

MISSOURI UNIFORM TRUST CODE

<DRAFT: 11-22-02>

<<note: changes from the Uniform Trust Code are shown by strikeouts for deletions and underlined language for insertions. Changes still being considered by the drafting committee are shown by < > 3for deletions and italicized language for additions. Unresolved drafting issues are shown by []>>

Be it enacted by the General Assembly of the state of Missouri as follows:

Sections [SECTIONS OF 456 TO BE REPEALED:ALSO NEED TO AMEND SECTION 472.300. LEAVE SECTION 362.550.11 AS IS], and Section 456.670 RSMo. Supp. 2000, are repealed and [NUMBER] new sections enacted in lieu thereof, to be known as Sections [NUMBERS OF NEW SECTIONS], and [LAST NEW SECTION], to read as follows:

MISSOURI UNIFORM TRUST CODE

[ARTICLE 1

GENERAL PROVISIONS AND DEFINITIONS]

SECTION 456.1-101. SHORT TITLE. ~~This [Act]~~ Sections 456.1-101 to 456.11-1106 may be cited as the Missouri Uniform Trust Code.

SECTION 456.1-102. SCOPE. ~~This Code~~ Sections 456.1-101 to 456.11-1106 applies to express trusts, charitable or noncharitable, testamentary or inter vivos, and trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust. This Section does not apply to any trust created by the inherent power of the court pursuant to Chapter 460 RSMo.

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SECTION 456.1-103. DEFINITIONS. In:

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

(2) “Beneficiary” means a person that:

(Aa) has a present or future beneficial interest in a trust, vested or contingent; or

(Bb) in a capacity other than that of trustee, holds a power of appointment over trust

property.

(3) “Charitable trust” means a trust, or portion of a trust, created for a charitable purpose described in Section 456.4-405.1.

(4) “Conservator” means a person described in ~~appointed by a the court to administer the estate of a minor or adult individual pursuant to the provisions of Chapter 475 Section 475.010(3). This term does not include a conservator ad litem appointed by the court pursuant to the provisions of Section 475.097.~~

(5) “Conservator Ad Litem” means a person appointed by the court pursuant to the provisions of Section 475.097.

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

(7) “Guardian” means a person described in ~~appointed by a the court pursuant to~~ Section 475.010(6) or [, a parent, or a spouse] to make decisions regarding the support, care, education, health, and welfare of a minor or adult individual. The term does not include a guardian ad litem.

(8) "Interested persons" include beneficiaries and any others having a property right in or

55 claim against a trust estate which may be affected by a judicial proceeding. It also includes
56 fiduciaries persons and other persons ~~fiduciaries~~ representing interested persons. The meaning as
57 it relates to particular persons may vary from time to time and must be determined according to
58 the particular purposes of, and matter involved in, any proceeding.

59 (9) "Interests of the beneficiaries" means the beneficial interests provided in the terms of
60 the trust.

61 (10) "Jurisdiction," with respect to a geographic area, includes a State or country.

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

65 (12) "Permissible distributee" means a beneficiary who is a current distributee of trust
66 income or principal, whether mandatory or discretionary.

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

70 (14) "Principal Place of Administration" of a trust is the trustee's usual place of business
71 where the records pertaining to the trust are kept, or at the trustee's residence if the trustee has no
72 such place of business, unless otherwise designated by the terms of the trust as provided in
73 section 456.1-108. In the case of cotrustees, the principal place of administration is, in the
74 following order of priority:

75 (a) The usual place of business of the corporate trustee if there is but one corporate
76 cotrustee; or

77 (b) The usual place of business or residence of the individual trustee who is a
78 professional fiduciary if there is but one such person individual trustee and no corporate
79 cotrustee; or

80 (c) The usual place of business or residence of any of the cotrustees.

81 (15) "Professional fiduciary" means an individual trustee who represents himself or
82 herself to the public as having specialized training, experience or skills in the administration of
83 trusts.

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

86 (17) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's
87 qualification is determined:

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

89 (B b) would be a ~~distributee or~~ permissible distributee of trust income or principal if
90 the interests of the distributees described in subparagraph (a) terminated on that date; or

91 (C c) would be a ~~distributee or~~ permissible distributee of trust income or principal if
92 the trust terminated on that date.

93 (18) "Record" means information that is inscribed on a tangible medium or that is stored
94 in an electronic or other medium and is retrievable in perceivable form.

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

97 (20) "Settlor" means a person, including a testator, who creates, or contributes property
98 to, a trust. If more than one person creates or contributes property to a trust, each person is a

99 settlor of the portion of the trust property attributable to that person’s contribution except to the
100 extent another person has the power to revoke or withdraw that portion.

101 (21) “Sign” means, with present intent to authenticate or adopt a record:

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

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

105 (22) “Spendthrift provision” means a term of a trust which restrains either both the
106 voluntary and or involuntary transfer or both the voluntary and involuntary transfer of a
107 beneficiary’s interest.

108 (23) “State” means a State of the United States, the District of Columbia, Puerto Rico,
109 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
110 of the United States. The term includes an Indian tribe or band recognized by federal law or
111 formally acknowledged by a State.

112 (24) “Terms of a trust” means the manifestation of the settlor’s intent regarding a trust’s
113 provisions as expressed in the trust instrument or as may be established by other evidence that
114 would be admissible in a judicial proceeding.

115 (25) “Trust instrument” means an instrument executed by the settlor that contains terms
116 of the trust, including any amendments thereto.

117 (26) “Trustee” includes an original, additional, and successor trustee, and a cotrustee.

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119 **SECTION 456.1-104. KNOWLEDGE.**

120 1. Subject to subsection 2, a person has knowledge of a fact if the person:

121 (1) has actual knowledge of it;
122 (2) has received a notice or notification of it; or
123 (3) from all the facts and circumstances known to the person at the time in question,
124 has reason to know it.

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

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135 **SECTION 456.1-105. DEFAULT AND MANDATORY RULES.**

136 1. Except as otherwise provided in the terms of the trust, Sections 456.1-101 to 456.11-
137 1106 governs the duties and powers of a trustee, relations among trustees, and the rights and
138 interests of a beneficiary.

139 2. The terms of a trust prevail over any provision of Sections 456.1-101 to 456.11-1106
140 except:

141 (1) the requirements for creating a trust;
142 (2) the duty of a trustee to act in good faith and in accordance with the purposes of the

143 trust;

144 (3) the requirement that a trust and its terms be for the benefit of its beneficiaries;

145 (4) the power of the court to modify or terminate a trust under Sections 456.410,

146 456.411.1, 456.411.4, 456.411.5, and 412 through 416;

147 (5) the effect of a spendthrift provision and the rights of certain creditors and

148 assignees to reach a trust as provided in Sections 456.5-501 to 456.5-507;

149 (6) the power of the court under Section 456.7-702 to require, dispense with, or

150 modify or terminate a bond;

151 (7) the power of the court under Section 456.7-708.2 to adjust a trustee's

152 compensation specified in the terms of the trust which is unreasonably low or high;

153 (8) the duty to notify the ~~qualified beneficiaries~~ permissible distributees of an

154 irrevocable trust who have attained ~~25~~ 21 years of age of the existence of the trust and of their

155 rights to request trustee's reports and other information reasonably related to the administration

156 of the trust;

157 (9) the duty to respond to the request of a beneficiary of an irrevocable trust for

158 trustee's reports and other information reasonably related to the administration of a trust;

159 (10) the effect of an exculpatory term under Section 1008;

160 (11) the rights under Sections 1010 through 1013 of a person other than a trustee or

161 beneficiary;

162 (12) periods of limitation for commencing a judicial proceeding; ~~and~~

163 (13) the power of the court to take such action and exercise such jurisdiction as may

164 be necessary in the interests of justice ~~}; and~~

165 (14) the ~~subject matter jurisdiction of the court and venue for commencing a~~
166 proceeding as provided in Sections ~~456.2-203 and 456.2-204~~.

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168 **SECTION 456.1-106. COMMON LAW OF TRUSTS; PRINCIPLES OF EQUITY.**

169 The common law of trusts and principles of equity supplement Sections 456.1-101 to 456.11-
170 1106, except to the extent modified by Sections 456.1-101 to 456.11-1106 or another statute of
171 this State.

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173 **SECTION 456.1-107. GOVERNING LAW.** The meaning and effect of the terms of a trust
174 are determined by:

175 (1) the law of the jurisdiction designated in the terms unless the designation of that
176 jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most
177 significant relationship to the matter at issue; or

178 (2) in the absence of a controlling designation in the terms of the trust, the law of the
179 jurisdiction having the most significant relationship to the matter at issue.

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181 **SECTION 456.1-108. PRINCIPAL PLACE OF ADMINISTRATION.**

182 1. Without precluding other means for establishing a sufficient connection with the
183 designated jurisdiction, terms of a trust designating the principal place of administration are valid
184 and controlling if:

185 (1) a trustee's principal place of business is located in or a trustee is a resident of the
186 designated jurisdiction; or

187 (2) all or part of the administration occurs in the designated jurisdiction.

188 2. A trustee is under a continuing duty to administer the trust at a place appropriate to its
189 purposes, its administration, and the interests of the beneficiaries.

190 3. Without precluding the right of the court to order, approve, or disapprove a transfer,
191 the trustee, in furtherance of the duty prescribed by subsection 2, may transfer the trust's
192 principal place of administration to another State or to a jurisdiction outside of the United States.

193 4. The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's
194 principal place of administration not less than 60 days before initiating the transfer. The notice
195 of proposed transfer must include:

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

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

200 (3) an explanation of the reasons for the proposed transfer;

201 (4) the date on which the proposed transfer is anticipated to occur; and

202 (5) the date, not less than 60 days after the giving of the notice, by which the qualified
203 beneficiary must notify the trustee of an objection to the proposed transfer.

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

207 6. In connection with a transfer of the trust's principal place of administration, the trustee
208 may transfer some or all of the trust property to a successor trustee designated in the terms of the

209 trust or appointed pursuant to Section 456.7-704.

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211 **SECTION 456.1-109. METHODS AND WAIVER OF NOTICE.**

212 1. Notice to a person under Sections 456.1-101 to 456.11-1106 or the sending of a
213 document to a person under Sections 456.1-101 to 456.11-1106 must be accomplished in a
214 manner reasonably suitable under the circumstances and likely to result in receipt of the notice or
215 document. Permissible methods of notice or for sending a document include first-class mail,
216 personal delivery, delivery to the person's last known place of residence or place of business, or a
217 properly directed electronic message.

218 2. Notice otherwise required under Sections 456.1-101 to 456.11-1106 or a document
219 otherwise required to be sent under Sections 456.1-101 to 456.11-1106 need not be provided to a
220 person whose identity or location is unknown to and not reasonably ascertainable by the trustee.

221 3. Notice under Sections 456.1-101 to 456.11-1106 or the sending of a document under
222 Sections 456.1-101 to 456.11-1106 may be waived by the person to be notified or sent the
223 document.

224 4. Notice of a judicial proceeding must be given as provided in the applicable rules of
225 civil procedure.

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227 **SECTION 456.1-110. OTHERS TREATED AS QUALIFIED BENEFICIARIES.**

228 ~~1. Whenever notice to qualified beneficiaries of a trust is required under this [Code], the~~
229 ~~trustee must also give notice to any other beneficiary who has sent the trustee a request for~~
230 ~~notice.~~

231 ~~2~~-1. A specified charitable organization ~~expressly entitled to receive benefits under the~~
232 ~~terms of a charitable trust~~ or a person appointed to enforce a trust created for the care of an
233 animal or another noncharitable purpose as provided in Sections 456.4-408 or 456.4-409 has the
234 rights of a qualified beneficiary under Sections 456.1-101 to 456.11-1106.

235 ~~3~~ 2. The Attorney General of this State has the rights of a qualified beneficiary with
236 respect to an interest in a charitable trust having its principal place of administration in this State
237 if:

238 (1) a specified charitable organization is not entitled to a distribution from such interest;

239 and

240 (2) distributions from the interest are payable in a manner that, if payable to an
241 identifiable charitable entity, would qualify that entity as a specified charitable organization.

242 3 For purposes of this Section a “Specified charitable organization” means an identifiable
243 charitable entity that, on the date that entity’s qualification is determined:

244 (a) is a permissible distributee;

245 (b) would be a permissible distributee if the interests of the permissible distributees
246 terminated on that date; or

247 (c) would be a permissible distributee if the trust terminated on that date.

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249 **SECTION 456.1-111. NONJUDICIAL SETTLEMENT AGREEMENTS.**

250 1. For purposes of this section, “interested persons” means persons whose consent would
251 be required in order to achieve a binding settlement were the settlement to be approved by the
252 court.

253 2. Except as otherwise provided in subsection 3, interested persons may enter into a
254 binding nonjudicial settlement agreement with respect to any matter involving a trust.

255 3. A nonjudicial settlement agreement is valid only to the extent it does not violate a
256 material purpose of the trust and includes terms and conditions that could be properly approved
257 by the court under Sections 456.1-101 to 456.11-1106 or other applicable law.

258 4. Matters that may be resolved by a nonjudicial settlement agreement include:

259 (1) the interpretation or construction of the terms of the trust;

260 (2) the approval of a trustee's report or accounting;

261 (3) direction to a trustee to refrain from performing a particular act or the grant to a
262 trustee of any necessary or desirable power;

263 (4) the resignation or appointment of a trustee and the determination of a trustee's
264 compensation;

265 (5) transfer of a trust's principal place of administration; and

266 (6) liability of a trustee for an action relating to the trust.

267 5. Any interested person may request the court to approve a nonjudicial settlement
268 agreement, to determine whether the representation as provided in ~~[Article] 3~~ Section 456.3-301
269 to Section 456.3-305 was adequate, and to determine whether the agreement contains terms and
270 conditions the court could have properly approved.

271 6. A nonjudicial settlement agreement may not be used to terminate or modify a trust for
272 the reasons that a court could terminate a trust as set forth in Section 456.4-411.2.

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274 **SECTION 456.1-112. RULES OF CONSTRUCTION.** ~~The rules of construction that~~

275 ~~apply in this State to the interpretation of and disposition of property by will also apply as~~
276 ~~appropriate to the interpretation of the terms of a trust and the disposition of the trust property.~~

277 **MARRIAGE DISSOLUTION OR ANNULMENT**

278 1. If a settlor's marriage is dissolved or annulled, any beneficial terms of a trust in favor of
279 the settlor's former spouse or any fiduciary appointment of the settlor's former spouse is revoked
280 on the date the marriage is dissolved or annulled, whether or not the terms of the trust refer to
281 marital status. The terms of the trust shall be given effect as if the former spouse had died on the
282 date the divorce was final. This subsection shall also apply to any beneficial interest or fiduciary
283 appointment in favor of a relative of the settlor's former spouse as if such relative were the
284 former spouse.

