
4 number, except that the notice requirement of this
5 subdivision (A) does not apply with respect to a
6 succession of a corporate trustee by merger or
7 consolidation with another corporate fiduciary or by
8 transfer between holding company affiliates if there
9 is no change in the contact information for the
10 trustee, in which case the successor trustee has
11 discretion to determine what timing and manner of
12 notice is appropriate;

13 (B) notify each qualified beneficiary in advance
14 of any change in the rate of or the method of
15 determining the trustee's compensation; and

16 (C) notify each qualified beneficiary of the
17 trustee's resignation.

18 (2) In the event of the incapacity, death,
19 disqualification, or removal of any trustee, a trustee who
20 continues acting as trustee following such an event shall
21 notify each qualified beneficiary of the incapacity,
22 death, disqualification, or removal of any other trustee
23 within 90 days after the event.

24 (3) A trustee shall notify each qualified beneficiary
25 of any change in the address, telephone number, or other
26 contact information for the trustee no later than 90 days

1 after the change goes into effect.

2 (e) Each request for information under this Section must
3 be with respect to a single trust that is sufficiently
4 identified to enable the trustee to locate the trust's
5 records. A trustee may charge a reasonable fee for providing
6 information under this Section to:

7 (1) a beneficiary who is not a qualified beneficiary;

8 (2) a qualified beneficiary for providing information
9 that was previously provided to the qualified beneficiary
10 or a representative under Article 3 for the qualified
11 beneficiary; or

12 (3) a representative under Article 3 for a qualified
13 beneficiary for information that was previously provided
14 to the qualified beneficiary or a representative under
15 Article 3 for the qualified beneficiary.

16 (f) If a trustee is bound by any confidentiality
17 restrictions regarding a trust asset, then, before receiving
18 the information, a beneficiary eligible under this Section to
19 receive any information about that asset must agree to be
20 bound by the same confidentiality restrictions. The trustee
21 has no duty or obligation to disclose to any beneficiary any
22 information that is otherwise prohibited to be disclosed by
23 applicable law.

24 (g) A qualified beneficiary may waive the right to receive
25 information otherwise required to be furnished under this
26 Section, such as a trust accounting, by an instrument in

1 writing delivered to the trustee. A qualified beneficiary may
2 at any time, by an instrument in writing delivered to the
3 trustee, withdraw a waiver previously given with respect to
4 future trust accountings.

5 (h) Receipt of information, notices, or a trust accounting
6 by a beneficiary is presumed if the trustee has procedures in
7 place requiring the mailing or delivery of information,
8 notices, or trust accountings to the beneficiary. This
9 presumption applies to the mailing or delivery of information,
10 notices, or trust accountings by electronic means or the
11 provision of access to an account by electronic means for so
12 long as the beneficiary has agreed to receive electronic
13 delivery or access.

14 (i) A trustee may request approval of the trustee's
15 current or final trust accounting in a judicial proceeding at
16 the trustee's election, with all reasonable and necessary
17 costs of the proceeding payable by the trust and allocated
18 between income and principal in accordance with the Principal
19 and Income Act.

20 (j) Notwithstanding any other provision, this Section is
21 not intended to and does not impose on any trustee a duty to
22 inform any beneficiary in advance of transactions relating to
23 the trust property.

24 (Source: P.A. 101-48, eff. 1-1-20.)

25 (760 ILCS 3/813.2)

1 Sec. 813.2. Duty to inform and account for pre-2020
2 trusts, ~~trusts irrevocable and trustees accepting appointment~~
3 ~~before the effective date of Code.~~

4 (a) This Section applies to all trusts created under a
5 trust instrument that became ~~were~~ irrevocable before the
6 effective date of this Code and to a trustee of a revocable
7 trust who accepted the trustee's ~~accepts a~~ trusteeship before
8 the effective date of this Code.

9 (b) Every trustee at least annually shall furnish to the
10 beneficiaries then entitled to receive or receiving the income
11 from the trust estate, or, if none, then to those
12 beneficiaries eligible to have the benefit of the income from
13 the trust estate, a current account showing the receipts,
14 disbursements, and inventory of the trust estate.

15 (c) Every trustee shall on termination of the trust
16 furnish to the beneficiaries then entitled to distribution of
17 the trust estate a final account for the period from the date
18 of the last current account to the date of distribution
19 showing the inventory of the trust estate, the receipts,
20 disbursements, and distributions and shall make available to
21 the beneficiaries copies of prior accounts not previously
22 furnished.

