

MISSOURI UNIFORM TRUST CODE

<DRAFT: 4-14-03>

<<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 < > for 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Sections [SECTIONS OF 456 TO BE REPEALED:ALSO NEED TO AMEND SECTION 472.300.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 Supp. 2000, are repealed and [NUMBER] new sections enacted in lieu thereof, to be known as sections [NUMBERS OF NEW SECTIONS], and [LAST NEW SECTION], to read as follows: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. Sections 456.1-101 to 456.11-1106 do not apply to any trust created by the inherent power of the court pursuant to Chapter 460 RSMo.

32 **SECTION 456.1-103. DEFINITIONS.** In sections 456.1-101 to sections 456.11-106:

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

34 (2) “Beneficiary” means a person that:

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

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

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

40 (4) “Conservator” means a person ~~described in appointed by a the court to administer the~~
41 ~~estate of a minor or adult individual pursuant to the provisions of Chapter 475 section~~
42 ~~475.010(3). This term does not include a conservator ad litem.~~

43 (5) “Conservator ad litem” means a person appointed by the court pursuant to the
44 provisions of section 475.097.

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

47 (7) “Financial institution” means a non-foreign bank, savings and loan or trust company
48 chartered, regulated and supervised by the Missouri Division of Finance, the Office of the
49 Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union
50 Administration, or the Missouri Division of Credit Union Supervision. The term ”non-foreign
51 bank” shall mean a bank that is not a foreign bank within meaning of section 361.005(1) RSMo.

52 (68) “Guardian” means a person described in ~~appointed by a the court pursuant to section~~
53 ~~475.010(6) or [, a parent, or a spouse] to make decisions regarding the support, care, education,~~

54 ~~health, and welfare of a minor or adult individual.~~ The term does not include a guardian ad
55 litem.

56 (9) "Interested persons" include beneficiaries and any others having a property right in or
57 claim against a trust estate which may be affected by a judicial proceeding. It also includes
58 fiduciaries and other persons representing interested persons. The meaning as it relates to
59 particular persons may vary from time to time and must be determined according to the particular
60 purposes of, and matter involved in, any proceeding.

61 ~~(7)10~~ "Interests of the beneficiaries" means the beneficial interests provided in the terms
62 of the trust.

63 (11) "Internal Revenue Code" means the United States Internal Revenue Code of 1986,
64 as in effect on January 1, <2005> or as later amended.

65 ~~(8)12~~ "Jurisdiction," with respect to a geographic area, includes a State or country.

66 ~~(9)13~~ "Person" means an individual, corporation, business trust, estate, trust, partnership,
67 limited liability company, association, joint venture, government; governmental subdivision,
68 agency, or instrumentality; public corporation, or any other legal or commercial entity.

69 (13) "Permissible distributee" means a beneficiary who is a current distributee of trust
70 income or principal, whether mandatory or discretionary.

71 ~~(4)14~~ "Power of withdrawal" means a presently exercisable general power of
72 appointment other than a power exercisable only upon consent of the trustee or a person holding
73 an adverse interest.

74 (15) "Principal Place of Administration" of a trust is the trustee's usual place of business
75 where the records pertaining to the trust are kept, or at the trustee's residence if the trustee has no

76 such place of business, unless otherwise designated by the terms of the trust as provided in
77 section 456.1-108. In the case of cotrustees, the principal place of administration is, in the
78 following order of priority:

79 (a) The usual place of business of the corporate trustee if there is but one corporate
80 cotrustee; ~~or~~

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

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

85 (16) “Professional fiduciary” means an individual ~~trustee~~ who represents himself or
86 herself to the public as having specialized training, experience or skills in the administration of
87 trusts.

88 (~~14~~17) “Property” means anything that may be the subject of ownership, whether real or
89 personal, legal or equitable, or any interest therein.

90 (~~12~~18) “Qualified beneficiary” means a beneficiary who, on the date the beneficiary’s
91 qualification is determined:

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

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

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

98 (19) “Record” means information that is inscribed on a tangible medium or that is stored
99 in an electronic or other medium and is retrievable in perceivable form.

100 ~~(1320)~~ “Revocable,” as applied to a trust, means revocable by the settlor without the
101 consent of the trustee or a person holding an adverse interest.

102 ~~(1421)~~ “Settlor” means a person, including a testator, who creates, or contributes
103 property to, a trust. If more than one person creates or contributes property to a trust, each person
104 is a settlor of the portion of the trust property attributable to that person’s contribution except to
105 the extent another person has the power to revoke or withdraw that portion pursuant to the terms
106 of the trust.

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

108 (a) to execute or adopt a tangible symbol; or

109 (b) to attach to or logically associate with the record an electronic sound, symbol, or
110 process.

111 ~~(1523)~~ “Spendthrift provision” means a term of a trust which restrains either both the
112 voluntary and or involuntary transfer or both the voluntary and involuntary transfer of a
113 beneficiary’s interest.

114 ~~(1624)~~ “State” means a State of the United States, the District of Columbia, Puerto Rico,
115 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
116 of the United States. The term includes an Indian tribe or band recognized by federal law or
117 formally acknowledged by a State.

118 ~~(1725)~~ “Terms of a trust” means the manifestation of the settlor’s intent regarding a
119 trust’s provisions as expressed in the trust instrument or as may be established by other evidence

120 that would be admissible in a judicial proceeding.