285 2. Subsection 1 of this section does not apply to the terms of a trust that is made after the
286 marriage was dissolved, or that expressly states that marriage dissolution shall not affect the
287 designation of a spouse or relative of a spouse as a beneficiary of a trust.

288 3. A court may order or the settlor and the spouse may agree before, during, or after the
289 marriage in a binding contract or settlement agreement specifically referring to this Section that
290 Subsection 1 of this section does not apply to a beneficial interest or fiduciary appointment.

291 4. Any terms of a trust revoked solely by this section is revived by the settlor's remarriage
292 to the former spouse or by a nullification of the marriage dissolution or annulment.

293 5. In this section, "a relative of the settlor's former spouse" means an individual who is
294 related to the settlor's former spouse by blood, adoption or affinity and who, after the divorce or
295 annulment, is not related to the settlor by blood, adoption or affinity.

296 **[ARTICLE 2**

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JUDICIAL PROCEEDINGS]

SECTION 456.2-201. ROLE OF COURT IN ADMINISTRATION OF TRUST.

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

SECTION 456.2-202. JURISDICTION OVER TRUSTEE AND BENEFICIARY.

1. By accepting the trusteeship of a trust having its principal place of administration in this State or by moving the principal place of administration to this State, the trustee submits personally to the jurisdiction of the courts of this State regarding the administration of the trust during any period that the principal place of administration is located in this state ~~any matter involving the trust~~.
2. With respect to their interests in the trust, the beneficiaries of a trust having its principal place of administration in this State are subject to the jurisdiction of the courts of this State regarding any proceeding ~~matter~~ involving the administration of the trust. By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of this State regarding any proceeding ~~matter~~ involving the administration of the trust.
3. A judicial proceeding involving a trust may relate to any matter involving the trust's administration, including, but not limited to a proceeding to:
 - (1) request instructions or declare rights;

- 319 (2) approve a nonjudicial settlement;
- 320 (3) interpret or construe the terms of the trust;
- 321 (4) determine the validity of a trust or of any of its terms;
- 322 (5) approve a trustee's report or accounting or compel a trustee to report or account;
- 323 (6) direct a trustee to refrain from performing a particular act or grant to a trustee any
324 necessary or desirable power;
- 325 (7) review the actions of a trustee, including the exercise of a discretionary power;
- 326 (8) accept the resignation of a trustee;
- 327 (9) appoint or remove a trustee;
- 328 (10) determine a trustee's compensation;
- 329 (11) determine the liability of a trustee for an action relating to the trust and compel redress
330 of a breach of trust by any available remedy;
- 331 (12) modify or terminate a trust;
- 332 (13) combine trusts or divide a trust;
- 333 (14) determine liability of a trust for debts of a beneficiary and living settlor;
- 334 (15) approve employment and compensation of agents;
- 335 (16) determine the propriety of investments or of principal and income allocations;
- 336 (17) ascertain the identity of trust beneficiaries or the respective beneficial interests of trust
337 beneficiaries;
- 338 (18) release of trust registration or change of the trust's principal place of administration;
- 339 (19) determine the timing and quantity of distributions and dispositions of assets;
- 340 (20) determine the validity and effect of alienations by beneficiaries, by exercise of powers of

341 appointment or otherwise; or

342 (21) appoint a representative for a beneficiary.

343 ~~3~~ 4. This section does not preclude other methods of obtaining jurisdiction over a trustee,
344 beneficiary, or other person receiving property from the trust.

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346 ~~[SECTION 456.2-203. SUBJECT MATTER JURISDICTION.~~

347 1. The [designate] court has exclusive jurisdiction of proceedings in this State brought by
348 a trustee or beneficiary concerning the administration of a trust.

349 2. The [designate] court has concurrent jurisdiction with other courts of this State of
350 other proceedings involving a trust.]

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352 **SECTION 456.2-204. VENUE.**

353 1. Except as otherwise provided in subsection 2., venue for a judicial proceeding
354 involving a trust is in the [county] of this State in which the trust's principal place of
355 administration is or will be located and, if the trust is created by will and the estate is not yet
356 closed, in the [county] in which the decedent's estate is being administered.

357 2. If a trust has no trustee, venue for a judicial proceeding for the appointment of a
358 trustee is in a [county] of this State in which a beneficiary resides, in a [county] in which any
359 trust property is located, and if the trust is created by will, in the [county] in which the decedent's
360 estate was or is being administered.]

361 1. Venue for proceedings involving the administration of registered trusts is in the place of
362 registration. Venue for proceedings involving the administration of trusts not registered in this

363 state is in any place where the trust properly could have been registered, and otherwise by the
364 rules of civil procedure.

365 2. Where a judicial proceeding under this chapter could be maintained in more than one place
366 in this state, the court in which the proceeding is first commenced has the exclusive right to
367 proceed.

368 3. If proceedings concerning the same trust are commenced in more than one court of this
369 state, the court in which the proceeding was first commenced shall continue to hear the matter,
370 and the other courts shall hold the matter in abeyance until the question of venue is decided, and
371 if the in which the proceeding was first commenced determines that venue is properly in another
372 court, it shall transfer the proceeding to the other court.

373 4. If a court finds that in the interest of justice a proceeding or a file should be located in
374 another court of this state, the court making the finding may transfer the proceeding or file to the
375 other court.

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ARTICLE 3

378

REPRESENTATION

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SECTION 456.3-301. REPRESENTATION: BASIC EFFECT.

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1. Notice to a person who may represent and bind another person under ~~this [article]~~

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Sections 456.3-301 to 456.3-305 has the same effect as if notice were given directly to the other

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person.

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2. The consent of a person who may represent and bind another person under ~~this~~

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~~[article]~~ Sections 456.3-301 to 456.3-305 is binding on the person represented unless the person

385 represented objects to the representation before the consent would otherwise have become
386 effective.

387 3. Except as otherwise provided in Sections 456.4-411 and 456.6-602, a person who
388 under ~~this [article]~~ Sections 456.3-301 to 456.3-305 may represent a settlor who lacks capacity
389 may receive notice and give a binding consent on the settlor's behalf.

390 [472.300. WILL BE AMENDED TO COORDINATE WITH THIS SECTION .]

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392 **SECTION 456.3-302. REPRESENTATION BY HOLDER OF GENERAL**

393 **TESTAMENTARY POWER OF APPOINTMENT.** ~~To the extent there is no conflict of~~

394 ~~interest between t~~The holder of a general testamentary power of appointment and the persons

395 ~~represented with respect to the particular question or dispute, the holder may represent and bind~~

396 persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to

397 the power.

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399 **SECTION 456.3-303. REPRESENTATION BY FIDUCIARIES AND PARENTS.** To

400 the extent there is no conflict of interest between the representative and the person represented or

401 among those being represented with respect to a particular question or dispute:

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

403 (2) a ~~guardian~~ conservator ad-litem may represent and bind the ward if a conservator of

404 the ward's estate has not been appointed;

405 (3) an agent having authority to act with respect to the particular question or dispute may

406 represent and bind the principal;

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

408 (5) a personal representative of a decedent's estate may represent and bind persons

409 interested in the estate; and

410 (6) a parent may represent and bind the parent's minor or unborn child if a conservator or

411 guardian for the child has not been appointed.

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413 **SECTION 456.3-304. REPRESENTATION BY PERSON HAVING**

414 **SUBSTANTIALLY IDENTICAL INTEREST.** Unless otherwise represented, a minor,

415 incapacitated, or unborn individual, or a person whose identity or location is unknown and not

416 reasonably ascertainable, may be represented by and bound by another having a substantially

417 identical interest with respect to the particular question or dispute, but only to the extent there is

418 no conflict of interest between the representative and the person represented.

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420 **SECTION 456.3-305. APPOINTMENT OF REPRESENTATIVE.**

421 1. If the court determines that an interest is not represented under ~~this [article]~~ Sections

422 456.3-301 to 456.3-305 or that the otherwise available representation might be inadequate, the

423 court may appoint a representative to receive notice, give consent, and otherwise represent, bind,

424 and act on behalf of a minor, incapacitated, or unborn individual, or a person whose identity or

425 location is unknown. A representative may be appointed to represent several persons or interests.

426 2. A representative may act on behalf of the individual represented with respect to any

427 matter arising under Sections 456.1-101 to 456.11-1106, whether or not a judicial proceeding

428 concerning the trust is pending.

429 3. In making decisions, a representative may consider general benefit accruing to the
430 living members of the individual's family.

431

432

[ARTICLE 4

433

CREATION, VALIDITY, MODIFICATION,

434

AND TERMINATION OF TRUST]

435

SECTION 456.4-401. METHODS OF CREATING TRUST. A trust may be created by:

436

(1) transfer of property to another person as trustee during the settlor's lifetime or by will

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or other disposition taking effect upon the settlor's death;

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(2) declaration by the owner of property that the owner holds identifiable property as

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trustee; ~~or~~

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

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(4) a court under Sections 475.092, 475.093, or 511.030.

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SECTION 456.4-402. REQUIREMENTS FOR CREATION.

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1. Other than for a trust created by sections 475.092, 475.093, or 511.030, a trust is

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created only if:

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

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

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

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(a) a charitable trust;

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

451 (c) a trust for a noncharitable purpose, as provided in Section 409;

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

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

454 2. A beneficiary is definite if the beneficiary can be ascertained now or in the future,
455 subject to any applicable rule against perpetuities.

456 3. A power in a trustee to select a beneficiary from an indefinite class is valid. If the
457 power is not exercised within a reasonable time, the power fails and the property subject to the
458 power passes to the persons who would have taken the property had the power not been
459 conferred.

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461 **SECTION 456.4-403. TRUSTS CREATED IN OTHER JURISDICTIONS.** A trust not
462 created by will is validly created if its creation complies with the law of the jurisdiction in which
463 the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation:

464 (1) the settlor was domiciled, had a place of abode, or was a national;

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

466 (3) any trust property was located.

467

468 **SECTION 456.4-404. TRUST PURPOSES.** A trust may be created only to the extent its
469 purposes are lawful, not contrary to public policy, and possible to achieve. A trust and its terms
470 must be for the benefit of its beneficiaries.

471

472 **SECTION 456.4-405. CHARITABLE PURPOSES; ENFORCEMENT.**

473 1. A charitable trust may be created for the relief of poverty, the advancement of
474 education or religion, the promotion of health, governmental or municipal purposes, or other
475 purposes the achievement of which is beneficial to the community.

476 2. If the terms of a charitable trust do not indicate a particular charitable purpose or
477 beneficiary, the court may select one or more charitable purposes or beneficiaries. The selection
478 must be consistent with the settlor's intention to the extent it can be ascertained.

479 3. The settlor of a charitable trust, among others, may maintain a proceeding to enforce
480 the trust.

481
482 **SECTION 456.4-406. CREATION OF TRUST INDUCED BY FRAUD, DURESS, OR**

483 **UNDUE INFLUENCE.** A trust is void to the extent its creation was induced by fraud, duress,
484 or undue influence.

485

486 **SECTION 456.4-407. EVIDENCE OF ORAL TRUST.**

487 1. Except as required by a statute other than Sections 456.1-101 to 456.11-1106 provided in
488 subsection 2, a trust need not be evidenced by a trust instrument, but the creation of an oral trust
489 and its terms may be established only by clear and convincing evidence.

490 2. Other than for a conveyance by which a trust may arise or result by the implication or
491 construction of law, all declarations or creations of trust of any lands, tenements or hereditaments
492 shall be manifested and proved by some writing signed by the party who is, or shall be, by law,
493 unable to declare such trusts, or by the party's last will, in writing, or else they shall be void.

494

495 **SECTION 456.4-408. TRUST FOR CARE OF ANIMAL.**

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

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

504 3. Property of a trust authorized by this section may be applied only to its intended use,
505 except to the extent the court determines that the value of the trust property exceeds the amount
506 required for the intended use. Except as otherwise provided in the terms of the trust, property not
507 required for the intended use must be distributed to the settlor, if then living, otherwise to the
508 settlor's successors in interest.

509

510 **SECTION 456.4-409. NONCHARITABLE TRUST WITHOUT ASCERTAINABLE**

511 **BENEFICIARY.** Except as otherwise provided in Section 456.4-408 or by another statute, the
512 following rules apply:

513 (1) A trust may be created for a noncharitable purpose without a definite or definitely
514 ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the
515 trustee. The trust may not be enforced for more than ~~{21}~~ 21 years.

516 (2) A trust authorized by this section may be enforced by a person appointed in the terms

517 of the trust or, if no person is so appointed, by a person appointed by the court.

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

523

524 **SECTION 456.4-410. MODIFICATION OR TERMINATION OF TRUST;**
525 **PROCEEDINGS FOR APPROVAL OR DISAPPROVAL.**

526 1. In addition to the methods of termination prescribed by Sections 456.4-411 through
527 456.4-414, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no
528 purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful,
529 contrary to public policy, or impossible to achieve.

530 2. A proceeding to approve or disapprove a proposed modification or termination under
531 Sections 456.4-411 through 456.4-416, or trust combination or division under Section 456.4-417,
532 may be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a
533 proposed modification or termination under Section 456.4-411 may be commenced by the settlor.
534 The settlor of a charitable trust may maintain a proceeding to modify the trust under Section
535 456.4-413.

536

537

538 **SECTION 456.4-411. MODIFICATION OR TERMINATION OF**

539 **NONCHARITABLE IRREVOCABLE TRUST BY CONSENT.**

540 1. A noncharitable irrevocable trust may be modified or terminated upon consent of the
541 settlor and all beneficiaries, without court approval, even if the modification or termination is
542 inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's
543 termination or modification may be exercised by an agent under a power of attorney only to the
544 extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's
545 conservator with the approval of the court supervising the conservatorship if an agent is not so
546 authorized; or by the settlor's ~~guardian~~ conservator ad litem with the approval of the court
547 ~~supervising the guardianship~~ if an agent is not so authorized and a conservator has not been
548 appointed.

549 2. When all of the adult beneficiaries having the capacity to contract consent, the court
550 may, upon finding that the interest of any non-consenting beneficiary will be adequately
551 protected, modify the terms of a noncharitable irrevocable trust so as to reduce or eliminate the
552 interests of some beneficiaries and increase those of others, change the times or amounts of
553 payments and distributions to beneficiaries, or provide for termination of the trust at a time
554 earlier or later than that specified by its terms ~~A noncharitable irrevocable trust may be~~
555 ~~terminated upon consent of all of the beneficiaries if the court concludes that continuance of the~~
556 ~~trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable~~
557 ~~trust may be modified upon consent of all of the beneficiaries if the court concludes that~~
558 ~~modification is not inconsistent with a material purpose of the trust. The court may at anytime~~
559 upon its own motion appoint a representative pursuant to Section 456.3-305 to represent a non-
560 consenting beneficiary. The court shall appoint such a representative upon the motion of any

561 party, unless the court determines such an appointment is not appropriate under the
562 circumstances.