23 (d) If a beneficiary is incapacitated, the account shall
24 be provided to the representative of the estate of the
25 beneficiary. If no representative for the estate of a
26 beneficiary under legal disability has been appointed, the

1 account shall be provided to a spouse, parent, adult child, or
2 guardian of the person of the beneficiary.

3 (e) For each asset or class of assets described in the
4 account for which there is no readily available market value,
5 the trustee, in the trustee's discretion, may determine
6 whether to estimate the value or use a nominal carrying value
7 for such an asset, how to estimate the value of such an asset,
8 and whether and how often to engage a professional appraiser
9 to value such an asset.

10 (Source: P.A. 101-48, eff. 1-1-20.)

11 (760 ILCS 3/817)

12 Sec. 817. Distribution upon termination. Upon the
13 occurrence of an event terminating a trust in whole or in part,
14 or upon the exercise by a beneficiary of a right to withdraw
15 trust principal, the trustee shall proceed expeditiously to
16 make the distribution to the beneficiary. The trustee has the
17 right to require from the beneficiary a written approval of
18 the trust accounting ~~trustee's accountings~~ provided to the
19 beneficiary and, at the trustee's election, a refunding
20 agreement from the beneficiary for liabilities that would
21 otherwise be payable from trust property to the extent of the
22 beneficiary's share of the distribution. A trust ~~An~~ accounting
23 approved under this Section is binding on the beneficiary
24 providing the approval and on the beneficiary's successors,
25 heirs, representatives, and assigns. A trustee may elect to

1 withhold a reasonable amount of a distribution or require a
2 reasonable reserve for the payment of debts, expenses, and
3 taxes payable from the trust pending the receipt of a written
4 approval of the trust accounting ~~trustee's accountings~~
5 provided to the beneficiary and refunding agreement from a
6 beneficiary or a judicial settlement of accounts.

7 (Source: P.A. 101-48, eff. 1-1-20.)

8 (760 ILCS 3/913)

9 Sec. 913. Life insurance.

10 (a) Notwithstanding any other provision, the duties of a
11 trustee with respect to acquiring or retaining as a trust
12 asset a contract of insurance upon the life of the settlor,
13 upon the lives of the settlor and the settlor's spouse, or upon
14 the life of any person for which the trustee has an insurable
15 interest in accordance with Section 113, do not include any of
16 the following duties:

17 (1) to determine whether any contract of life
18 insurance in the trust, or to be acquired by the trust, is
19 or remains a proper investment, including, without
20 limitation, with respect to:

21 (A) the type of insurance contract;

22 (B) the quality of the insurance contract;

23 (C) the quality of the insurance company; or

24 (D) the investments held within the insurance

25 contract;:-

1 (2) to diversify the investment among different
2 policies or insurers, among available asset classes, or
3 within an insurance contract;

4 (3) to inquire about or investigate into the health or
5 financial condition of an insured;

6 (4) to prevent the lapse of a life insurance contract
7 if the trust does not receive contributions or hold other
8 readily marketable assets to pay the life insurance
9 contract premiums; or

10 (5) to exercise any policy options, rights, or
11 privileges available under any contract of life insurance
12 in the trust, including any right to borrow the cash value
13 or reserve of the policy, acquire a paid-up policy, or
14 convert to a different policy.

15 (b) The trustee is not liable to the beneficiaries of the
16 trust, the beneficiaries of the contract of insurance, or to
17 any other party for loss arising from the absence of these
18 duties regarding insurance contracts under this Section.

19 (c) This Section applies to an irrevocable trust created
20 after the effective date of this Code or to a revocable trust
21 that becomes irrevocable after the effective date of this
22 Code. This Section applies to a trust established before the
23 effective date of this Code if the ~~The~~ trustee of a trust
24 described under this Section notifies ~~established before the~~
25 ~~effective date of this Code shall notify~~ the settlor in
26 writing that, unless the settlor provides written notice to

1 the contrary to the trustee within 90 days of the trustee's
2 notice, this Section applies to the trust effective as of the
3 date of the trustee's written notice. This Section does not
4 apply if, within 90 days of the trustee's notice, the settlor
5 notifies the trustee in writing that this Section does not
6 apply. If the settlor is deceased, then the trustee shall give
7 notice to all of the legally competent current beneficiaries,
8 and this Section applies to the trust unless the majority of
9 the beneficiaries notify the trustee to the contrary in
10 writing within 90 days of the trustee's notice.