121 ~~(1826)~~ “Trust instrument” means an instrument executed by the settlor that contains
122 terms of the trust, including any amendments thereto.

123 ~~(1927)~~ “Trustee” includes an original, additional, and successor trustee, and a cotrustee.

124

125 **SECTION 456.1-104. KNOWLEDGE.**

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

127 (1) has actual knowledge of it;

128 (2) has received a notice or notification of it; or

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

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

140

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

142 1. Except as otherwise provided in the terms of the trust, sections 456.1-101 to 456.11-
143 1106 governs the duties and powers of a trustee, relations among trustees, and the rights and
144 interests of a beneficiary.

145 2. The terms of a trust prevail over any provision of sections 456.1-101 to 456.11-1106
146 except:

147 (1) the requirements for creating a trust;

148 (2) the duty of a trustee to act in good faith and in accordance with the purposes of the
149 trust;

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

151 (4) the power of the court to modify or terminate a trust under sections 456.410,
152 456.411B.3, and 456.4-412 through 456.4-416;

153 (5) the effect of a spendthrift provision and the rights of certain creditors and
154 assignees to reach a trust as provided in sections 456.5-501 to 456.5-507;

155 (6) the power of the court under section 456.7-702 to require, dispense with, or
156 modify or terminate a bond;

157 (7) the power of the court under section 456.7-708.2 to adjust a trustee's
158 compensation specified in the terms of the trust which is unreasonably low or high;

159 (8) the duty to notify the ~~qualified beneficiaries~~ permissible distributees of an
160 irrevocable trust who have attained ~~25~~ 21 years of age of the existence of the trust and of their
161 rights to request trustee's reports and other information reasonably related to the administration
162 of the trust;

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

- 164 trustee's reports and other information reasonably related to the administration of a trust;
- 165 (10) the effect of an exculpatory term under section 456.10-1008;
- 166 (11) the rights under sections 456.10-1010 through 456.10-1013 of a person other
- 167 than a trustee or beneficiary;
- 168 (12) periods of limitation for commencing a judicial proceeding; ~~and~~
- 169 (13) the power of the court to take such action and exercise such jurisdiction as may
- 170 be necessary in the interests of justice~~}; and~~
- 171 (14) the ~~subject-matter jurisdiction of the court and venue for commencing a judicial~~
- 172 proceeding as provided in section 456.2-203 ~~and 456.2-204~~.

173

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

175 The common law of trusts and principles of equity supplement sections 456.1-101 to 456.11-

176 1106, except to the extent modified by sections 456.1-101 to 456.11-1106 or another statute of

177 this State.

178

179 **SECTION 456.1-107. GOVERNING LAW.** The meaning and effect of the terms of a trust

180 are determined by:

181 (1) the law of the jurisdiction designated in the terms unless the designation of that

182 jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most

183 significant relationship to the matter at issue; or

184 (2) in the absence of a controlling designation in the terms of the trust, the law of the

185 jurisdiction having the most significant relationship to the matter at issue.

186

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

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

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

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

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

196 ~~3.~~ Without precluding the right of the court to order, approve, or disapprove a transfer, the
197 trustee, ~~in furtherance of the duty prescribed by subsection 2,~~ may transfer the trust's principal
198 place of administration to another State or to a jurisdiction outside of the United States that is
199 appropriate to the trust's purposes, its administration, and the interests of the beneficiaries.

200 3. 4. The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's
201 principal place of administration not less than 60 days before initiating the transfer. The notice
202 of proposed transfer must include:

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

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

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

208 (4) the date on which the proposed transfer is anticipated to occur; and
209 (5) the date, not less than 60 days after the giving of the notice, by which the qualified
210 beneficiary must notify the trustee of an objection to the proposed transfer.

211 ~~4.5-~~ The authority of a trustee under this section to transfer a trust's principal place of
212 administration without an order of a court terminates if a qualified beneficiary notifies the trustee
213 of an objection to the proposed transfer on or before the date specified in the notice.

214 ~~5.6-~~ In connection with a transfer of the trust's principal place of administration, the
215 trustee may transfer some or all of the trust property to a successor trustee designated in the terms
216 of the trust or appointed pursuant to section 456.7-704.

217

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

219 1. Notice to a person under sections 456.1-101 to 456.11-1106 or the sending of a
220 document to a person under sections 456.1-101 to 456.11-1106 must be accomplished in a
221 manner reasonably suitable under the circumstances and likely to result in receipt of the notice or
222 document. Permissible methods of notice or for sending a document include first-class mail,
223 personal delivery, delivery to the person's last known place of residence or place of business, or a
224 properly directed electronic message.

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

228 3. Notice under sections 456.1-101 to 456.11-1106 or the sending of a document under
229 sections 456.1-101 to 456.11-1106 may be waived by the person to be notified or sent the

230 document.

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

233

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

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

238 ~~2-1. A specified charitable organization expressly entitled to receive benefits under the~~
239 ~~terms of a charitable trust or a person appointed to enforce a trust created for the care of an~~
240 ~~animal or another noncharitable purpose as provided in sections 456.4-408 or 456.4-409 has the~~
241 ~~rights of a qualified beneficiary under sections 456.1-101 to 456.11-1106.~~

242 3-2. The Attorney General of this State has the rights of a qualified beneficiary with
243 respect to an interest in a charitable trust having its principal place of administration in this State
244 if:

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

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

249 3. In this section a “Specified charitable organization” means an identifiable charitable
250 entity that, on the date that entity’s qualification is determined:

251 (a) is a permissible distributee;

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

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

255

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

257 1. **In this** section, “interested persons” means persons whose consent would be required
258 in order to achieve a binding settlement were the settlement to be approved by the court.