563 ~~3. A spendthrift provision in the terms of the trust is not presumed to constitute a material~~
564 ~~purpose of the trust.~~

565 3. Upon termination of a trust under subsection 1 ~~or 2~~, the trustee shall distribute the trust
566 property as agreed by the beneficiaries. Upon termination of a trust under subsection 2, the
567 trustee shall distribute the trust property as directed by the court.

568 4. If not all of the beneficiaries consent to a proposed modification or termination of the
569 trust under subsection 1, the modification or termination may be approved by the court if the
570 court is satisfied that:

571 (1) if all of the beneficiaries had consented, the trust could have been modified or
572 terminated under subsection 1; and

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

574 5. If a trust cannot be terminated or modified under subsection 2 of this Section because
575 not all adult beneficiaries having capacity to contract consent or the terms of the trust prevent
576 such modification or termination, the modification or termination may be approved by the court
577 if the court is satisfied that the interests of a beneficiary who does not consent will be adequately
578 protected and:

579 (1) in the case of a termination, continuance of the trust is not necessary to achieve
580 any material purpose of the trust; or

581 (2) in the case of a modification, the modification is not inconsistent with a material
582 purpose of the trust;.

583 (3) For purposes of this subsection, a spendthrift provision in the terms of the trust is
584 not presumed to constitute a material purpose of the trust.

585

586 **SECTION 456.4-412. MODIFICATION OR TERMINATION BECAUSE OF**
587 **UNANTICIPATED CIRCUMSTANCES OR INABILITY TO ADMINISTER TRUST**
588 **EFFECTIVELY OR IN FURTHERANCE OF A TRUST PURPOSE.**

589 1. The court may modify the ~~administrative or~~ dispositive terms of a trust or terminate
590 the trust if, because of circumstances not anticipated by the settlor, modification or termination
591 will further the purposes of the trust. To the extent practicable, the modification must be made in
592 accordance with the settlor's probable intention.

593 2. The court may modify the management or administrative terms of a trust if
594 modification will further the purposes of the trust. ~~continuation of the trust on its existing terms~~
595 ~~would be impracticable or wasteful or impair the trust's administration.~~

596 3. Upon termination of a trust under this section, the trustee shall distribute the trust
597 property in a manner consistent with the purposes of the trust.

598

599 **SECTION 456.4-413. CY PRES.**

600 1. Except as otherwise provided in subsection 2, if a particular charitable purpose
601 becomes unlawful, impracticable, impossible to achieve, or wasteful:

602 (1) the trust does not fail, in whole or in part;

603 (2) the trust property does not revert to the settlor or the settlor's successors in
604 interest; and

605 (3) the court may apply cy pres to modify or terminate the trust by directing that the
606 trust property be applied or distributed, in whole or in part, in a manner consistent with the
607 settlor's charitable purposes.

608 2. A provision in the terms of a charitable trust that would result in distribution of the
609 trust property to a noncharitable beneficiary prevails over the power of the court under subsection
610 1 to apply cy pres to modify or terminate the trust only if, when the provision takes effect:

611 (1) the trust property is to revert to the settlor and the settlor is still living; or

612 (2) fewer than 21 years have elapsed since the date of the trust's creation.

613

614 **SECTION 456.4-414. TERMINATION OF UNECONOMIC TRUST.**

615 1. After notice to the qualified beneficiaries, the trustee of a trust consisting of trust
616 property having a total value less than ~~[\$50,000]~~ \$100,000 may terminate the trust if the trustee
617 concludes that the value of the trust property is insufficient to justify the cost of administration.

618 2. The court may modify or terminate a trust or remove the trustee and appoint a different
619 trustee if it determines that the value of the trust property is insufficient to justify the cost of
620 administration.

621 3. Upon termination of a trust under this section, the trustee shall distribute the trust
622 property in a manner consistent with the purposes of the trust.

623 4. This section does not apply to an easement for conservation or preservation.

624

625 **SECTION 456.4-415. REFORMATION TO CORRECT MISTAKES.** The court may
626 reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if

627 it is proved by clear and convincing evidence that both the settlor's intent and the terms of the
628 trust were affected by a mistake of fact or law, whether in expression or inducement.

629

630 **SECTION 456.4-416. MODIFICATION TO ACHIEVE SETTLOR'S TAX**

631 **OBJECTIVES.** To achieve the settlor's tax objectives, the court may modify the terms of a
632 trust in a manner that is not contrary to the settlor's probable intention. The court may provide
633 that the modification has retroactive effect.

634

635 **SECTION 456.4-417. COMBINATION AND DIVISION OF TRUSTS.** After notice to
636 the qualified beneficiaries, a trustee may combine two or more trusts into a single trust or divide
637 a trust into two or more separate trusts, if the result does not impair rights of any beneficiary or
638 adversely affect achievement of the purposes of the trust. The terms of each new trust created by
639 a division under this section do not have to be identical if as the interest of each beneficiary is
640 substantially the same under the terms of the trust prior to its division and the combined terms of
641 all trusts after the division. Two or more trusts may be combined into a single trust if the interests
642 of each beneficiary in the trust resulting from the combination are substantially the same as the
643 combined interests of the beneficiary in the trusts prior to the combination. The trustee shall
644 determine the terms controlling any trust after its combination under the provisions of this
645 section.

646

[ARTICLE 5

647 **CREDITOR'S CLAIMS; SPENDTHRIFT AND DISCRETIONARY TRUSTS]**

648

649 **SECTION 456.5-501. RIGHTS OF BENEFICIARY’S CREDITOR OR ASSIGNEE.**

650 To the extent a beneficiary’s interest is not protected by a spendthrift provision, the court may
651 authorize a creditor or assignee of the beneficiary to reach the beneficiary’s interest by
652 attachment of present or future distributions to or for the benefit of the beneficiary or other
653 means. The court may limit the award to such relief as is appropriate under the circumstances.

654

655 **SECTION 456.5-502. SPENDTHRIFT PROVISION.**

656 1. A spendthrift provision is valid ~~only~~ if it restrains ~~both~~ either the voluntary and or
657 involuntary transfer or both the voluntary and involuntary transfer of a beneficiary’s interest.

658 2. A term of a trust providing that the interest of a beneficiary is held subject to a
659 “spendthrift trust,” or words of similar import, is sufficient to restrain both voluntary and
660 involuntary transfer of the beneficiary’s interest.

661 3. A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift
662 provision and, except as otherwise provided in Sections 456.5-501 to 456.5-507 ~~this [article]~~, a
663 creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee
664 before its receipt by the beneficiary.

665

666 **SECTION 456.5-503. EXCEPTIONS TO SPENDTHRIFT PROVISION.**

667 1. In this section, “child” includes any person for whom an order or judgment for child
668 support has been entered in this or another State.

669 2. Even if a trust contains a spendthrift provision, a beneficiary’s child, spouse, or former
670 spouse who has a judgment or court order against the beneficiary for support or maintenance, or a

671 judgment creditor who has provided services for the protection of a beneficiary's interest in the
672 trust, may obtain from a court an order attaching present or future distributions to or for the
673 benefit of the beneficiary.

674 3. A spendthrift provision is unenforceable against a claim of this State or the United
675 States to the extent a statute of this State or federal law so provides.

676

677 **SECTION 456.5-504. DISCRETIONARY TRUSTS; EFFECT OF STANDARD.**

678 1. In this section, "child" includes any person for whom an order or judgment for child
679 support has been entered in this or another State.

680 2. Except as otherwise provided in subsection 3., whether or not a trust contains a spendthrift
681 provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's
682 discretion, even if:

683 (1) the discretion is expressed in the form of a standard of distribution; or

684 (2) the trustee has abused the discretion.

685 3. To the extent a trustee has not complied with a standard of distribution or has abused a
686 discretion:

687 (1) a distribution may be ordered by the court to satisfy a judgment or court order against
688 the beneficiary for support or maintenance of the beneficiary's child, spouse, or former spouse;

689 and

690 (2) the court shall direct the trustee to pay to the child, spouse, or former spouse such
691 amount as is equitable under the circumstances but not more than the amount the trustee would
692 have been required to distribute to or for the benefit of the beneficiary had the trustee complied

693 with the standard or not abused the discretion.

694 4. This section does not limit the right of a beneficiary to maintain a judicial proceeding
695 against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

696

697 **SECTION 456.5-505. CREDITOR'S CLAIM AGAINST SETTLOR.**

698 1. Whether or not the terms of a trust contain a spendthrift provision, ~~the following rules~~
699 ~~apply:~~ (1) During the lifetime of the settlor, the property of a revocable trust is subject to claims
700 of the settlor's creditors.

701 ~~(2)~~ 2. With respect to an irrevocable trust without a spendthrift provision, a creditor or
702 assignee of the settlor may reach the maximum amount that can be distributed to or for the
703 settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a
704 particular settlor may reach may not exceed the settlor's interest in the portion of the trust
705 attributable to that settlor's contribution.

706 3. With respect to an irrevocable trust with a spendthrift provisions, a spendthrift
707 provision will prevent the settlor's creditors from satisfying claims from the trust assets except:

708 (1) Where the conveyance of assets to the trust was intended to hinder, delay, or
709 defraud creditors or purchasers, pursuant to section 428.020, RSMo; or

710 (2) To the extent of the settlor's beneficial interest in the trust assets, if at the time
711 the trust was established ~~or amended~~:

712 (a) The settlor was the sole beneficiary of either the income or principal of the
713 trust or retained the power to revoke or amend the trust; or

714 (b) The settlor was one of a class of beneficiaries and retained a right to

715 receive a specific portion of the income or principal of the trust that was determinable solely
716 from the provisions of the trust instrument.

717 (3) This subsection shall not apply to a spendthrift trust described, defined, or
718 established pursuant to <Section 456.072>.

719 ~~(3) After the death of a settlor, and subject to the settlor's right to direct the source~~
720 ~~from which liabilities will be paid, the property of a trust that was revocable at the settlor's death~~
721 ~~is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the~~
722 ~~expenses of the settlor's funeral and disposal of remains, and [statutory allowances] to a~~
723 ~~surviving spouse and children to the extent the settlor's probate estate is inadequate to satisfy~~
724 ~~those claims, costs, expenses, and [allowances].~~

725 4. Any trustee who has a duty or power to pay the debts of a deceased settlor may publish
726 a notice in some newspaper published in the county once a week for four consecutive weeks in
727 substantially the following form:

728 To all persons interested in the estate of _____, decedent. The
729 undersigned _____ is acting as Trustee under a trust the
730 terms of which provide that the debts of the decedent may be paid by the
731 Trustee(s) upon receipt of proper proof thereof. The address of the Trustee is
732 _____.

733
734 All creditors of the decedent are noticed to present their claims to the undersigned
735 within six (6) months from the date of the first publication of this notice or be
736 forever barred.

737 _____
738 Trustee

739
740 (1) If such publication is duly made by the trustee, any debts not presented to the
741 trustee within six months from the date of the first publication of the preceding preceding notice
742 shall be forever barred as against the trustee and the trust property.

743 (2) A Trustee shall not be liable to account to the decedent's personal representative
744 under the provisions of Section 461.300 by reason of any debt barred under the provisions of this
745 subsection.

746 ~~z.~~ 5. For purposes of this section:

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

750 (2) upon the lapse, release, or waiver of the power, the holder is treated as the settlor
751 of the trust only to the extent the value of the property affected by the lapse, release, or waiver
752 exceeds the greater of the amount specified in Section 2041(b)(2) or 2514(e). of the Internal
753 Revenue Code of 1986, or Section 2503(b) of the Internal Revenue Code of 1986, in each case as
754 in effect on January 1, <2005> or as later amended.

755

756 **SECTION 456.5-506. OVERDUE DISTRIBUTION.** Whether or not a trust contains a
757 spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution
758 of income or principal, including a distribution upon termination of the trust, if the trustee has
759 not made the distribution to the beneficiary within a reasonable time after the required
760 distribution date.

761

762 **SECTION 456.5-507. PERSONAL OBLIGATIONS OF TRUSTEE.** Trust property is
763 not subject to personal obligations of the trustee, even if the trustee becomes insolvent or
764 bankrupt.

765

766

[ARTICLE 6

767

REVOCABLE TRUSTS]

768

769

SECTION 456.6-601. CAPACITY OF SETTLOR OF REVOCABLE TRUST. The

770

capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the

771

actions of the trustee of a revocable trust, is the same as that required to make a will.

772

773

SECTION 456.6-602. REVOCATION OR AMENDMENT OF REVOCABLE TRUST.

774

1. Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor

775

may revoke or amend the trust. This subsection does not apply to a trust created under an

776

instrument executed before January 1, <2005>.

777

2. If a revocable trust is created or funded by more than one settlor:

778

(1) to the extent the trust consists of community property, the trust may be revoked by

779

either spouse acting alone but may be amended only by joint action of both spouses; and

780

(2) to the extent the trust consists of property other than community property, each

781

settlor may revoke or amend the trust with regard the portion of the trust property attributable to

782

that settlor's contribution.

783

3. The settlor may revoke or amend a revocable trust:

784

(1) if the terms of the trust provide a method of amendment or revocation, by

785

substantially complying with a method provided in the terms of the trust or in the terms of a later

786

duly probated will or codicil that expressly refers to the trust; or

787 (2) if the terms of the trust do not provide a method, ~~or the method provided in the~~
788 ~~terms is not expressly made exclusive, by:——~~

789 (a) ~~executing a later will or codicil that expressly refers to the trust or specifically~~
790 ~~devises property that would otherwise have passed according to the terms of the trust; or~~

791 (b) ~~by any other method manifesting clear and convincing evidence of the settlor's~~
792 ~~intent.~~

793 4. Upon revocation of a revocable trust, the trustee shall deliver the trust property as the
794 settlor directs.

795 5. A settlor's powers with respect to revocation, amendment, or distribution of trust
796 property may be exercised by an agent under a power of attorney only to the extent expressly
797 authorized by the terms of **the trust** or the power.

798 6. A conservator of the settlor or, if no conservator has been appointed, a ~~guardian~~
799 conservator ad litem of the settlor may exercise a settlor's powers with respect to revocation,
800 amendment, or distribution of trust property only with the approval of the court supervising the
801 conservatorship ~~or guardianship.~~

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

805

806 **SECTION 456.6-603. SETTLOR'S POWERS; POWERS OF WITHDRAWAL.**

807 1. While a trust is revocable and the settlor has capacity to revoke the trust, rights of the
808 beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to,

809 the settlor.