11 (Source: P.A. 101-48, eff. 1-1-20; revised 8-6-19.)

12 (760 ILCS 3/1103)

13 Sec. 1103. Conversion by agreement. Conversion to a total
14 return trust may be made by agreement between a trustee and all
15 qualified beneficiaries. The agreement may include any actions
16 a court could properly order under Section 1104 ~~1108~~; however,
17 any distribution percentage determined by the agreement may
18 not be less than 3% nor greater than 5%.

19 (Source: P.A. 101-48, eff. 1-1-20.)

20 (760 ILCS 3/1202)

21 Sec. 1202. Definitions. In this Article:

22 (1) (Blank). ~~"Appointive property" means the property or~~
23 ~~property interest subject to a power of appointment.~~

24 (2) "Authorized fiduciary" means:

1 (A) a trustee or other fiduciary, other than a
2 settlor, that has discretion to distribute or direct a
3 trustee to distribute part or all of the principal of the
4 first trust to one or more current beneficiaries;

5 (B) a special fiduciary appointed under Section 1209;
6 or

7 (C) a special-needs fiduciary under Section 1213.

8 (3) "Court" means the court in this State having
9 jurisdiction in matters relating to trusts.

10 (4) "Decanting power" or "the decanting power" means the
11 power of an authorized fiduciary under this Article to
12 distribute property of a first trust to one or more second
13 trusts or to modify the terms of the first trust.

14 (5) "Expanded distributive discretion" means a
15 discretionary power of distribution that is not limited to an
16 ascertainable standard or a reasonably definite standard.

17 (6) "First trust" means a trust over which an authorized
18 fiduciary may exercise the decanting power.

19 (7) "First-trust instrument" means the trust instrument
20 for a first trust.

21 (8) "Reasonably definite standard" means a clearly
22 measurable standard under which a holder of a power of
23 distribution is legally accountable within the meaning of
24 Section 674(b) (5) (A) of the Internal Revenue Code, as amended,
25 and any applicable regulations.

26 (9) "Record" means information that is inscribed on a

1 tangible medium or that is stored in an electronic or other
2 medium and is retrievable in perceivable form.

3 (10) "Second trust" means:

4 (A) a first trust after modification under this
5 Article; or

6 (B) a trust to which a distribution of property from a
7 first trust is or may be made under this Article.

8 (11) "Second-trust instrument" means the trust instrument
9 for a second trust.

10 (Source: P.A. 101-48, eff. 1-1-20.)

11 (760 ILCS 3/1211)

12 Sec. 1211. Decanting power under expanded distributive
13 discretion.

14 (a) In this Section:

15 (1) "Noncontingent" right means a right that is not
16 subject to the exercise of discretion or the occurrence of
17 a specified event that is not certain to occur. The term
18 does not include a right held by a beneficiary if any
19 person has discretion to distribute property subject to
20 the right of any person other than the beneficiary or the
21 beneficiary's estate.

22 (2) "Successor beneficiary" means a beneficiary that
23 on the date the beneficiary's qualification is determined
24 is not a qualified beneficiary. The term does not include
25 a person that is a beneficiary only because the person

1 holds a nongeneral power of appointment.

2 (3) "Vested interest" means:

3 (A) a right to a mandatory distribution that is a
4 noncontingent right as of the date of the exercise of
5 the decanting power;

6 (B) a current and noncontingent right, annually or
7 more frequently, to a mandatory distribution of
8 income, a specified dollar amount, or a percentage of
9 value of some or all of the trust property;

10 (C) a current and noncontingent right, annually or
11 more frequently, to withdraw income, a specified
12 dollar amount, or a percentage of value of some or all
13 of the trust property;

14 (D) a presently exercisable general power of
15 appointment; or

16 (E) a right to receive an ascertainable part of
17 the trust property on the trust's termination that is
18 not subject to the exercise of discretion or to the
19 occurrence of a specified event that is not certain to
20 occur.

21 (b) Subject to subsection (c) and Section 1214, an
22 authorized fiduciary that has expanded distributive discretion
23 to distribute the principal of a first trust to one or more
24 current beneficiaries may exercise the decanting power over
25 the principal of the first trust.

26 (c) Subject to Section 1213, in an exercise of the

1 decanting power under this Section, a second trust may not:

2 (1) include as a current beneficiary a person that is
3 not a current beneficiary of the first trust, except as
4 otherwise provided in subsection (d) or in the terms of
5 the first trust;

6 (2) include as a presumptive remainder beneficiary or
7 successor beneficiary a person that is not a current
8 beneficiary, presumptive remainder beneficiary, or
9 successor beneficiary of the first trust, except as
10 otherwise provided in subsection (d); or

11 (3) reduce or eliminate a vested interest.