259 2. Except as otherwise provided in subsection 3 **and 6**, interested persons may enter into
260 a binding nonjudicial settlement agreement with respect to any matter involving a trust.

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

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

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

266 (2) the approval of a trustee’s report or accounting;

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

269 (4) the resignation or appointment of a trustee and the determination of a trustee’s
270 compensation;

271 (5) transfer of a trust’s principal place of administration; and

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

273 5. Any interested person may request the court to approve a nonjudicial settlement

274 agreement, to determine whether the representation as provided in ~~[Article] 3~~ sections 456.3-301
275 through 456.3-305 was adequate, and to determine whether the agreement contains terms and
276 conditions the court could have properly approved.

277 6. A nonjudicial settlement agreement may not be used to terminate or modify a trust for
278 the reasons that a court could terminate or modify a trust as set forth in section 456.4-411B.1.

279

280 ~~**SECTION 456.1-112. RULES OF CONSTRUCTION.** The rules of construction that~~
281 ~~apply in this State to the interpretation of and disposition of property by will also apply as~~
282 ~~appropriate to the interpretation of the terms of a trust and the disposition of the trust property.~~

283 **MARRIAGE DISSOLUTION OR ANNULMENT.**

284 1. If a settlor's marriage is dissolved or annulled, any beneficial terms of a trust in favor
285 of the settlor's former spouse or any fiduciary appointment of the settlor's former spouse is
286 revoked on the date the marriage is dissolved or annulled, whether or not the terms of the trust
287 refer to marital status. The terms of the trust shall be given effect as if the former spouse had
288 died immediately before the date the dissolution or annulment became final. This subsection
289 shall also apply to any beneficial interest or fiduciary appointment in favor of a relative of the
290 settlor's former spouse as if such relative were the former spouse.

291 2. Subsection 1 of this section does not apply to the terms of a trust that provide any
292 beneficial interest or fiduciary appointment for a former spouse or a relative of a former spouse
293 that was created after the marriage was dissolved or annulled, or that expressly states that
294 marriage dissolution or annulment shall not affect the designation of a former spouse or relative
295 of a former spouse as a beneficiary or a fiduciary of the trust.

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

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

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

304 [ARTICLE 2

305 JUDICIAL PROCEEDINGS]

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

307 1. The court may intervene in the administration of a trust to the extent its jurisdiction is
308 invoked by an interested person or as provided by law.

309 2. A trust is not subject to continuing judicial supervision unless ordered by the court.

310 3. A judicial proceeding involving a trust may relate to any matter involving the trust's
311 administration, including a request for instructions and an action to declare rights.

312

313 SECTION 456.2-202. JURISDICTION OVER TRUSTEE AND BENEFICIARY.

314 1. By accepting the trusteeship of a trust having its principal place of administration in
315 this State or by moving the principal place of administration to this State, the trustee submits
316 personally to the jurisdiction of the courts of this State regarding the administration of the trust
317 during any period that the principal place of administration is located in this state ~~any matter~~

318 ~~involving the trust.~~

319 2. With respect to their interests in the trust, the beneficiaries of a trust having its
320 principal place of administration in this State are subject to the jurisdiction of the courts of this
321 State regarding any ~~proceeding matter~~-involving the administration of the trust. By accepting a
322 distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of
323 this State regarding any ~~proceeding matter~~-involving the administration of the trust.

324 3. A judicial proceeding involving a trust may relate to any matter involving the trust's
325 administration, including, but not limited to a proceeding to:

326 (1) request instructions or declare rights;

327 (2) approve a nonjudicial settlement;

328 (3) interpret or construe the terms of the trust;

329 (4) determine the validity of a trust or of any of its terms;

330 (5) approve a trustee's report or accounting or compel a trustee to report or account;

331 (6) direct a trustee to refrain from performing a particular act or grant to a trustee any
332 necessary or desirable power;

333 (7) review the actions of a trustee, including the exercise of a discretionary power;

334 (8) accept the resignation of a trustee;

335 (9) appoint or remove a trustee;

336 (10) determine a trustee's compensation;

337 (11) determine the liability of a trustee for an action relating to the trust and compel
338 redress of a breach of trust by any available remedy;

339 (12) modify or terminate a trust;

- 340 (13) combine trusts or divide a trust;
- 341 (14) determine liability of a trust for debts of a beneficiary and living settlor;
- 342 (15) approve employment and compensation of agents;
- 343 (16) determine the propriety of investments or of principal and income allocations;
- 344 (17) ascertain the identity of trust beneficiaries or the respective beneficial interests of
345 trust beneficiaries;
- 346 (18) release of trust registration or change of the trust's principal place of
347 administration;
- 348 (19) determine the timing and quantity of distributions and dispositions of assets;
- 349 (20) determine the validity and effect of alienations by beneficiaries, by exercise of
350 powers of appointment or otherwise; or
- 351 (21) appoint a representative for a beneficiary.

352 34. This section does not preclude other methods of obtaining jurisdiction over a trustee,
353 beneficiary, or other person receiving property from the trust.