810 2. ~~While a trust is revocable and the settlor does not have capacity to revoke the trust,~~
811 ~~rights of the beneficiaries are held by the beneficiaries.~~

812 A settlor is presumed to have capacity for the purposes of subsection 1 until either the
813 settlor is adjudicated totally incapacitated or disabled or the trustee has received an Affidavit of
814 Incapacity.

815 3. If a revocable trust has more than one settlor, the duties of the trustee are owed to all
816 of the settlors having capacity to revoke the trust.

817 4. During the period the power may be exercised, the holder of a power of withdrawal
818 has the rights of a settlor of a revocable trust under this section to the extent of the property
819 subject to the power.

820 5. For purposes of this Section an "Affidavit of Incapacity" means a written certificate
821 furnished by at least one licensed medical doctor that the settlor lacks capacity to revoke the
822 trust.

823

824 **SECTION 456.6-604. LIMITATION ON ACTION CONTESTING VALIDITY OF**
825 **REVOCABLE TRUST; DISTRIBUTION OF TRUST PROPERTY.**

826 1. A person may commence a judicial proceeding to contest the validity of a trust that
827 was revocable at the settlor's death within the ~~earliest~~ earliest of:

828 (1) ~~three~~ two years after the settlor's death; ~~or~~

829 (2) ~~120~~ Six months after the trustee sent the person a copy of the trust instrument

830 and a notice informing the person of the trust's existence, of the trustee's name and address, and

831 of the time allowed for commencing a proceeding; or

832 (3) in the case of a trust that was revocable at the settlor's death that is entitled to a
833 distribution under a settlor's will, on the date that any contest of that will is barred under the
834 provisions of Section 473.083, provided that a copy of the trust instrument was filed with the
835 probate division within 90 days of the first publication of notice of granting of letters on the
836 estate of the decedent under section 473.033.

837 2. For purposes of subdivision (2) of subsection 1, the trustee may provide the
838 documentation and information set forth in that subsection to:

839 (1) all persons who would be entitled to notice of granting of letters on the estate
840 of the decedent under section 473.033; and

841 (2) all persons whose interests are, in the opinion of the trustee, adversely affected
842 by the trust.

843 3. Upon the death of the settlor of a trust that was revocable at the settlor's death, the
844 trustee may proceed to distribute the trust property in accordance with the terms of the trust. The
845 trustee is not subject to liability for doing so unless:

846 (1) the trustee knows of a pending judicial proceeding contesting the validity of the
847 trust; or

848 (2) a potential contestant has notified the trustee of a possible judicial proceeding to
849 contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent
850 the notification.

851 4. A beneficiary of a trust that is determined to have been invalid is liable to return any
852 distribution received.

853

ARTICLE 7

OFFICE OF TRUSTEE]

SECTION 456.7-701. ACCEPTING OR DECLINING TRUSTEESHIP.

1. Except as otherwise provided in subsection 3, a person designated as trustee accepts the trusteeship:

(1) by substantially complying with a method of acceptance provided in the terms of the trust; or

(2) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

2. A person designated as trustee who has not yet accepted the trusteeship may decline ~~reject~~ the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have declined ~~rejected~~ the trusteeship.

3. A person designated as trustee, without accepting the trusteeship, may:

(1) act to preserve the trust property if, within a reasonable time after acting, the person sends a declination ~~rejection~~ of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified beneficiary; and

(2) inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

876 **SECTION 456.7-702. TRUSTEE’S BOND.**

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

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

882 {3. A **regulated financial-service institution** qualified to do trust business in this State
883 need not give bond, even if required by the terms of the trust.}

884

885 **SECTION 456.7-703. COTRUSTEES.**

886 1. Cotrustees ~~who are unable to reach a unanimous decision may~~ shall act by majority
887 decision.

888 2. If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

889 3. A cotrustee must participate in the performance of a trustee’s function unless the
890 cotrustee is unavailable to perform the function because of absence, illness, disqualification
891 under other law, or other temporary incapacity or the cotrustee has properly delegated the
892 performance of the function to another trustee.

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

897 5. A trustee may not delegate to a cotrustee the performance of a function the settlor

898 reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a
899 trustee may revoke a delegation previously made.

900 6. Except as otherwise provided in subsection 7, a trustee who does not join in an action
901 of another trustee is not liable for the action.

902 7. Each trustee shall exercise reasonable care to:

903 (1) prevent a cotrustee from committing a serious breach of trust; and

904 (2) compel a cotrustee to redress a serious breach of trust.

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

908

909 **SECTION 456.7-704. VACANCY IN TRUSTEESHIP; APPOINTMENT OF**
910 **SUCCESSOR.**

911 1. A vacancy in a trusteeship occurs if:

912 (1) a person designated as trustee declines ~~rejects~~ the trusteeship;

913 (2) a person designated as trustee cannot be identified or does not exist;

914 (3) a trustee resigns;

915 (4) a trustee is disqualified or removed;

916 (5) a trustee dies; or

917 (6) a guardian or conservator is appointed for an individual serving as trustee.

918 2. If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled.

919 A vacancy in a trusteeship must be filled if the trust has no remaining trustee.

920 3. A vacancy in a trusteeship required to be filled must be filled in the following order of
921 priority:

922 (1) by a person designated in the terms of the trust to act as successor trustee;

923 (2) by a person appointed by ~~unanimous agreement~~ a majority in number of the
924 qualified beneficiaries; or

925 (3) by a person appointed by the court.

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

929

930 **SECTION 456.7-705. RESIGNATION OF TRUSTEE.**

931 1. A trustee may resign:

932 (1) upon at least 30 days' notice to the qualified beneficiaries and all cotrustees; or

933 (2) with the approval of the court.

934 2. In approving a resignation, the court may issue orders and impose conditions
935 reasonably necessary for the protection of the trust property.

936 3. Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or
937 omissions of the trustee is not discharged or affected by the trustee's resignation.

938

939 **SECTION 456.7-706. REMOVAL OF TRUSTEE.**

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

- 942 2. The court may remove a trustee if:
- 943 (1) the trustee has committed a serious breach of trust;
- 944 (2) lack of cooperation among cotrustees substantially impairs the administration of
- 945 the trust;
- 946 (3) because of unfitness, unwillingness, or persistent failure of the trustee to
- 947 administer the trust effectively, the court determines that removal of the trustee best serves the
- 948 interests of the beneficiaries; or
- 949 (4) there has been a substantial change of circumstances or removal is requested by all
- 950 of the qualified beneficiaries and the court finds that:
- 951 (a) removal of the trustee best serves the interests of all of the beneficiaries;
- 952 (b) ~~and~~ removal of the trustee is not inconsistent with a material purpose of the
- 953 trust; and
- 954 (c) a suitable cotrustee or successor trustee is available.

955 3. Pending a final decision on a request to remove a trustee, or in lieu of or in addition to

956 removing a trustee, the court may order such appropriate relief under Section 456.10-1001.2 as

957 may be necessary to protect the trust property or the interests of the beneficiaries.

958

959 **SECTION 456.7-707. DELIVERY OF PROPERTY BY FORMER TRUSTEE.**

960 1. Unless a cotrustee remains in office or the court otherwise orders, and until the trust

961 property is delivered to a successor trustee or other person entitled to it, a trustee who has

962 resigned or been removed has the duties of a trustee and the powers necessary to protect the trust

963 property.

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

967

968 **SECTION 456.7-708. COMPENSATION OF TRUSTEE.**

969 1. If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to
970 compensation that is reasonable under the circumstances.

971 2. If the terms of a trust specify the trustee's compensation, the trustee is entitled to be
972 compensated as specified, but the court may allow more or less compensation if:

973 (1) the duties of the trustee are substantially different from those contemplated when
974 the trust was created; or

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

977

978 **SECTION 456.7-709. REIMBURSEMENT OF EXPENSES.**

979 1. A trustee is entitled to be reimbursed out of the trust property, with interest as
980 appropriate, for:

981 (1) expenses that were properly incurred in the administration of the trust; and

982 (2) to the extent necessary to prevent unjust enrichment of the trust, expenses that
983 were not properly incurred in the administration of the trust.

984 2. An advance by the trustee of money for the protection of the trust gives rise to a lien
985 against trust property to secure reimbursement with reasonable interest.

986

987

988

[ARTICLE 8

989

DUTIES AND POWERS OF TRUSTEE]

990

991 **SECTION 456.8-801. DUTY TO ADMINISTER TRUST.** Upon acceptance of a
992 trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and
993 purposes and the interests of the beneficiaries, and in accordance with ~~Sections 456.1-101 to~~
994 ~~456.11-1106.~~

995

996 **SECTION 456.8-802. DUTY OF LOYALTY.**

997 1. A trustee shall administer the trust solely in the interests of the beneficiaries.

998 2. Subject to the rights of persons dealing with or assisting the trustee as provided in
999 Section 456.10-1012, a sale, encumbrance, or other transaction involving the investment or
1000 management of trust property entered into by the trustee for the trustee's own personal account or
1001 which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is
1002 voidable by a beneficiary affected by the transaction unless:

1003 (1) the transaction was authorized by the terms of the trust;

1004 (2) the transaction was approved by the court;

1005 (3) the beneficiary did not commence a judicial proceeding within the time allowed
1006 by Section 456.10-1005;

1007 (4) the beneficiary consented to the trustee's conduct, ratified the transaction, or

1008 released the trustee in compliance with Section 456.10-1009; or

1009 (5) the transaction involves a contract entered into or claim acquired by the trustee

1010 before the person became or contemplated becoming trustee.

1011 3. A sale, encumbrance, or other transaction involving the investment or management of

1012 trust property is presumed to be affected by a conflict between personal and fiduciary interests if

1013 it is entered into by the trustee with:

1014 (1) the trustee's spouse;

1015 (2) the trustee's descendants, siblings, parents, or their spouses;

1016 (3) an agent or attorney of the trustee; or

1017 (4) a corporation or other person or enterprise in which the trustee, or a person that

1018 owns a significant interest in the trustee, has an interest that might affect the trustee's best

1019 judgment.

1020 4. A transaction between a trustee and a beneficiary that does not concern trust property

1021 but that occurs during the existence of the trust or while the trustee retains significant influence

1022 over the beneficiary and from which the trustee obtains an advantage is voidable by the

1023 beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.

1024 5. A transaction not concerning trust property in which the trustee engages in the

1025 trustee's individual capacity involves a conflict between personal and fiduciary interests if the

1026 transaction concerns an opportunity properly belonging to the trust.

1027 6. The following transactions are not presumed to be affected by a conflict between the

1028 trustee's personal and fiduciary interest provided that any investment made pursuant to the

1029 transaction complies with the <PRUDENT INVESTOR RULE OF [ARTICLE] 9>:

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1030 (1) An investment by a trustee in securities of an investment company or investment trust
1031 to which the trustee, or its affiliate, provides services in a capacity other than as trustee; ~~is not~~
1032 ~~presumed to be affected by a conflict between personal and fiduciary interests if the investment~~
1033 ~~complies with the <PRUDENT INVESTOR RULE OF [ARTICLE] 9>.~~

1034 (2) An investment by a trustee in an insurance contract purchased from an insurance
1035 agency owned by, or affiliated with, the trustee, or its affiliate;

1036 (3) the placing of securities transaction by a trustee through a securities broker that is a
1037 part of the same company as the trustee, is owned by the trustee, or is affiliated with the trustee.

1038 ~~(a4)~~ The trustee, an affiliate, or associated entity may be compensated ~~by the investment~~
1039 ~~company or investment trust for providing those services~~ for any transaction described in this
1040 subsection 6 or in subdivision (6) of Section 8 of this Section directly or out of fees charged to
1041 the trust if the trustee at least annually notifies the persons entitled under Section ~~813~~ 456.8-813
1042 to receive a copy of the trustee's annual report of the rate and method by which the compensation
1043 was determined.

1044 7. In voting shares of stock or in exercising powers of control over similar interests in
1045 other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust
1046 is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint
1047 directors or other managers who will manage the corporation or enterprise in the best interests of
1048 the beneficiaries.

1049 8. The following transactions, if fair to the beneficiaries, are not presumed to be affected
1050 by a conflict between personal and fiduciary interests and are not precluded by this section: This
1051 ~~section does not preclude the following transactions if fair to the beneficiaries:~~

- 1052 (1) an agreement between a trustee and a beneficiary relating to the appointment or
1053 compensation of the trustee;
- 1054 (2) payment of reasonable compensation to the trustee;
- 1055 (3) a transaction between a trust and another trust, decedent's estate, or
1056 conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;
- 1057 (4) a deposit of trust money in a **regulated financial-service institution** operated by the
1058 trustee or an affiliate; ~~or~~
- 1059 (5) an advance by the trustee of money for the protection of the trust;
- 1060 (6) a delegation and any transaction made pursuant to the delegation from a trustee to
1061 an agent that is affiliated or associated with the trustee, provided that notice of the delegation is
1062 given as provided in section 456.8-802.6(4);
- 1063 (7) any acquisition or sale of an undivided interest in property in which the trustee, in any
1064 other trust capacity, holds an undivided interest; or
- 1065 (8) any loan from the trustee or its affiliate.

1066 9. The court may appoint a special fiduciary to make a decision with respect to any
1067 proposed transaction that might violate this section if entered into by the trustee.

1068

1069 **SECTION 456.8-803. IMPARTIALITY.** If a trust has two or more beneficiaries, the
1070 trustee shall act impartially in investing, managing, and distributing the trust property, giving due
1071 regard to the beneficiaries' respective interests.

1072

1073 **SECTION 456.8-804. PRUDENT ADMINISTRATION.** A trustee shall administer the

1074 trust as a prudent person would, by considering the purposes, terms, distributional requirements,
1075 and other circumstances of the trust. In satisfying this standard, the trustee shall exercise
1076 reasonable care, skill, and caution.

1077

1078 **SECTION 456.8-805. COSTS OF ADMINISTRATION.** In administering a trust, the
1079 trustee may incur only costs that are reasonable in relation to the trust property, the purposes of
1080 the trust, and the skills of the trustee.

1081

1082 **SECTION 456.8-806. TRUSTEE'S SKILLS.** A trustee who has special skills or
1083 expertise, or is named trustee in reliance upon the trustee's representation that the trustee has
1084 special skills or expertise, shall use those special skills or expertise.

1085

1086 **SECTION 456.8-807. DELEGATION BY TRUSTEE.**

1087 1. A trustee may delegate to an agent duties and powers that a prudent trustee of
1088 comparable skills could properly delegate under the circumstances. The trustee shall exercise
1089 reasonable care, skill, and caution in:

1090 (1) selecting an agent;

1091 (2) establishing the scope and terms of the delegation, consistent with the purposes
1092 and terms of the trust; and

1093 (3) periodically reviewing the agent's actions in order to monitor the agent's
1094 performance and compliance with the terms of the delegation.