12 (d) Subject to subsection (c)(3) and Section 1214, in an
13 exercise of the decanting power under this Section, a second
14 trust may be a trust created or administered under the law of
15 any jurisdiction and may:

16 (1) retain a power of appointment granted in the first
17 trust;

18 (2) omit a power of appointment granted in the first
19 trust, other than a presently exercisable general power of
20 appointment;

21 (3) create or modify a power of appointment if the
22 powerholder is a current beneficiary of the first trust
23 and the authorized fiduciary has expanded distributive
24 discretion to distribute principal to the beneficiary; and

25 (4) create or modify a power of appointment if the
26 powerholder is a presumptive remainder beneficiary or

1 successor beneficiary of the first trust, but the exercise
2 of the power may take effect only after the powerholder
3 becomes, or would have become if then living, a current
4 beneficiary.

5 (e) A power of appointment described in subsection (d)(1)
6 through (4) of subsection (d) may be general or nongeneral.
7 The class of permissible appointees in favor of which the
8 power may be exercised may be broader than or different from
9 the beneficiaries of the first trust.

10 (f) If an authorized fiduciary has expanded distributive
11 discretion to distribute part but not all of the principal of a
12 first trust, the fiduciary may exercise the decanting power
13 under this Section over that part of the principal over which
14 the authorized fiduciary has expanded distributive discretion.
15 (Source: P.A. 101-48, eff. 1-1-20.)

16 (760 ILCS 3/1215)

17 Sec. 1215. Trust limitation on decanting.

18 (a) An authorized fiduciary may not exercise the decanting
19 power to the extent the first-trust instrument expressly
20 prohibits exercise of:

21 (1) the decanting power; or

22 (2) a power granted by state law to the fiduciary to
23 distribute part or all of the principal of the trust to
24 another trust or to modify the trust.

25 (b) Exercise of the decanting power is subject to any

1 restriction in the first-trust instrument that expressly
2 applies to exercise of:

3 (1) the decanting power; or

4 (2) a power granted by state law to a fiduciary to
5 distribute part or all of the principal of the trust to
6 another trust or to modify the trust.

7 (c) A general prohibition of the amendment or revocation
8 of a first trust, a spendthrift provision ~~clause~~, or a clause
9 restraining the voluntary or involuntary transfer of a
10 beneficiary's interest does not preclude exercise of the
11 decanting power.

12 (d) Subject to subsections (a) and (b), an authorized
13 fiduciary may exercise the decanting power under this Article
14 even if the first-trust instrument permits the authorized
15 fiduciary or another person to modify the first-trust
16 instrument or to distribute part or all of the principal of the
17 first trust to another trust.

18 (e) If a first-trust instrument contains an express
19 prohibition described in subsection (a) or an express
20 restriction described in subsection (b), that provision must
21 be included in the second-trust instrument.

22 (Source: P.A. 101-48, eff. 1-1-20.)

23 (760 ILCS 3/1302)

24 Sec. 1302. Definitions. In this Article:

25 (1) "Appointee" means a person to which a powerholder

1 makes an appointment of appointive property.

2 (2) (Blank). ~~"Appointive property" means the property or~~
3 ~~property interest subject to a power of appointment.~~

4 (3) "Blanket-exercise clause" means a clause in an
5 instrument that exercises a power of appointment and is not a
6 specific-exercise clause. The term includes a clause that:

7 (A) expressly uses the words "any power" in exercising
8 any power of appointment the powerholder has;

9 (B) expressly uses the words "any property" in
10 appointing any property over which the powerholder has a
11 power of appointment; or

12 (C) disposes of all property subject to disposition by
13 the powerholder.

14 (4) "Exclusionary power of appointment" means a power of
15 appointment exercisable in favor of any one or more of the
16 permissible appointees to the exclusion of the other
17 permissible appointees.

18 (5) "Gift-in-default clause" means a clause identifying a
19 taker in default of appointment.

20 (6) "Impermissible appointee" means a person that is not a
21 permissible appointee.

22 (7) "Instrument" means a writing.