354

355 ~~**SECTION 456.2-203. SUBJECT MATTER JURISDICTION.**~~

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

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

360

361 **SECTION 456.2-204. VENUE.**

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

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

370 1. Venue for judicial proceedings involving the internal affairs of a trust shall be:

371 (1) For a trust then registered in this state, in the probate division of the circuit court
372 where the trust is registered; or

373 (2) For a trust not then registered in this state, in the probate division of the circuit court
374 where the trust could properly be registered; or

375 (3) For a trust not then registered in this state and which cannot properly be registered in
376 this state, in accordance with the rules of civil procedure.

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

380 3. If proceedings concerning the same trust are commenced in more than one court of
381 this state, the court in which the proceeding was first commenced shall continue to hear the
382 matter, and the other courts shall hold the matter in abeyance until the question of venue is
383 decided, and if the court in which the proceeding was first commenced determines that venue is

384 properly in another court, it shall transfer the proceeding to the other court.

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

388

389

ARTICLE 3

390

REPRESENTATION

391

SECTION 456.3-301. REPRESENTATION: BASIC EFFECT.

392

393

394

1. Notice to a person who may represent and bind another person under ~~this [article]~~
sections 456.3-301 to 456.3-305 has the same effect as if notice were given directly to the other
person.

395

396

397

398

2. The consent of a person who may represent and bind another person under ~~this~~
~~[article]~~sections 456.3-301 to 456.3-305 is binding on the person represented unless the person
represented objects to the representation before the consent would otherwise have become
effective.

399

400

401

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

402

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

403

404

SECTION 456.3-302. REPRESENTATION BY HOLDER OF GENERAL

405

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

406 ~~interest between t~~The holder of a general testamentary power of appointment ~~and the persons~~
407 ~~represented with respect to the particular question or dispute, the holder may represent and bind~~
408 persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to
409 the power.

410

411 **SECTION 456.3-303. REPRESENTATION BY FIDUCIARIES AND PARENTS.** To
412 the extent there is no conflict of interest between the representative and the person represented or
413 among those being represented with respect to a particular question or dispute:

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

415 (2) a ~~guardian~~ conservator ad litem may represent and bind the ward with respect to a
416 particular question or dispute over which a conservator does not have authority~~if a conservator of~~
417 ~~the ward's estate has not been appointed;~~

418 (3) a guardian may represent and bind the ward with respect to a particular question or
419 dispute if a conservator or conservator ad litem are not authorized to act with respect to that
420 particular question or dispute;

421 (4) a parent may represent and bind the parent's minor or unborn child if a conservator,
422 conservator ad litem, or guardian for the child has not been appointed;

423 (3~~5~~) an agent having authority to act with respect to the particular question or dispute may
424 represent and bind the principal;

425 (4~~6~~) a trustee may represent and bind the beneficiaries of the trust; and

426 (5~~7~~) a personal representative of a decedent's estate may represent and bind persons
427 interested in the estate, ~~and~~

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

430

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

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

437

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

439 1. If the court determines that an interest is not represented under ~~this [article]~~sections
440 456.3-301 to 456.3-305 or that the otherwise available representation might be inadequate, the
441 court may appoint a representative to receive notice, give consent, and otherwise represent, bind,
442 and act on behalf of a minor, incapacitated, or unborn individual, or a person whose identity or
443 location is unknown. A representative may be appointed to represent several persons or interests.

444 2. A representative may act on behalf of the individual represented with respect to any
445 matter arising under sections 456.1-101 to 456.11-1106, whether or not a judicial proceeding
446 concerning the trust is pending.

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

449

[ARTICLE 4

CREATION, VALIDITY, MODIFICATION,

AND TERMINATION OF TRUST]

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

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

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

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

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

SECTION 456.4-402. REQUIREMENTS FOR CREATION.

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

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

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

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

(a) a charitable trust;

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

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

(4) the trustee has duties to perform; and

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

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

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

478

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

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

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

484 (3) any trust property was located.

485

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

489

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

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

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

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

499

500 **SECTION 456.4-406. CREATION OF TRUST INDUCED BY FRAUD, DURESS, OR**
501 **UNDUE INFLUENCE.** A trust is void to the extent its creation was induced by fraud, duress,
502 or undue influence.

503

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

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

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

512

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

514 1. A trust may be created to provide for the care of an animal alive during the settlor's
515 lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide

516 for the care of more than one animal alive during the settlor's lifetime, upon the death of the last
517 surviving animal.

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

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

527

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

529 **BENEFICIARY.** Except as otherwise provided in section 456.4-408 or by another statute, the
530 following rules apply:

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

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

536 (3) Property of a trust authorized by this section may be applied only to its intended use,
537 except to the extent the court determines that the value of the trust property exceeds the amount

538 required for the intended use. Except as otherwise provided in the terms of the trust, property not
539 required for the intended use must be distributed to the settlor, if then living, otherwise to the
540 settlor's successors in interest.

541

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

544 1. In addition to the methods of termination prescribed by sections 456.4-411 through
545 456.4-414, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no
546 purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful,
547 contrary to public policy, or impossible to achieve.

548 2. A proceeding to approve or disapprove a proposed modification or termination under
549 sections 456.4-411 through 456.4-416, or trust combination or division under section 456.4-417,
550 may be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a
551 proposed modification or termination under section 456.4-411 may be commenced by the settlor.
552 The settlor of a charitable trust may maintain a proceeding to modify the trust under section
553 456.4-413.