1095 2. In performing a delegated function, an agent owes a duty to the trust to exercise

1096 reasonable care to comply with the terms of the delegation.

1097 3. A trustee who complies with subsection 1 is not liable to the beneficiaries or to the
1098 trust for an action of the agent to whom the function was delegated.

1099 4. By accepting a delegation of powers or duties from the trustee of a trust that is subject
1100 to the law of this State, an agent submits to the jurisdiction of the courts of this State.

1101

1102 **SECTION 456.8-808. POWERS TO DIRECT.**

1103 1. While a trust is revocable, the trustee may follow a direction of the settlor that is
1104 contrary to the terms of the trust.

1105 2. If the terms of a trust confer upon a person other than the settlor of a revocable trust
1106 power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise
1107 of the power unless the attempted exercise is manifestly contrary to the terms of the trust or the
1108 trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that
1109 the person holding the power owes to the beneficiaries of the trust.

1110 3. The terms of a trust may confer upon a trustee or other person a power to direct the
1111 modification or termination of the trust.

1112 4. A person, other than a beneficiary, who holds a power to direct is presumptively a
1113 fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and
1114 the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results
1115 from breach of a fiduciary duty.

1116

1117 **SECTION 456.8-809. CONTROL AND PROTECTION OF TRUST PROPERTY.**

1118 A trustee shall take reasonable steps to take control of and protect the trust property,
1119 except that this duty does not apply to, and the trustee is not responsible for, items of tangible
1120 personal property that are property of a trust revocable by the settlor that are not in the possession
1121 or control of the trustee.

1122

1123 **SECTION 456.8-810. RECORDKEEPING AND IDENTIFICATION OF TRUST**
1124 **PROPERTY.**

- 1125 1. A trustee shall keep adequate records of the administration of the trust.
1126 2. A trustee shall keep trust property separate from the trustee's own property.
1127 3. Except as otherwise provided in subsection 4, a trustee shall cause the trust property to
1128 be designated so that the interest of the trust, to the extent feasible, appears in records maintained
1129 by a party other than a trustee or beneficiary.
1130 4. If the trustee maintains records clearly indicating the respective interests, a trustee may
1131 invest as a whole the property of two or more separate trusts.

1132

1133 **SECTION 456.8-811. ENFORCEMENT AND DEFENSE OF CLAIMS.** A trustee shall
1134 take reasonable steps to enforce claims of the trust and to defend claims against the trust.

1135

1136 **SECTION 456.8-812. COLLECTING TRUST PROPERTY.** A trustee shall take
1137 reasonable steps to compel a former trustee or other person to deliver trust property to the trustee,
1138 and to redress a breach of trust known to the trustee to have been committed by a former trustee.

1139

1140 **SECTION 456.8-813. DUTY TO INFORM AND REPORT.**

1141 1. A trustee shall keep the qualified beneficiaries of the trust reasonably informed about
1142 the administration of the trust and of the material facts necessary for them to protect their
1143 interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a
1144 beneficiary's request for information related to the administration of a specified ~~the~~ trust.

1145 2. A trustee:

1146 (1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of
1147 the trust instrument;

1148 (2) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries
1149 of the acceptance and of the trustee's name, address, and telephone number;

1150 (3) within 60 days after the date the trustee acquires knowledge of the creation of an
1151 irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has
1152 become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified
1153 beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to
1154 request a copy of the trust instrument, and of the right to a trustee's report as provided in
1155 subsection 3; and

1156 (4) shall notify the qualified beneficiaries in advance of any change in the method or
1157 rate of the trustee's compensation.

1158 3. A trustee shall send to the ~~distributees or~~ permissible distributees of trust income or
1159 principal, and to other ~~qualified or nonqualified~~ beneficiaries who request it, at least annually and
1160 at the termination of the trust, a report of the trust property, liabilities, receipts, and
1161 disbursements, including the source and amount of the trustee's compensation, a listing of the

1162 trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship,
1163 unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the
1164 former trustee. A personal representative, conservator, or guardian may send the qualified
1165 beneficiaries a report on behalf of a deceased or incapacitated trustee.

1166 4. A beneficiary may waive the right to a trustee's report or other information otherwise
1167 required to be furnished under this section. A beneficiary, with respect to future reports and
1168 other information, may withdraw a waiver previously given.

1169 5. A Trustee may charge a reasonable fee to a beneficiary for providing information under
1170 this section.

1171 6. Subdivisions 2 and 3 of subsection 1 of this section do not apply to a trust created
1172 under an instrument executed before January 1, <2005>.

1173

1174 **SECTION 456.8-814. DISCRETIONARY POWERS; TAX SAVINGS.**

1175 1. Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust,
1176 including the use of such terms as "absolute", "sole", or "uncontrolled", the trustee shall exercise
1177 a discretionary power in good faith and in accordance with the terms and purposes of the trust
1178 and the interests of the beneficiaries.

1179 2. Subject to subsection 4., and unless the terms of the trust expressly indicate that a rule
1180 in this subsection does not apply:

1181 (1) a person other than a settlor who is a beneficiary and trustee of a trust that confers
1182 on the trustee a power to make discretionary distributions to or for the trustee's personal benefit
1183 may exercise the power only in accordance with an ascertainable standard relating to the trustee's

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1184 individual health, education, support, or maintenance within the meaning of Section
1185 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on January 1,
1186 <2005> or as later amended; ~~and~~

1187 (2) a trustee may not exercise a power to make discretionary distributions to satisfy a
1188 legal obligation of support that the trustee personally owes another person; and

1189 (3) for purposes of this subsection 2, the term “trustee” shall include a person who is
1190 deemed to have any power of a trustee, whether because such person has the right to remove or
1191 replace any trustee, because a reciprocal trust or power doctrine applies, or for any other reason.

1192 3. A power whose exercise is limited or prohibited by subsection 2 may be exercised by a
1193 majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If
1194 the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with
1195 authority to exercise the power.

1196 4. Subsection 2 does not apply to:

1197 (1) a power held by the settlor’s spouse who is the trustee of a trust for which a
1198 marital deduction, as defined in Section 2056(b)(5) or 2523(b)(5) of the Internal Revenue Code
1199 of 1986, as in effect on January 1, <2005> or as later amended, was previously allowed;

1200 (2) any trust during any period that the trust may be revoked or amended by its settlor;
1201 or

1202 (3) a trust if contributions to the trust qualify for the annual exclusion under Section
1203 2503(c) of the Internal Revenue Code of 1986, as in effect on January 1, <2005> or as later
1204 amended.

1205

1206 **SECTION 456.8-815. GENERAL POWERS OF TRUSTEE.**

1207 1. A trustee, without authorization by the court, may exercise:

1208 (1) powers conferred by the terms of the trust; or

1209 (2) except as limited by the terms of the trust:

1210 (a) all powers over the trust property which an unmarried competent owner has

1211 over individually owned property;

1212 (b) any other powers appropriate to achieve the proper investment, management,

1213 and distribution of the trust property; and

1214 (c) any other powers conferred by ~~Sections 456.1-101 to 456.11-1106.~~

1215 2. The exercise of a power is subject to the fiduciary duties prescribed by Section 456.8-

1216 801 through 456.8-817.

1217

1218 **SECTION 456.8-816. SPECIFIC POWERS OF TRUSTEE.** Without limiting the

1219 authority conferred by Section 456.8-815, a trustee may:

1220 (1) collect trust property and accept or reject additions to the trust property from a settlor

1221 or any other person;

1222 (2) acquire or sell property in divided or undivided interests, for cash or on credit, at

1223 public or private sale;

1224 (3) exchange, partition, or otherwise change the character of trust property;

1225 (4) deposit trust money in an account in a regulated financial-service institution;

1226 (5) borrow money, with or without security, and mortgage or pledge trust property for a

1227 period within or extending beyond the duration of the trust;

1228 (6) with respect to an interest in a proprietorship, partnership, limited liability company,
1229 business trust, corporation, or other form of business or enterprise, continue the business or other
1230 enterprise and take any action that may be taken by shareholders, members, or property owners,
1231 including merging, dissolving, or otherwise changing the form of business organization or
1232 contributing additional capital;

1233 (7) with respect to stocks or other securities, exercise the rights of an absolute owner,
1234 including the right to:

1235 (a) vote, or give proxies to vote, with or without power of substitution, or enter into or
1236 continue a voting trust agreement;

1237 (b) hold a security in the name of a nominee or in other form without disclosure of the
1238 trust so that title may pass by delivery;

1239 (c) pay calls, assessments, and other sums chargeable or accruing against the
1240 securities, and sell or exercise stock subscription or conversion rights; and

1241 (d) deposit the securities with a depository or other regulated financial-service
1242 institution;

1243 (8) with respect to an interest in real property, construct, or make ordinary or
1244 extraordinary repairs to, alterations to, or improvements in, buildings or other structures,
1245 demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop
1246 land, dedicate land to public use or grant public or private easements, and make or vacate plats
1247 and adjust boundaries;

1248 (9) enter into a lease for any purpose as lessor or lessee, including a lease or other
1249 arrangement for exploration and removal of natural resources, with or without the option to

1250 purchase or renew, for a period within or extending beyond the duration of the trust;

1251 (10) grant an option involving a sale, lease, or other disposition of trust property or
1252 acquire an option for the acquisition of property, including an option exercisable beyond the
1253 duration of the trust, and exercise an option so acquired;

1254 (11) insure the property of the trust against damage or loss and insure the trustee, the
1255 trustee's agents, and beneficiaries against liability arising from the administration of the trust;

1256 (12) abandon or decline to administer property of no value or of insufficient value to
1257 justify its collection or continued administration;

1258 (13) with respect to possible liability for violation of environmental law:

1259 (a) inspect or investigate property the trustee holds or has been asked to hold, or
1260 property owned or operated by an organization in which the trustee holds or has been asked to
1261 hold an interest, for the purpose of determining the application of environmental law with respect
1262 to the property;

1263 (b) take action to prevent, abate, or otherwise remedy any actual or potential violation
1264 of any environmental law affecting property held directly or indirectly by the trustee, whether
1265 taken before or after the assertion of a claim or the initiation of governmental enforcement;

1266 (c) decline to accept property into trust or disclaim any power with respect to property
1267 that is or may be burdened with liability for violation of environmental law;

1268 (d) compromise claims against the trust which may be asserted for an alleged
1269 violation of environmental law; and

1270 (e) pay the expense of any inspection, review, abatement, or remedial action to
1271 comply with environmental law;

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1272 (14) pay or contest any claim, settle a claim by or against the trust, and release, in whole
1273 or in part, a claim belonging to the trust;

1274 (15) pay taxes, assessments, compensation of the trustee and of employees and agents of
1275 the trust, and other expenses incurred in the administration of the trust;

1276 (16) exercise elections with respect to federal, state, and local taxes;

1277 (17) select a mode of payment under any employee benefit or retirement plan, annuity, or
1278 life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to
1279 indemnification for expenses and against liabilities, and take appropriate action to collect the
1280 proceeds;

1281 (18) make loans out of trust property, including loans to a beneficiary on terms and
1282 conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee
1283 has a lien on future distributions for repayment of those loans;

1284 (19) pledge trust property to guarantee or secure loans made by others to the beneficiary;

1285 (20) appoint a trustee to act in another jurisdiction with respect to trust property located in
1286 the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the
1287 appointing trustee, require that the appointed trustee furnish security, and remove any trustee so
1288 appointed;

1289 (21) pay an amount distributable to a beneficiary who is under a legal disability or who
1290 the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or
1291 applying it for the beneficiary's benefit, or by:

1292 (a) paying it to the beneficiary's conservator or, if the beneficiary does not have a
1293 conservator, the beneficiary's guardian;

1294 (b) paying it to the beneficiary's custodian under the Missouri Transfers to Minors
1295 Law under Sections 404.005 to 404.094 or a personal custodian ~~eustodial trustee~~ under Secctions
1296 404.400 to 404.650 [the Uniform Custodial Trust Act], and, for that purpose, creating a
1297 custodianship or custodial trust;

1298 (c) if the trustee does not know of a conservator, guardian, custodian, or custodial
1299 trustee, paying it to an adult relative or other person having legal or physical care or custody of
1300 the beneficiary, to be expended on the beneficiary's behalf; or

1301 (d) managing it as a separate fund on the beneficiary's behalf, subject to the
1302 beneficiary's continuing right to withdraw the distribution;

1303 (22) on distribution of trust property or the division or termination of a trust, make
1304 distributions in divided or undivided interests, allocate particular assets in proportionate or
1305 disproportionate shares, value the trust property for those purposes, and adjust for resulting
1306 differences in valuation;

1307 (23) resolve a dispute concerning the interpretation of the trust or its administration by
1308 mediation, arbitration, or other procedure for alternative dispute resolution;

1309 (24) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to
1310 protect trust property and the trustee in the performance of the trustee's duties;

1311 (25) sign and deliver contracts and other instruments that are useful to achieve or
1312 facilitate the exercise of the trustee's powers; and

1313 (26) on termination of the trust, exercise the powers appropriate to wind up the
1314 administration of the trust and distribute the trust property to the persons entitled to it.

1315 (27) To invest and reinvest trust assets in accordance with the <PRUDENT INVESTOR

1316 ACT>; including investing and reinvesting in securities or obligations of any state or its political
1317 subdivisions, including securities or obligations that are underwritten by the trustee or an affiliate of
1318 the trustee or a syndicate in which the trustee or an affiliate of the trustee is a member which meet
1319 the standards established by the division of finance pursuant to subsection 5 of section 362.550,
1320 RSMo.

1321

1322 **SECTION 456.8-817. DISTRIBUTION UPON TERMINATION.**

1323 1. Upon termination or partial termination of a trust, the trustee may send to the
1324 beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed
1325 distribution terminates if the beneficiary does not notify the trustee of an objection within 30
1326 days after the proposal was sent but only if the proposal informed the beneficiary of the right to
1327 object and of the time allowed for objection.

1328 2. Upon the occurrence of an event terminating or partially terminating a trust, the trustee
1329 shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to
1330 the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and
1331 taxes.

1332 3. A release by a beneficiary of a trustee from liability for breach of trust is invalid to the
1333 extent:

1334 (1) it was induced by improper conduct of the trustee; or

1335 (2) the beneficiary, at the time of the release, did not know of the beneficiary's rights
1336 or of the material facts relating to the breach.

1337

1338 [ARTICLE 9

1339 UNIFORM PRUDENT INVESTOR ACT]

1340 < PRUDENT INVESTOR SECTIONS SHOULD BE MOVED TO CHAPTER 469>

1341

1342

1343 [ARTICLE 10

1344 LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH TRUSTEE]

1345

1346 SECTION 456.10-1001. REMEDIES FOR BREACH OF TRUST.

1347 1. A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.