23 (8) (Blank). ~~"Permissible appointee" means a person in~~
24 ~~whose favor a powerholder may exercise a power of appointment.~~

25 (9) "Record" means information that is inscribed on a
26 tangible medium or that is stored in an electronic or other

1 medium and is retrievable in perceivable form.

2 (10) "Specific-exercise clause" means a clause in an
3 instrument that specifically refers to and exercises a
4 particular power of appointment.

5 (11) "Taker in default of appointment" means a person that
6 takes part or all of the appointive property to the extent the
7 powerholder does not effectively exercise the power of
8 appointment.

9 (12) "Terms of the instrument" means the manifestation of
10 the intent of the maker of the instrument regarding the
11 instrument's provisions as expressed in the instrument or as
12 may be established by other evidence that would be admissible
13 in a legal proceeding.

14 (Source: P.A. 101-48, eff. 1-1-20.)

15 (760 ILCS 3/1324)

16 Sec. 1324. Disposition of trust property subject to power.
17 In disposing of trust property subject to a power of
18 appointment, whether exercisable by a will or an instrument
19 other than a will, a trustee acting in good faith shall have no
20 liability to any appointee or taker in default of appointment
21 for relying upon a will, regardless of whether it was admitted
22 to probate, or an instrument believed to be genuine purporting
23 to exercise a power of appointment or for assuming that there
24 is no will or instrument exercising the power of appointment
25 in the absence of actual knowledge thereof within 3 months of

1 the death of the powerholder, in the case of a will, or 3
2 months of the last date on which the power of appointment may
3 be exercised, in the case of any other instrument. Nothing in
4 this Section precludes a donor of a power or a trustee from
5 requiring that a will be admitted to probate.

6 (Source: P.A. 101-48, eff. 1-1-20.)

7 (760 ILCS 3/1506)

8 Sec. 1506. Application to existing relationships. Except
9 as otherwise provided in this Code, on the effective date of
10 this Code:

11 (1) This Code applies to all trusts created before,
12 on, or after its effective date.

13 (2) This Code applies to all judicial proceedings
14 concerning trusts commenced on or after its effective
15 date. As used in this Section, "judicial proceedings"
16 includes any proceeding before a court or administrative
17 tribunal of this State and any arbitration or mediation
18 proceedings.

19 (3) This Code applies to all nonjudicial matters
20 concerning trusts commenced before, on, or after its
21 effective date. As used in this Section, "nonjudicial
22 matters" includes, but is not limited to, nonjudicial
23 settlement agreements entered into under Section 111 and
24 the grant of any consent, release, ratification, or
25 indemnification.

1 (4) This Code applies to judicial proceedings
2 concerning trusts commenced before its effective date
3 unless the court finds that application of a particular
4 provision of this Code would substantially interfere with
5 the effective conduct of the judicial proceedings or
6 prejudice the rights of the parties, in which case the
7 particular provision of this Code does not apply and the
8 superseded law applies.

9 (5) Any rule of construction or presumption provided
10 in this Code applies to trust instruments executed before
11 the effective date of this Code unless there is a clear
12 indication of a contrary intent in the trust instrument.

13 (6) An act done before the effective date of this Code
14 is not affected by this Code.

15 (7) If a right is acquired, extinguished, or barred
16 upon the expiration of a prescribed period that has
17 commenced to run under any other statute before the
18 effective date of this Code, that statute continues to
19 apply to the right even if it has been repealed or
20 superseded.

21 (8) (Blank). ~~This Code shall be construed as~~
22 ~~pertaining to administration of a trust and applies to any~~
23 ~~trust that is administered in Illinois under Illinois law~~
24 ~~or that is governed by Illinois law with respect to the~~
25 ~~meaning and effect of its terms, except to the extent the~~
26 ~~trust instrument expressly prohibits use of this Code by~~

1 ~~specific reference to this Code.~~

2 (Source: P.A. 101-48, eff. 1-1-20.)

1 INDEX

2 Statutes amended in order of appearance

3 405 ILCS 5/3-605 from Ch. 91 1/2, par. 3-605

4 760 ILCS 3/103

5 760 ILCS 3/105

6 760 ILCS 3/107

7 760 ILCS 3/111

8 760 ILCS 3/301

9 760 ILCS 3/302

10 760 ILCS 3/401

11 760 ILCS 3/402

12 760 ILCS 3/403

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14 760 ILCS 3/416

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18 760 ILCS 3/813.1

19 760 ILCS 3/813.2

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- 1 760 ILCS 3/1302
- 2 760 ILCS 3/1324
- 3 760 ILCS 3/1506