554

555 ~~**SECTION 411. MODIFICATION OR TERMINATION OF NONCHARITABLE**~~
556 ~~**IRREVOCABLE TRUST BY CONSENT.**~~

557 ~~1. A noncharitable irrevocable trust may be modified or terminated upon consent of the~~
558 ~~settlor and all beneficiaries, even if the modification or termination is inconsistent with a material~~
559 ~~purpose of the trust. A settlor's power to consent to a trust's termination may be exercised by an~~

560 ~~agent under a power of attorney only to the extent expressly authorized by the power of attorney~~
561 ~~or the terms of the trust; by the settlor's [conservator] with the approval of the court supervising~~
562 ~~the [conservatorship] if an agent is not so authorized; or by the settlor's [guardian] with the~~
563 ~~approval of the court supervising the [guardianship] if an agent is not so authorized and a~~
564 ~~conservator has not been appointed.~~

565 ~~2. A noncharitable irrevocable trust may be terminated upon consent of all of the~~
566 ~~beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any~~
567 ~~material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of~~
568 ~~all of the beneficiaries if the court concludes that modification is not inconsistent with a material~~
569 ~~purpose of the trust.~~

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

572 ~~4. Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the~~
573 ~~trust property as agreed by the beneficiaries.~~

574 ~~5. If not all of the beneficiaries consent to a proposed modification or termination of the~~
575 ~~trust under subsection (a) or (b), the modification or termination may be approved by the court if~~
576 ~~the court is satisfied that:~~

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

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

581

582 **SECTION 456.4-411A. MODIFICATION OR TERMINATION OF**
583 **NONCHARITABLE IRREVOCABLE TRUST WITH CONSENT OF SETTLOR.**

584 1. A noncharitable irrevocable trust may be modified or terminated upon consent of the
585 settlor and all beneficiaries, without court approval, even if the modification or termination is
586 inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's
587 termination or modification may be exercised by an agent under a power of attorney only to the
588 extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's
589 conservator with the approval of the court supervising the conservatorship if an agent is not so
590 authorized; or by the settlor's conservator ad litem with the approval of the court if an agent is
591 not so authorized and a conservator has not been appointed.

592 2. Upon termination of a trust under subsection 1, the trustee shall distribute the trust
593 property as agreed by the beneficiaries.

594 3. If not all of the beneficiaries consent to a proposed modification or termination of the
595 trust under subsection 1, the modification or termination may be approved by the court if the
596 court is satisfied that:

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

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

600

601 **SECTION 456.4-411B. MODIFICATION OR TERMINATION OF**
602 **NONCHARITABLE IRREVOCABLE TRUST BY CONSENT OF ADULT**
603 **BENEFICIARIES.**

604 1. When all of the adult beneficiaries having the capacity to contract consent, the court
605 may, upon finding that the interest of any non-consenting beneficiary will be adequately
606 protected, modify the terms of a noncharitable irrevocable trust so as to reduce or eliminate the
607 interests of some beneficiaries and increase those of others, change the times or amounts of
608 payments and distributions to beneficiaries, or provide for termination of the trust at a time
609 earlier or later than that specified by its terms. The court may at anytime upon its own motion
610 appoint a representative pursuant to section 456.3-305 to represent a non-consenting beneficiary.
611 The court shall appoint such a representative upon the motion of any party, unless the court
612 determines such an appointment is not appropriate under the circumstances.

613 2. Upon termination of a trust under subsection 1, the trustee shall distribute the trust
614 property as directed by the court.

615 3. If a trust cannot be terminated or modified under subsection 1 of this section because
616 not all adult beneficiaries having capacity to contract consent or the terms of the trust prevent
617 such modification or termination, the modification or termination may be approved by the court
618 if the court is satisfied that the interests of a beneficiary who does not consent will be adequately
619 protected and:

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

622 (2) in the case of a modification, the modification is not inconsistent with a material
623 purpose of the trust;

624 For purposes of this subsection, a spendthrift provision in the terms of the trust is not
625 presumed to constitute a material purpose of the trust.

626

627 **SECTION 456.4-412. MODIFICATION OR TERMINATION BECAUSE OF**
628 **UNANTICIPATED CIRCUMSTANCES OR INABILITY TO ADMINISTER TRUST**
629 **EFFECTIVELY OR IN FURTHERANCE OF A TRUST PURPOSE.**

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

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

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

639

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

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

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

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

646 (3) the court may apply cy pres to modify or terminate the trust by directing that the
647 trust property be applied or distributed, in whole or in part, in a manner consistent with the

648 settlor's charitable purposes.

649 2. A provision in the terms of a charitable trust that would result in distribution of the
650 trust property to a noncharitable beneficiary prevails over the power of the court under subsection
651 1 to apply cy pres to modify or terminate the trust only if, when the provision takes effect:

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

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

654

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

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

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

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

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

665

666 **SECTION 456.4-415. REFORMATION TO CORRECT MISTAKES.** The court may
667 reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if
668 it is proved by clear and convincing evidence that both the settlor's intent and the terms of the
669 trust were affected by a mistake of fact or law, whether in expression or inducement.