1348 2. To remedy a breach of trust that has occurred or may occur, the court may:

1349 (1) compel the trustee to perform the trustee's duties;

1350 (2) enjoin the trustee from committing a breach of trust;

1351 (3) compel the trustee to redress a breach of trust by paying money, restoring
1352 property, or other means;

1353 (4) order a trustee to account;

1354 (5) appoint a special fiduciary to take possession of the trust property and administer
1355 the trust;

1356 (6) suspend the trustee;

1357 (7) remove the trustee as provided in Section 456.7-706;

1358 (8) reduce or deny compensation to the trustee;

1359 (9) subject to Section 456.10-1012, void an act of the trustee, impose a lien or a

1360 constructive trust on trust property, or trace trust property wrongfully disposed of and recover the
1361 property or its proceeds; or

1362 (10) order any other appropriate relief.

1363

1364 **SECTION 456.10-1002. DAMAGES FOR BREACH OF TRUST.**

1365 1. A trustee who commits a breach of trust is liable to the beneficiaries affected for the
1366 greater of:

1367 (1) the amount required to restore the value of the trust property and trust distributions
1368 to what they would have been had the breach not occurred; or

1369 (2) the profit the trustee made by reason of the breach.

1370 2. Except as otherwise provided in this subsection, if more than one trustee is liable to
1371 the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or
1372 trustees. A trustee is not entitled to contribution if the trustee was substantially more at fault than
1373 another trustee or if the trustee committed the breach of trust in bad faith or with reckless
1374 indifference to the purposes of the trust or the interests of the beneficiaries. A trustee who
1375 received a benefit from the breach of trust is not entitled to contribution from another trustee to
1376 the extent of the benefit received.

1377

1378 **SECTION 456.10-1003. DAMAGES IN ABSENCE OF BREACH.**

1379 1. A trustee is accountable to an affected beneficiary for any profit made by the trustee
1380 arising from the administration of the trust, even absent a breach of trust.

1381 2. Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or

1382 depreciation in the value of trust property or for not having made a profit.

1383

1384 **SECTION 456.10-1004. ATTORNEY'S FEES AND COSTS.** In a judicial proceeding
1385 involving the administration of a trust, the court, as justice and equity may require, may award
1386 costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party
1387 or from the trust that is the subject of the controversy.

1388

1389 **SECTION 456.10-1005. LIMITATION OF ACTION AGAINST TRUSTEE.**

1390 1. A beneficiary may not commence a proceeding against a trustee for breach of trust
1391 more than one year after the date the beneficiary or a representative of the beneficiary was sent a
1392 report that adequately disclosed the existence of a potential claim for breach of trust and
1393 informed the beneficiary of the time allowed for commencing a proceeding.

1394 2. A report adequately discloses the existence of a potential claim for breach of trust if it
1395 provides sufficient information so that the beneficiary or representative knows of the potential
1396 claim or should have inquired into its existence.

1397 3. If subsection 1 does not apply, a judicial proceeding by a beneficiary against a trustee
1398 for breach of trust must be commenced within five years after the first to occur of:

1399 (1) the removal, resignation, or death of the trustee;

1400 (2) the termination of the beneficiary's interest in the trust; or

1401 (3) the termination of the trust.

1402

1403 **SECTION 456.10-1006. RELIANCE ON TRUST INSTRUMENT.** A trustee who acts in

1404 reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a
1405 beneficiary for a breach of trust to the extent the breach resulted from the reliance.

1406

1407 **SECTION 456.10-1007. EVENT AFFECTING ADMINISTRATION OR**

1408 **DISTRIBUTION.** If the happening of an event, including marriage, divorce, performance of
1409 educational requirements, or death, affects the administration or distribution of a trust, a trustee
1410 who has exercised reasonable care to ascertain the happening of the event is not liable for a loss
1411 resulting from the trustee's lack of knowledge.

1412

1413 **SECTION 456.10-1008. EXCULPATION OF TRUSTEE.**

1414 1. A term of a trust relieving a trustee of liability for breach of trust is unenforceable to
1415 the extent that it:

1416 (1) relieves the trustee of liability for breach of trust committed in bad faith or with
1417 reckless indifference to the purposes of the trust or the interests of the beneficiaries; or

1418 (2) was inserted as the result of an abuse by the trustee of a fiduciary or confidential
1419 relationship to the settlor.

1420 2. Unless the settlor was represented by an attorney not employed by the trustee with
1421 respect to the trust containing the exculpatory term, An exculpatory term drafted or caused to be
1422 drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the
1423 trustee proves that the exculpatory term is fair under the circumstances and that its existence and
1424 contents were adequately communicated to the settlor.

1425

1426 **SECTION 456.10-1009. BENEFICIARY’S CONSENT, RELEASE, OR**

1427 **RATIFICATION.** A trustee is not liable to a beneficiary for breach of trust if the beneficiary,
1428 while having capacity, consented to the conduct constituting the breach, released the trustee from
1429 liability for the breach, or ratified the transaction constituting the breach, unless:

1430 (1) the consent, release, or ratification of the beneficiary was induced by improper
1431 conduct of the trustee; or

1432 (2) at the time of the consent, release, or ratification, the beneficiary did not know of the
1433 beneficiary’s rights or of the material facts relating to the breach.

1434

1435 **SECTION 456.10-1010. LIMITATION ON PERSONAL LIABILITY OF TRUSTEE.**

1436 1. Except as otherwise provided in the contract, a trustee is not personally liable on a
1437 contract properly entered into in the trustee’s fiduciary capacity in the course of administering the
1438 trust if the trustee in the contract disclosed the fiduciary capacity.

1439 2. A trustee is personally liable for torts committed in the course of administering a trust,
1440 or for obligations arising from ownership or control of trust property, including liability for
1441 violation of environmental law, only if the trustee is personally at fault.

1442 3. A claim based on a contract entered into by a trustee in the trustee’s fiduciary capacity,
1443 on an obligation arising from ownership or control of trust property, or on a tort committed in the
1444 course of administering a trust, may be asserted in a judicial proceeding against the trustee in the
1445 trustee’s fiduciary capacity, whether or not the trustee is personally liable for the claim.

1446

1447 **{SECTION 456.10-1011. INTEREST AS GENERAL PARTNER.**

1448 1. Except as otherwise provided in subsection 3 or unless personal liability is imposed in
1449 the contract, a trustee who holds an interest as a general partner in a general or limited
1450 partnership is not personally liable on a contract entered into by the partnership after the trust's
1451 acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement
1452 previously filed pursuant to the [Uniform Partnership Act or Uniform Limited Partnership Act].

1453 2. Except as otherwise provided in subsection 3, a trustee who holds an interest as a
1454 general partner is not personally liable for torts committed by the partnership or for obligations
1455 arising from ownership or control of the interest unless the trustee is personally at fault.

1456 3. The immunity provided by this section does not apply if an interest in the partnership
1457 is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or
1458 one or more of the trustee's descendants, siblings, or parents, or the spouse of any of them.

1459 4. If the trustee of a revocable trust holds an interest as a general partner, the settlor is
1460 personally liable for contracts and other obligations of the partnership as if the settlor were a
1461 general partner.}

1462

1463 **SECTION 456.10-1012. PROTECTION OF PERSON DEALING WITH TRUSTEE.**

1464 1. A person other than a beneficiary who in good faith assists a trustee, or who in good
1465 faith and for value deals with a trustee, without knowledge that the trustee is exceeding or
1466 improperly exercising the trustee's powers is protected from liability as if the trustee properly
1467 exercised the power.

1468 2. A person other than a beneficiary who in good faith deals with a trustee is not required
1469 to inquire into the extent of the trustee's powers or the propriety of their exercise.

1470 3. A person who in good faith delivers assets to a trustee need not ensure their proper
1471 application.

1472 4. A person other than a beneficiary who in good faith assists a former trustee, or who in
1473 good faith and for value deals with a former trustee, without knowledge that the trusteeship has
1474 terminated is protected from liability as if the former trustee were still a trustee.

1475 5. Comparable protective provisions of other laws relating to commercial transactions or
1476 transfer of securities by fiduciaries prevail over the protection provided by this section.

1477

1478 **SECTION 456.10-1013. CERTIFICATION OF TRUST.**

1479 1. Instead of furnishing a copy of the trust instrument to a person other than a
1480 beneficiary, the trustee may furnish to the person a certification of trust containing the following
1481 information:

1482 (1) that the trust exists and the date the trust instrument was executed;

1483 (2) the identity of the settlor;

1484 (3) the identity and address of the currently acting trustee;

1485 (4) the powers of the trustee;

1486 (5) the revocability or irrevocability of the trust and the identity of any person holding
1487 a power to revoke the trust;

1488 (6) the authority of cotrustees to sign or otherwise authenticate and whether all or less
1489 than all are required in order to exercise powers of the trustee;

1490 (7) the trust's taxpayer identification number; and

1491 (8) the manner of taking title to trust property.

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1492 2. A certification of trust ~~may~~ must be signed ~~or otherwise authenticated~~ by ~~any~~ all the
1493 trustees. A third party may require that the certification of trust be acknowledged or guaranteed.

1494 3. A certification of trust must state that the trust has not been revoked, modified, or
1495 amended in any manner that would cause the representations contained in the certification of
1496 trust to be incorrect.

1497 4. A certification of trust need not contain the dispositive terms of a trust.

1498 5. A recipient of a certification of trust may require the trustee to furnish copies of those
1499 excerpts from the original trust instrument and later amendments which designate the trustee and
1500 confer upon the trustee the power to act in the pending transaction.

1501 6. A person who acts in reliance upon a certification of trust without knowledge that the
1502 representations contained therein are incorrect is not liable to any person for so acting and may
1503 assume without inquiry the existence of the facts contained in the certification. Knowledge of
1504 the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust
1505 instrument is held by the person relying upon the certification.

1506 7. A person who in good faith enters into a transaction in reliance upon a certification of
1507 trust may enforce the transaction against the trust property as if the representations contained in
1508 the certification were correct.

1509 8. A person making a demand for the trust instrument in addition to a certification of
1510 trust or excerpts is liable for damages if the court determines that the person did not act in good
1511 faith in demanding the trust instrument.

1512 9. This section does not limit the right of a person to obtain a copy of the trust instrument
1513 in a judicial proceeding concerning the trust.

[ARTICLE 11

MISCELLANEOUS PROVISIONS]

SECTION 456.11-1101. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

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

SECTION 456.11-1102. ~~ELECTRONIC RECORDS AND SIGNATURES.~~ The

~~provisions of this Code governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7002) and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.~~ **RELATION**

TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

Sections 456.1-101 to 456.11-1106 modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

SECTION 456.11-1103. SEVERABILITY CLAUSE. If any provision of Sections 456.1-

1536 101 to 456.11-1106 or its application to any person or circumstances is held invalid, the
1537 invalidity does not affect other provisions or applications of Sections 456.1-101 to 456.11-1106
1538 which can be given effect without the invalid provision or application, and to this end the
1539 provisions of Sections 456.1-101 to 456.11-1106 are severable.

1540

1541 **SECTION 456.11-1104. EFFECTIVE DATE.** Sections 456.1-101 to 456.11-1106 takes
1542 effect on January 1, <2005>.

1543

1544 **[SECTION 1105. REPEALS.** The following Acts are repealed:

- 1545 (1) Uniform Trustee Powers Act ;
1546 (2) Uniform Probate Code, Article VII;
1547 (3) Uniform Trusts Act (1937); and
1548 (4) Uniform Prudent Investor Act.]

1549

1550 **SECTION 456.11-1106. APPLICATION TO EXISTING RELATIONSHIPS.**

1551 1. Except as otherwise provided in Sections 456.1-101 to 456.11-1106, on ~~the effective~~
1552 ~~date of Sections 456.1-101 to 456.11-1106~~ January 1, <2005>:

1553 (1) Sections 456.1-101 to 456.11-1106 applies to all trusts created before, on, or
1554 after January 1, <2005>;

1555 (2) Sections 456.1-101 to 456.11-1106 applies to all judicial proceedings concerning
1556 trusts commenced on or after January 1, <2005>;

1557 (3) Sections 456.1-101 to 456.11-1106 applies to judicial proceedings concerning

1558 trusts commenced before January 1, <2005> unless the court finds that application of a particular
1559 provision of Sections 456.1-101 to 456.11-1106 would substantially interfere with the effective
1560 conduct of the judicial proceedings or prejudice the rights of the parties, in which case the
1561 particular provision of Sections 456.1-101 to 456.11-1106 does not apply and the superseded law
1562 applies;

1563 (4) any rule of construction or presumption provided in Sections 456.1-101 to 456.11-
1564 1106 applies to trust instruments executed before January 1, <2005> unless there is a clear
1565 indication of a contrary intent in the terms of the trust; and

1566 (5) an act done before January 1, <2005> is not affected by any provisions contained
1567 in Sections 456.1-101 to 456.11-1106.

1568 2. If a right is acquired, extinguished, or barred upon the expiration of a prescribed
1569 period that has commenced to run under any other statute before January 1, <2005>, that statute
1570 continues to apply to the right even if it has been repealed or superseded.

1571

1572 [ARTICLE 12

1573 MISCELLANEOUS STATUTES]

1574

1575 456.015. **BEQUESTS OR TRANSFER TO SPOUSE, VALUATION OF.**

1576 1. If an instrument providing for a pecuniary bequest or transfer to or for the benefit of the
1577 spouse of the testator or transferor requires or permits the satisfaction of such bequest or transfer
1578 wholly or partly by the distribution of property valued at some date or on some basis other than
1579 its fair market value at the time of distribution, and does not require that such bequest or transfer

1580 be satisfied by the distribution of assets, including cash, having an aggregate fair market value on
1581 the date or dates of distribution amounting to no less than the amount of such bequest or transfer,
1582 then in such case, the provisions of the instrument notwithstanding, any property distributed in
1583 satisfaction of such bequest or transfer shall have an aggregate fair market value on the date of
1584 distribution fairly reflecting the distributee's proportionate share of the appreciation or
1585 depreciation in value to the date of distribution of all property then available for distribution.

1586 2. If, in any instrument which provides for a pecuniary bequest or transfer, the personal
1587 representative or trustee is empowered to satisfy such bequest or transfer by distribution of
1588 property in kind, and the instrument is silent as to the value to be given to property distributed in
1589 kind, any property distributed in satisfaction of the bequest or transfer shall be valued at the fair
1590 market value thereof on the date of distribution.