670

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

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

675

676 **SECTION 456.4-417. COMBINATION AND DIVISION OF TRUSTS.** After notice to
677 the qualified beneficiaries, a trustee may combine two or more trusts into a single trust or divide
678 a trust into two or more separate trusts, if the result does not impair rights of any beneficiary or
679 adversely affect achievement of the purposes of the trust. The terms of each new trust created by
680 a division under this section do not have to be identical if the interest of each beneficiary is
681 substantially the same under the terms of the trust prior to its division and the combined terms of
682 all trusts after the division. Two or more trusts may be combined into a single trust if the
683 interests of each beneficiary in the trust resulting from the combination are substantially the same
684 as the combined interests of the beneficiary in the trusts prior to the combination. The trustee
685 shall determine the terms controlling any trust after its combination as authorized by this section.

686

[ARTICLE 5

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

688

689 **SECTION 456.5-501. RIGHTS OF BENEFICIARY'S CREDITOR OR ASSIGNEE.**

690 To the extent a beneficiary's interest is not protected by a spendthrift provision, ~~the court may~~
691 authorize a creditor or assignee of the beneficiary to an assignee or a judgment creditor of the

692 beneficiary may, without court order, reach the beneficiary's interest by attachment of present or
693 future distributions to or for the benefit of the beneficiary or other means. The court may limit
694 the award to such relief as is appropriate under the circumstances.

695

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

697 1. A spendthrift provision is valid ~~only~~ if it restrains ~~both~~ either the voluntary and/or
698 involuntary transfer or both the voluntary and involuntary transfer of a beneficiary's interest.

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

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

706

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

708 1. In this section,

709 (1) "child" includes any person for whom an order or judgment for child support has
710 been entered in this or another State, and

711 (2) "judgment" means a judgment which may be executed in this state.

712 2. Even if a trust contains a spendthrift provision, a beneficiary's child, spouse, or former
713 spouse who has a judgment ~~or court order~~ against the beneficiary for support or maintenance, or a

714 judgment creditor who has provided services for the protection of a beneficiary's interest in the
715 trust, may obtain from a court an order attaching present or future trust income distributions to or
716 for the benefit of the beneficiary. If there is more than one permissible distributee, the court may
717 grant relief as is equitable under the circumstances.

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

720

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

722 1. ~~In this section, "child" includes any person for whom an order or judgment for child~~
723 ~~support has been entered in this or another State.~~ 12. Except as otherwise provided in
724 ~~subsection 3~~section 456.5-503, whether or not a trust contains a spendthrift provision, a creditor
725 of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:

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

727 (2) the trustee has abused the discretion.

728 3. ~~To the extent a trustee has not complied with a standard of distribution or has abused a~~
729 ~~discretion:~~

730 ~~————— (1) a distribution may be ordered by the court to satisfy a judgment or court order~~
731 ~~against the beneficiary for support or maintenance of the beneficiary's child, spouse, or former~~
732 ~~spouse; and~~

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

736 ~~complied with the standard or not abused the discretion.~~

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

739

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

741 1. Whether or not the terms of a trust contain a spendthrift provision,~~the following rules~~
742 ~~apply:~~ (1) ~~D~~ during the lifetime of the settlor, the property of a revocable trust is subject to claims
743 of the settlor's creditors.

744 ~~(2)~~2. With respect to an irrevocable trust without a spendthrift provision, a creditor or
745 assignee of the settlor may reach the maximum amount that can be distributed to or for the
746 settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a
747 particular settlor may reach may not exceed the settlor's interest in the portion of the trust
748 attributable to that settlor's contribution.

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

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

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

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

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

758 specific portion of the income or principal of the trust that was determinable solely from the
759 provisions of the trust instrument.

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

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

769 To all persons interested in the estate of _____, decedent. The
770 undersigned _____ is acting as Trustee under a trust the
771 terms of which provide that the debts of the decedent may be paid by the
772 Trustee(s) upon receipt of proper proof thereof. The address of the Trustee
773 is _____

774 —
775

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

779 _____
780 Trustee

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

785 (2) A trustee shall not be liable to account to the decedent's personal representative
786 under the provisions of section 461.300 by reason of any debt barred under the provisions of this

787 subsection.

788 2.5. For purposes of this section:

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

792 (2) upon the lapse, release, or waiver of the power, the holder is treated as the settlor
793 of the trust only to the extent the value of the property affected by the lapse, release, or waiver
794 exceeds the greater of the amount specified in sections 2041(b)(2), ~~or 2514(e), of the Internal~~
795 ~~Revenue Code of 1986, or section 2503(b) of the Internal Revenue Code of 1986, in each case as~~
796 ~~in effect on January 1, <2005> or as later amended.~~

797 6. (3) This subsection shall not apply to a spendthrift trust described, defined, or
798 established pursuant to section 456.072.

799

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

805

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

809

810

[ARTICLE 6

811

REVOCABLE TRUSTS]

812

813

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

814

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

815

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

816

817

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

818

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

819

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

820

instrument executed before January 1, <2005>.

821

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

822

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

823

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

824

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

825

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

826

that settlor's contribution.

827

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

828

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

829

substantially complying with any method provided in the terms of the trust; or

830

(2) if the terms of the trust do not provide a method ~~or the method provided in the~~

831 ~~terms is not expressly made exclusive, by: _____~~

832 ~~(a) executing a later will or codicil that expressly refers to the trust or specifically~~

833 ~~devises property that would otherwise have passed according to the terms of the trust; or~~

834 ~~(b) by any other method manifesting clear and convincing evidence of the settlor's~~

835 ~~intent, including the terms of a later duly probated will or codicil that identifies the trust being~~

836 ~~revoked or the trust terms being amended.~~

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

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

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

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

849

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

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

853 the settlor.