1591 3. ~~456.016. What instruments affected.~~ This sections ~~456.015 and 456.016~~ shall be
1592 effective with respect to wills and revocable inter vivos trusts executed or created before or after
1593 October 13, 1969, by persons who die on or after said date, and to irrevocable inter vivos trusts
1594 which are created on or after October 13, 1969.

1595

1596 **456.020. ABSENCE OF ACTIVE DUTIES NOT TO CURTAIL POWERS OF**
1597 **TRUSTEE.** When the terms of an instrument creating a trust manifest intention that the trustee
1598 shall have the legal fee simple in land, the full legal ownership of an estate for years, or the
1599 absolute legal ownership of chattels personal, investment securities or choses in action, an
1600 exercise by the trustee or a successor trustee of an express or implied power of sale, mortgage,
1601 leasing, improvement or conducting any other transaction incident to the administration of the

1602 trust, shall bind the fee simple, term of years or absolute ownership notwithstanding the
1603 execution of a
1604 future interest under the trust into a legal estate or interest by the operation of the Statute of
1605 Uses, or former section 456.020, or a judicial doctrine imposing such execution on dry or passive
1606 trusts.

1607

1608 **456.030. LIFE INSURANCE TRUSTS.** Proceeds of life insurance policies heretofore made
1609 payable to a trustee or trustees named as beneficiary or hereafter to be named beneficiary under
1610 an inter vivos trust shall be paid directly to the trustee or trustees and held and disposed of by the
1611 trustee or trustees as provided in the trust agreement or declaration of trust in writing made and in
1612 existence on the date of death of the insured, whether or not such trust or declaration of trust is
1613 amendable or revocable or both, or whether it may have been amended, and notwithstanding the
1614 reservation of any or all rights of ownership under the insurance policy or annuity contract;
1615 subject, however, to a valid assignment of any part of the proceeds. It is not necessary to the
1616 validity of such trust agreement or declaration of trust that it be funded or have a corpus other
1617 than the right, which need not be irrevocable, of the trustee or trustees named therein to receive
1618 such proceeds as beneficiary. A policy of life insurance or annuity contract may designate as
1619 beneficiary a trustee or trustees named or to be named by will if the designation is made in
1620 accordance with the provisions of the policy or contract whether or not the will is in existence at
1621 the time of the designation.

1622

1623 **456.040. LESSOR, TRUSTEE OF DEPOSITS BY LESSEE, WHEN — EXCEPTION.**

1624 1. Whenever any person, firm or corporation, engaged in the leasing of personal property, shall
1625 require a deposit or advance payment to be made by the lessee to bind the lessee to the
1626 performance of such contract, then such money so deposited, with any accruing interest thereon,
1627 shall, until returned or applied in accordance with the terms of such contract or agreement,
1628 continue to be the money of the person making the deposit and shall become and remain a trust
1629 fund in the possession of the person with whom such deposit shall be made, and the person, firm
1630 or corporation, receiving such deposit shall be the holder of such fund as trustee, and as the
1631 trustee as herein defined shall forthwith, and within seven days after the receipt of such trust
1632 fund, deposit the same in some bank or trust company in the county in which the cestui que trust
1633 shall reside or have his principal office or place of business, and such fund shall not be mingled
1634 with any other funds or assets of such trustee. Any person, firm or corporation receiving any
1635 money in trust, as herein defined, who shall violate any of the provisions of this section shall be
1636 deemed guilty of a misdemeanor; provided, however, that this section and section 456.050 shall
1637 not apply to such transactions where the property used or leased is delivered to lessee at time of
1638 agreement and remains in the actual and continuous possession of lessee during the term of such
1639 agreement.

1640 2. Subsection 1 of this section shall not apply to any lease entered into by lessors which are
1641 banks, trust companies, savings and loan associations, savings banks and credit unions, their
1642 subsidiaries and affiliates, or to any other financial institutions as defined in subdivision (4) of
1643 section 381.410, RSMo, or to other lessors in commercial lease transactions of at least twenty-
1644 five thousand dollars.

1645

1646 **456.050. LESSOR LIABLE FOR DOUBLE AMOUNT OF DEPOSIT SO HELD IN**
1647 **TRUST, WHEN.** Any person, firm or corporation being a trustee, as provided in section
1648 456.040, who shall violate any of the provisions thereof, shall pay to the depositor a sum of
1649 money double the amount of the deposit or advance payment, which may be recovered in any
1650 court of competent jurisdiction, together with a reasonable attorney's fee to be fixed by the court
1651 and collected as other costs in the case. Any waiver or attempt to waive the provisions of sections
1652 456.040 and 456.050 shall be void.

1653 3. The phrase "pecuniary bequest or transfer", as used in this section, means a bequest or
1654 transfer either in a stated amount or in an amount determined by the use of a formula.

1655

1656 **SECTION 456.060. TRUSTS FOR BENEFIT OF EMPLOYEES OR SELF-EMPLOYED**
1657 **PERSONS — PERPETUITIES — SUSPENSION OF ALIENATION.** A trust of real or
1658 personal property, or both, created as part of a stock bonus plan, pension plan, disability or death
1659 benefit plan, medical benefit plan, profit-sharing plan or retirement plan, for the exclusive benefit
1660 of employees or self-employed persons, to which contributions are made by an employer, or
1661 employees, or both, or by self-employed persons, for the purpose of distributing to such
1662 employees or self-employed persons the earnings or the principal, or both earnings and principal
1663 of the fund so held in trust, shall not be deemed to be invalid as violating any existing laws
1664 against perpetuities or suspension of the power of alienation of title to property; but such a trust
1665 may continue for such time as may be necessary to accomplish the purposes for which it may be
1666 created.

1667

1668 **SECTION 56.070. TRUSTS FOR BENEFIT OF EMPLOYEES OR SELF-**
1669 **EMPLOYED PERSONS — ACCUMULATION.** The income arising from any property held
1670 in a trust created as part of a stock bonus plan, pension plan, disability or death benefit plan,
1671 medical benefit plan, profit-sharing plan or retirement plan for the exclusive benefit of employees
1672 or self-employed persons to which contributions are made by an employer or employees, or both,
1673 or by self-employed persons, for the purpose of distributing in accordance with such plan to such
1674 employees or self-employed persons the earnings or the principal or both earnings and principal
1675 of the trust fund, may be permitted to accumulate until the fund shall be sufficient to accomplish
1676 the purposes of such plan.

1677

1678 **SECTION 456.072. TRUST FOR BENEFIT OF EMPLOYEES — SPENDTHRIFT**
1679 **TRUST, WHEN — EXEMPT FROM CERTAIN ATTACHMENTS, EXCEPTION.** A trust
1680 created as part of a stock bonus plan, nonpublic pension plan, disability or death benefit plan,
1681 profit-sharing plan, or retirement plan, for the exclusive benefit of employees to which
1682 contributions are made by an employer, or participant, or both, for the purpose of distributing to
1683 such participant the earnings or the principal, or both earnings and principal of the fund so held
1684 in trust, shall be deemed to be a spendthrift trust if the plan or trust includes a provision
1685 restraining the assignment, alienation, or other voluntary or involuntary transfer of the interest of
1686 a participant in the trust. Prior to payment or delivery thereof to such participant by the plan
1687 trustee, such an interest of the participant shall be exempt from attachment or execution under the
1688 laws of this state, and such provision restraining the assignment, alienation, or other voluntary or
1689 involuntary transfer of the interest of a participant in the trust shall preclude any creditor of the

1690 participant from satisfying a claim from the assets or property of such a plan or trust before
1691 payment or delivery of such interest to the participant by the plan trustee, provided that the
1692 interest of any such participant shall be subject to attachment or execution pursuant to a qualified
1693 domestic relations order, as defined by section 414(p) of the federal Internal Revenue Code, as
1694 amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a
1695 proceeding for disposition of property following dissolution of marriage by a court which lacked
1696 personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property
1697 at the time of the original judgment of dissolution.

1698

1699 **SECTION 456.075. APPLICABILITY OF SECTIONS 456.060, 456.070 AND 456.072**

1700 The provisions of sections 456.060, 456.070, and 456.072 shall apply to every trust of the kind
1701 described in such sections hereafter created or heretofore created or attempted to be created as if
1702 such sections had been effective on and after the date of the creation, or attempted creation, of
1703 each such trust.

1704

1705 **SECTION 456.230. TRUSTEES OF PRIVATE FOUNDATIONS, CHARITABLE**
1706 **TRUSTS OR SPLIT-INTEREST TRUSTS, CERTAIN ACTS PROHIBITED.**

1707 1. In the administration of any trust which is a "private foundation", as defined in section 509
1708 of the United States Internal Revenue Code, a "charitable trust", as defined in section 4947(a)(1)
1709 of the United States Internal Revenue Code, or a "split-interest trust", as defined in section
1710 4947(a)(2) of the United States Internal Revenue Code, the following acts shall be prohibited:

1711 (1) Engaging in any act of "self-dealing", as defined in section 4941(d) of the United

1712 States Internal Revenue Code, which would give rise to any liability for the tax imposed by
1713 section 4941(a) of the United States Internal Revenue Code;

1714 (2) Retaining any "excess business holdings", as defined in section 4943(c) of the United
1715 States Internal Revenue Code, which would give rise to any liability for the tax imposed by
1716 section 4943(a) of the United States Internal Revenue Code;

1717 (3) Making any investments which would jeopardize the carrying out of any of the
1718 exempt purposes of the trust, within the meaning of section 4944 of the United States Internal
1719 Revenue Code, so as to give rise to any liability for the tax imposed by section 4944(a) of the
1720 United States Internal Revenue Code; and

1721 (4) Making any "taxable expenditures", as defined in section 4945(d) of the United States
1722 Internal Revenue Code, which would give rise to any liability for the tax imposed by section
1723 4945(a) of the United States Internal Revenue Code; provided, however, that this section shall
1724 not apply either to those split-interest trusts or to amounts thereof which are not subject to the
1725 prohibitions applicable to private foundations by reason of the provisions of section 4947 of the
1726 United States Internal Revenue Code.

1727 2. In the administration of any trust which is a "private foundation", as defined in section 509
1728 of the United States Internal Revenue Code, or which is a "charitable trust", as defined in section
1729 4947(a)(1) of the United States Internal Revenue Code, there shall be distributed, for the
1730 purposes specified in the trust instrument, for each taxable year, amounts at least sufficient to
1731 avoid liability for the tax imposed by section 4942(a) of the United States Internal Revenue
1732 Code.

1733 3. The provisions of subsections 1 and 2 of this section shall not apply to any trust to the

1734 extent that a court of competent jurisdiction shall determine that such application would be
1735 contrary to the terms of the instrument governing such trust and that the same may not properly
1736 be changed to conform to such sections. The trustee shall not be held liable to anyone for any
1737 payments made under subsection 2 prior to such determination.

1738 4. Nothing in this section shall impair the rights and powers of the courts or the attorney
1739 general of this state with respect to any trust.

1740 [5. All references to sections of the United States Internal Revenue Code shall be to such law
1741 as of June 14, 1971.]

1742

1743 **SECTION 456.232. ADDITION TO TRUSTS.** A devise or other transfer, the validity of
1744 which is determinable by the law of this state, may be made by a will or other instrument of
1745 transfer, including a designation of beneficiary under a life insurance policy, to the trustee or
1746 trustees of a trust established or to be established by the testator or transferor or by the testator or
1747 transferor and some other person or persons or by some other person or persons, including a
1748 funded or unfunded life insurance trust, although the settlor thereof has reserved any or all rights
1749 of ownership of the insurance contracts, if the trust is identified in the testator's will or the
1750 instrument of transfer and its terms are set forth in a written instrument. The devise or transfer
1751 shall not be invalid because the trust is amendable or revocable, or both, or because the trust was
1752 amended after the execution of the will, the delivery of the instrument of transfer, or the death of
1753 the testator. Notwithstanding whether a devise or transfer is made before or after August 28,
1754 1996, a devise or transfer is valid if the devise or transfer is made only to the name of the trust
1755 or if the devise or transfer is made to the name or names of the trustee or trustees as the trustee

1756 or trustees of the trust. Unless the testator's will or the instrument of transfer provides otherwise,
1757 the property so devised:

1758 (1) Shall not be deemed to be held under a testamentary trust of the testator or transferor
1759 but shall become a part of the trust to which it is given; and

1760 (2) Shall be administered and disposed of in accordance with the provisions of the
1761 instrument or will setting forth the terms of the trust, including any amendments thereto made
1762 before the death of the testator or transferor, regardless of whether made before or after the
1763 execution of the testator's will or the delivery of the instrument of transfer, and, if the testator's
1764 will or the instrument of transfer so provides, including any amendments to the trust made after
1765 the death of the testator or transferor. A revocation or termination of the trust before the death of
1766 the testator shall cause a devise to the trustees of that trust to lapse.

1767

1768 **SECTION 456.235. POWER OF APPOINTMENT NOT EXERCISED BY WILL,**

1769 **WHEN.** A general residuary clause in a will, or a will making general disposition of all of the
1770 testator's property, does not exercise a power of appointment granted in an instrument creating or
1771 amending a trust unless specific reference is made to the power or there is some other indication
1772 of intention to include the property subject to the power.

1773

1774 **SECTION 456.236. INAPPLICABILITY OF THE RULE AGAINST PERPETUITIES**

1775 **— RULE PROHIBITING UNREASONABLE RESTRAINTS OR SUSPENSION OF**

1776 **POWER OF ALIENATION NOT VIOLATED, WHEN — RULE AGAINST**

1777 **ACCUMULATIONS NOT APPLICABLE, WHEN.**

1778 1. The rule against perpetuities shall not apply to and any rule prohibiting unreasonable
1779 restraints on or suspension of the power of alienation shall not be violated by a trustee,
1780 or other person or persons to whom the power is properly granted or delegated, has the power
1781 pursuant to the terms of the trust or applicable law to sell the trust property during the period of
1782 time the trust continues beyond the period of the rule against perpetuities that would apply to the
1783 trust but for this subsection.

1784 2. No rule against accumulations shall apply to a trust described in subsection 1 of this
1785 section unless the terms of the trust require that the income be accumulated during a period of
1786 time the trust continues beyond the period of the rule against perpetuities that would apply to
1787 the trust but for subsection 1 of this section. If the terms of the trust require that the income be
1788 accumulated during any period of time the trust continues beyond the period of the rule against
1789 perpetuities that would apply to the trust but for subsection 1 of this section, then during that
1790 period of time the trustee shall have the power to make discretionary distributions of net income
1791 to such recipients and in such shares and in such manner as most closely effectuates the settlor's
1792 or testator's manifested plan of distribution.

1793 3. The provisions of this section apply to:

1794 (1) Any trust created by a will or inter vivos agreement, or pursuant to the exercise of a
1795 power of appointment other than a general power of appointment granted under a will or inter
1796 vivos agreement, executed or amended on or after August 28, 2001;

1797 (2) Any trust created pursuant to the exercise of a general power of appointment exercised
1798 in an instrument executed or amended on or after August 28, 2001; or

1799 (3) Any trust created by a will or inter vivos agreement, or pursuant to the exercise of a power

1800 of appointment granted under a will or inter vivos agreement, executed or amended before
1801 August 28, 2001, if the laws of this state become applicable to the trust after such date, the laws
1802 of any other state applied to the trust before such date, and the rule against perpetuities did not
1803 apply to the trust pursuant to the laws of the other state.

1804 4. As used in this section, the term "trust" means an express trust created by a trust
1805 instrument, including a will, whereby a trustee has the duty to administer a trust asset for the
1806 benefit of a named or otherwise described income or principal beneficiary, or both, the term
1807 "trust" does not include a resulting or constructive trust, a business trust which provides for
1808 certificates to be issued to the beneficiary, an investment trust, a voting trust, a security
1809 instrument, a trust created by the judgment or decree of a court, a liquidation trust, or a trust for
1810 the primary purpose of paying dividends, interests, interest coupons, salaries, wages, pensions or
1811 profits, or employee benefits of any kind, an instrument wherein a person is nominee or escrowee
1812 for another, a trust created in deposits in any financial institution, a trust that is not subject to the
1813 rule against perpetuities by reason of any other law of this state, or any other trust the nature of
1814 which does not admit of general trust administration.

1815

1816 **UNIFORM FIDUCIARIES ACT**

1817 **SECTION 456.240. DEFINITIONS.**

1818 1. In sections 456.240 to 456.350 unless the context or subject
1819 matter otherwise requires:

1820 (1) "Bank" includes any person or association of persons, whether incorporated or not,
1821 carrying on the business of banking;

1822 (2) "Fiduciary" includes a trustee under any trust, expressed, implied, resulting or
1823 constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in
1824 bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or
1825 private, public officer, or any other person acting in a fiduciary capacity for any person, trust or
1826 estate;

1827 (3) "Person" includes a corporation, partnership, or other association, or two or more
1828 persons having a joint or common interest;

1829 (4) "Principal" includes any person to whom a fiduciary as such owes an obligation.

1830 2. A thing is done "in good faith" within the meaning of sections 456.240 to 456.350, when it
1831 is in fact done honestly, whether it be done negligently or not.

1832

1833 **Section 456.250. PAYMENT OR TRANSFERS TO FIDUCIARIES OR AT THE**
1834 **DIRECTION OF THE FIDUCIARY, EFFECT ON TRANSFEROR.** A person who in good
1835 faith pays or transfers to a fiduciary or to any other person as directed by a fiduciary any money
1836 or other property which the fiduciary as such is authorized to receive, is not responsible for the
1837 proper application thereof by the fiduciary, and any right or title acquired from the fiduciary in
1838 consideration of such payment or transfer is not invalid in consequence of a misapplication by
1839 the fiduciary.

1840

1841 **SECTION 456.260. TRANSFER OF NEGOTIABLE INSTRUMENT BY FIDUCIARY.**

1842 If any negotiable instrument payable or endorsed to a fiduciary as such is endorsed by the
1843 fiduciary, or if any negotiable instrument payable or endorsed to his principal is endorsed by a

1844 fiduciary empowered to endorse such instrument on behalf of his principal, the endorsee is not
1845 bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in
1846 endorsing or delivering the instrument, and is not chargeable with notice that the fiduciary is
1847 committing a breach of his obligation as fiduciary unless he takes the instrument with actual
1848 knowledge of such breach or with knowledge of such facts that his action in taking the
1849 instrument amounts to bad faith. If, however, such instrument is transferred by the fiduciary in
1850 payment of or as security for a personal debt of the fiduciary to the actual knowledge of the
1851 creditor, or is transferred in any transaction known by the transferee to be for the personal benefit
1852 of the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary in fact
1853 commits a breach of his obligation as fiduciary in transferring the instrument.

1854

1855 **SECTION 456.270. CHECK DRAWN BY FIDUCIARY PAYABLE TO THIRD**

1856 **PERSON.** If a check or other bill of exchange is drawn by a fiduciary as such, or in the name of
1857 his principal by a fiduciary empowered to draw such instrument in the name of his principal, the
1858 payee is not bound to inquire whether the fiduciary is committing a breach of his obligation as
1859 fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the
1860 fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with
1861 actual knowledge of such breach or with knowledge of such facts that this action in taking the
1862 instrument amounts to bad faith. If, however, such instrument is payable to a personal creditor
1863 of the fiduciary and delivered to the creditor in payment of or as security for a personal debt of
1864 the fiduciary to the actual knowledge of the creditor, or is drawn and delivered in any transaction
1865 known by the payee to be for the personal benefit of the fiduciary, the creditor or other payee is

1866 liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in
1867 drawing or delivering the instrument.

1868

1869 **SECTION 456.280. CHECK DRAWN BY AND PAYABLE TO FIDUCIARY.** If a check
1870 or other bill of exchange is drawn by a fiduciary as such or in the name of his principal by a
1871 fiduciary empowered to draw such instrument in the name of his principal, payable to the
1872 fiduciary personally, or payable to a third person and by him transferred to the fiduciary, and is
1873 thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or
1874 otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of
1875 his obligation as fiduciary in transferring the instrument, and is not chargeable with notice that
1876 the fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument
1877 with actual knowledge of such breach or with knowledge of such facts that his action in taking
1878 the instrument amounts to bad faith.

1879

1880 **SECTION 456.290. DEPOSIT IN NAME OF FIDUCIARY AS SUCH.** If a deposit is
1881 made in a bank to the credit of a fiduciary as such, the bank is authorized to pay the amount of
1882 the deposit or any part thereof upon the check of the fiduciary, signed with the name in which
1883 such deposit is entered, without being liable to the principal, unless the bank pays the check
1884 with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in
1885 drawing the check or with knowledge of such facts that its action in paying the check amounts to
1886 bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in
1887 payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the

1888 principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or
1889 delivering the check.

1890

1891 **SECTION 456.300. DEPOSIT IN NAME OF PRINCIPAL.** If a check is drawn upon the
1892 account of his principal in a bank by a fiduciary who is empowered to draw checks upon his
1893 principal's account, the bank is authorized to pay such check without being liable to the principal,
1894 unless the bank pays the check with actual knowledge that the fiduciary is committing a breach
1895 of his obligation as fiduciary in drawing such check, or with knowledge of such facts that its
1896 action in paying the check amounts to bad faith. If, however, such a check is payable to the
1897 drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary
1898 to it, the bank is liable to the principal if the fiduciary in fact commits a breach of his obligation
1899 as fiduciary in drawing or delivering the check.

1900

1901 **SECTION 456.310. DEPOSIT IN FIDUCIARY'S PERSONAL ACCOUNT.** If a
1902 fiduciary makes a deposit in a bank to his personal credit of checks drawn by him upon an
1903 account in his own name as fiduciary, or of checks payable to him as fiduciary, or of checks
1904 drawn by him upon an account in the name of his principal if he is empowered to draw checks
1905 thereon, or of checks payable to his principal and endorsed by him, if he is empowered to endorse
1906 such checks, or if he otherwise makes a deposit of funds held by him as fiduciary, the bank
1907 receiving such deposit is not bound to inquire whether the fiduciary is committing thereby a
1908 breach of his obligation as fiduciary; and the bank is authorized to pay the amount of the deposit
1909 or any part thereof upon the personal check of the fiduciary without being liable to the principal,

1910 unless the bank receives
1911 the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of
1912 his obligation as fiduciary in making such deposit or in drawing such check, or with knowledge
1913 of such facts that its action in receiving the deposit or paying the check amounts to bad faith.

1914

1915 **SECTION 456.320. DEPOSIT IN NAMES OF TWO OR MORE TRUSTEES.** When a
1916 deposit is made in a bank in the name of two or more persons as trustees and a check is drawn
1917 upon the trust account by any trustee or trustees authorized by the other trustee or trustees to
1918 draw checks upon the trust account, neither the payee nor other holder nor the bank is bound to
1919 inquire whether it is a breach of trust to authorize such trustee or trustees to draw checks upon
1920 the trust account, and is not liable unless the circumstances be such that the action of the payee or
1921 other holder or the bank amounts to bad faith.

1922

1923 **SECTION 456.330. CASES NOT PROVIDED FOR IN LAW.** In any case not provided
1924 for in sections 456.240 to 456.350 the rules of law and equity, including the law merchant and
1925 those rules of law and equity relating to trusts, agency, negotiable instruments and banking, shall
1926 continue to apply.

1927

1928 **SECTION 456.340. UNIFORMITY OF INTERPRETATION.** [This law] shall be so
1929 interpreted and construed as to effectuate its general purpose to make uniform the law of those
1930 states which enact it.

1931

1932 **SECTION 456.350. SHORT TITLE.** Sections 456.240 to 456.350 may be cited as the
1933 "Uniform Fiduciaries Law".

1934

1935 **SECTION 456.400. REGISTRATION OF TRUST.**

1936 1. The trustee of a trust having its principal place of administration in this state may register
1937 the trust in the probate division of the circuit court of the county wherein the principal place of
1938 administration is located.

1939 4. The right to register under this section does not apply to the trustee of a trust if registration
1940 would be inconsistent with the retained jurisdiction of a foreign court from which the trustee
1941 cannot obtain release of registration.

1942

1943 **SECTION 456.410. REGISTRATION PROCEDURE.** Such registration shall be
1944 accomplished by filing a statement, indicating the name and address of the trustee and
1945 acknowledging the trusteeship. The statement shall indicate whether the trust has been registered
1946 elsewhere and shall identify the trust:

1947 (1) In the case of a testamentary trust, by the name of the testator
1948 and the date and place of domiciliary probate;

1949 (2) In the case of a written inter vivos trust, by the name of each settlor and the original
1950 trustee and the date of the trust instrument; or

1951 (3) In the case of an oral trust, by information identifying the settlor or other source of
1952 funds and describing the time and manner of the trust's creation and the terms of the trust,
1953 including the subject matter, beneficiaries and time of performance.

1954 A registration may be withdrawn by a similar statement.

1955

1956 **SECTION 456.420. RECORDS AND CERTIFIED COPIES.** The clerk of the probate
1957 division of the circuit court shall keep a record for each trust so registered, including trust
1958 registration statements, petitions and applications, demands for notices or bonds, and of any
1959 orders or responses relating thereto by the court, and establish and maintain a system for
1960 indexing, filing or recording which is sufficient to enable users of the records to identify and
1961 obtain information about such registered trusts. Upon payment of the fees required by law the
1962 clerk must issue certified copies of any record or paper filed or recorded.

1963

1964 **SECTION 456.430. EFFECT OF REGISTRATION.**

1965 1. By registering a trust, or accepting the trusteeship of a registered trust, the trustee submits
1966 personally to the jurisdiction of the court in any proceeding involving the administration of the
1967 trust that may be initiated by any interested person while the trust remains registered. Notice of
1968 any such proceeding shall be delivered to the trustee or mailed to him by ordinary first-class mail
1969 at his address as listed in the registration statement or as thereafter reported to the court and to his
1970 address as then known to the petitioner.

1971 2. To the extent of their interests in the trust, all beneficiaries of a trust registered in this state
1972 are subject to the jurisdiction of the court of registration for the purposes of proceedings
1973 involving administration of the trust, provided notice is given pursuant to section 472.100,
1974 RSMo.

1975 <INSERT SECTION 456.524>

1976 **SECTION 456.620. EVIDENCE AS TO DEATH OR STATUS — FIVE-YEAR**

1977 **ABSENCE PRESUMPTION OF DEATH.**

1978 1. A certified or authenticated copy of a death certificate purporting to be issued by an official
1979 or agency of the place where the death purportedly occurred is prima facie proof of the fact,
1980 place, date and time of death and the identity of the deceased settlor, trustee, beneficiary or other
1981 interested person.

1982 2. A certified or authenticated copy of any record or report of a governmental agency,
1983 domestic or foreign, that a person is missing, detained, dead, or alive is prima facie evidence of
1984 the status and of the dates, circumstances and places disclosed by the record or report.

1985 3. A person who is absent for a continuous period of five years, during which he has not been
1986 heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is
1987 presumed to be dead. His death is presumed to have occurred at the end of the period unless there
1988 is sufficient evidence for determining that death occurred earlier.

1989

1990 **SECTION 456.640. TRUST PROPERTY — WHEN DEEMED UNCLAIMED.**

1991 1. Property of any kind remaining in a trust which is not subject to administration or
1992 distribution to or for an identifiable beneficiary may be deemed to be unclaimed property when
1993 the trustee, after reasonable and diligent search, is unable to find or ascertain the existence of any
1994 heirs, legal representatives, successors or assigns of any beneficiary to whom such property is
1995 distributable by the trust instrument, by any other instrument pertaining to the trust estate, or by
1996 the laws of Missouri.

1997 2. Property of any kind remaining in a trust, which is distributable to or for the benefit of an

1998 identified beneficiary, may be deemed to be unclaimed when such beneficiary has, for three years
1999 after a good faith attempt to notify him in writing of his right to such property, failed or refused
2000 to claim the property.

2001

2002 **SECTION 56.650. PROCEDURE BY TRUSTEE WITH RESPECT TO UNCLAIMED**
2003 **PROPERTY.**

2004 1. Any trustee holding such unclaimed property may file with the state treasurer a verified
2005 statement setting forth the reason or reasons why such property is presumed to be unclaimed, the
2006 efforts made to find or ascertain any heirs, legal representatives, successors or assigns of any
2007 beneficiary or beneficiaries to whom such property is distributable, a list of all instruments
2008 known to the trustee that pertain to the trust and their location, with copies of those that are in
2009 possession of the trustee, and any further facts causing the trustee to believe that the property is
2010 unclaimed, and transfer such property to the state treasurer, who shall issue his receipt therefor.

2011 2. All property so received shall be credited to the escheat fund of the state of Missouri.

2012

2013 **SECTION 456.660. UNCLAIMED PROPERTY — LIABILITY OF TRUSTEE.**

2014 1. The payment or delivery of such unclaimed property to the state treasurer by the trustee
2015 shall terminate any legal relationship between the trustee and beneficiary or apparent beneficiary
2016 to receive such property and shall release and discharge the trustee from any and all liability to
2017 such beneficiary, his heirs, personal representatives, successors and assigns by such payment or
2018 delivery, regardless of whether such property is in fact or in law unclaimed property.

2019 2. Such payment or delivery may be pleaded as a bar to recovery and shall be a defense in any

2020 suit or action brought by the apparent owner, or his heirs, personal representatives, successors or
2021 assigns, or any claimant against the trustee by reason of the delivery of payment.

2022