854 2. ~~While a trust is revocable and the settlor does not have capacity to revoke the trust,~~
855 ~~rights of the beneficiaries are held by the beneficiaries.~~ A settlor is presumed to have capacity for
856 the purposes of subsection 1 until either the settlor is adjudicated totally incapacitated or disabled
857 or the trustee has received an Affidavit of Incapacity.

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

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

863 5. In this section, an “affidavit of incapacity” means a written certificate furnished by at
864 least one licensed medical doctor that states that the settlor lacks capacity to revoke the trust.

865

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

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

870 (1) ~~three~~ two years after the settlor’s death; ~~or~~

871 (2) ~~120~~ six months after the trustee sent the person a copy of the trust instrument and
872 a notice informing the person of the trust’s existence, of the trustee’s name and address, and of
873 the time allowed for commencing a proceeding; or

874 (3) in the case of a trust that was revocable at the settlor’s death that is entitled to a

875 distribution under the settlor's will, on the date that any contest of that will is barred under the
876 provisions of section 473.083, provided that a copy of the trust instrument was filed with the
877 probate division within 90 days of the first publication of notice of granting of letters on the
878 estate of the decedent under section 473.033.

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

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

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

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

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

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

893 34. A beneficiary of a trust that is determined to have been invalid is liable to return any
894 distribution received.

895

896

ARTICLE 7

897

OFFICE OF TRUSTEE]

898

899 **SECTION 456.7-701. ACCEPTING OR DECLINING TRUSTEESHIP.**

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

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

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

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

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

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

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

917

918 **SECTION 456.7-702. TRUSTEE'S BOND.**

919 1. A trustee shall give bond to secure performance of the trustee's duties only if the court

920 finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms
921 of the trust and the court has not dispensed with the requirement.

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

924 ~~[3. A regulated financial service institution qualified to do trust business in this State
925 need not give bond, even if required by the terms of the trust.]~~

926

927 **SECTION 456.7-703. COTRUSTEES.**

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

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

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

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

939 5. A trustee may not delegate to a cotrustee the performance of a function the settlor
940 reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a
941 trustee may revoke a delegation previously made.

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

944 7. Each trustee shall exercise reasonable care to:

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

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

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

950

951 **SECTION 456.7-704. VACANCY IN TRUSTEESHIP; APPOINTMENT OF**
952 **SUCCESSOR.**

953 1. A vacancy in a trusteeship occurs if:

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

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

956 (3) a trustee resigns;

957 (4) a trustee is disqualified or removed;

958 (5) a trustee dies; or

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

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

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

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

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

965 (2) by a person appointed by ~~unanimous agreement~~ a majority in number of the

966 qualified beneficiaries; or

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

968 4. Whether or not a vacancy in a trusteeship exists or is required to be filled, the court

969 may appoint an additional trustee or special fiduciary whenever the court considers the

970 appointment necessary for the administration of the trust.

971

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

973 1. A trustee may resign:

974 (1) upon at least 30 days' notice to the qualified beneficiaries, the settlor, if living,

975 and all cotrustees; or

976 (2) with the approval of the court.

977 2. In approving a resignation, the court may issue orders and impose conditions

978 reasonably necessary for the protection of the trust property.

979 3. Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or

980 omissions of the trustee is not discharged or affected by the trustee's resignation.

981

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

983 1. The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, or a

984 trustee may be removed by the court on its own initiative.

985 2. The court may remove a trustee if:

- 986 (1) the trustee has committed a serious breach of trust;
- 987 (2) lack of cooperation among cotrustees substantially impairs the administration of
988 the trust;
- 989 (3) because of unfitness, unwillingness, or persistent failure of the trustee to
990 administer the trust effectively, the court determines that removal of the trustee best serves the
991 interests of the beneficiaries; or
- 992 (4) there has been a substantial change of circumstances or removal is requested by all
993 of the qualified beneficiaries and the court finds that:
- 994 (a) removal of the trustee best serves the interests of all of the beneficiaries;
- 995 (b) ~~and removal of the trustee~~ is not inconsistent with a material purpose of the
996 trust; and
- 997 (c) a suitable cotrustee or successor trustee is available.

998 3. Pending a final decision on a request to remove a trustee, or in lieu of or in addition to
999 removing a trustee, the court may order such appropriate relief under section 456.10-1001.2 as
1000 may be necessary to protect the trust property or the interests of the beneficiaries.

1001

1002 **SECTION 456.7-707. DELIVERY OF PROPERTY BY FORMER TRUSTEE.**

1003 1. Unless a cotrustee remains in office or the court otherwise orders, and until the trust
1004 property is delivered to a successor trustee or other person entitled to it, a trustee who has
1005 resigned or been removed has the duties of a trustee and the powers necessary to protect the trust
1006 property.

1007 2. A trustee who has resigned or been removed shall proceed expeditiously to deliver the

1008 trust property within the trustee's possession to the cotrustee, successor trustee, or other person
1009 entitled to it.

1010

1011 **SECTION 456.7-708. COMPENSATION OF TRUSTEE.**

1012 1. If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to
1013 compensation that is reasonable under the circumstances.

1014 2. If the terms of a trust specify the trustee's compensation, the trustee is entitled to be
1015 compensated as specified, but the court may allow more or less compensation if:

1016 (1) the duties of the trustee are substantially different from those contemplated when
1017 the trust was created; or

1018 (2) the compensation specified by the terms of the trust would be unreasonably low or
1019 high.

1020

1021 **SECTION 456.7-709. REIMBURSEMENT OF EXPENSES.**

1022 1. A trustee is entitled to be reimbursed out of the trust property, with interest as
1023 appropriate, for:

1024 (1) expenses that were properly incurred in the administration of the trust; and

1025 (2) to the extent necessary to prevent unjust enrichment of the trust, expenses that
1026 were not properly incurred in the administration of the trust.

1027 2. An advance by the trustee of money for the protection of the trust gives rise to a lien
1028 against trust property to secure reimbursement with reasonable interest.

1029

1030 [ARTICLE 8

1031 DUTIES AND POWERS OF TRUSTEE]

1032

1033 SECTION 456.8-801. DUTY TO ADMINISTER TRUST. Upon acceptance of a
1034 trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and
1035 purposes and the interests of the beneficiaries, and in accordance with sections 456.1-101 to
1036 456.11-1106.

1037

1038 SECTION 456.8-802. DUTY OF LOYALTY.

1039 1. A trustee shall administer the trust solely in the interests of the beneficiaries.

1040 2. Subject to the rights of persons dealing with or assisting the trustee as provided in
1041 section 456.10-1012, a sale, encumbrance, or other transaction involving the investment or
1042 management of trust property entered into by the trustee for the trustee's own personal account or
1043 which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is
1044 voidable by a beneficiary affected by the transaction unless:

1045 (1) the transaction was authorized by the terms of the trust;

1046 (2) the transaction was approved by the court;

1047 (3) the beneficiary did not commence a judicial proceeding within the time allowed
1048 by section 456.10-1005;

1049 (4) the beneficiary consented to the trustee's conduct, ratified the transaction, or
1050 released the trustee in compliance with section 456.10-1009; or

1051 (5) the transaction involves a contract entered into or claim acquired by the trustee

1052 before the person became or contemplated becoming trustee.

1053 3. A sale, encumbrance, or other transaction involving the investment or management of
1054 trust property is presumed to be affected by a conflict between personal and fiduciary interests if
1055 it is entered into by the trustee with:

1056 (1) the trustee's spouse;

1057 (2) the trustee's descendants, siblings, parents, or their spouses;

1058 (3) an agent or attorney of the trustee; or

1059 (4) a corporation or other person or enterprise in which the trustee, or a person that
1060 owns a significant interest in the trustee, has an interest that might affect the trustee's best
1061 judgment.

1062 4. A transaction between a trustee and a beneficiary that does not concern trust property
1063 but that occurs during the existence of the trust or while the trustee retains significant influence
1064 over the beneficiary and from which the trustee obtains an advantage is voidable by the
1065 beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.

1066 5. A transaction not concerning trust property in which the trustee engages in the
1067 trustee's individual capacity involves a conflict between personal and fiduciary interests if the
1068 transaction concerns an opportunity properly belonging to the trust.

1069 6. The following transactions are not presumed to be affected by a conflict between the
1070 trustee's personal and fiduciary interest provided that any investment made pursuant to the
1071 transaction complies with the Missouri Prudent Investor Act:

1072 (1) An investment by a trustee in securities of an investment company or investment
1073 trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee; ~~is~~

1074 ~~not presumed to be affected by a conflict between personal and fiduciary interests if the~~
1075 ~~investment complies with the <PRUDENT INVESTOR RULE OF [ARTICLE] 9>.~~

1076 <<(2) An investment by a trustee in an insurance contract purchased from an
1077 insurance agency owned by, or affiliated with, the trustee, or its affiliate;>>

1078 (3) the placing of securities transaction by a trustee through a securities broker that is
1079 a part of the same company as the trustee, is owned by the trustee, or is affiliated with the trustee.
1080 ~~The trustee may be compensated by the investment company or investment trust for providing~~
1081 ~~those services out of fees charged to the trust if the trustee at least annually notifies the persons~~
1082 ~~entitled under section 813 to receive a copy of the trustee's annual report of the rate and method~~
1083 ~~by which the compensation was determined.~~

1084 (4) In addition to the trustee's fees charged to the trust, the trustee, its affiliate, or
1085 associated entity may be compensated for any transaction or provision of services described in
1086 this subsection 6 or in subdivision (5) of section 8 of this section; provided, however, that with
1087 respect to any investment in securities of an investment company or investment trust to which the
1088 trustee or its affiliate provides investment advisory or investment management services, the
1089 trustee shall at least annually notify the persons entitled under Section 813 to receive a copy of
1090 the trustee's annual report of the rate or method by which the compensation was determined.

1091 7. In voting shares of stock or in exercising powers of control over similar interests in
1092 other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust
1093 is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint
1094 directors or other managers who will manage the corporation or enterprise in the best interests of
1095 the beneficiaries.

1096 8. The following transactions, if fair to the beneficiaries, are not presumed to be affected
1097 by a conflict between personal and fiduciary interests and are not precluded by this section.~~This~~

1098 ~~section does not preclude the following transactions if fair to the beneficiaries:~~

1099 (1) an agreement between a trustee and a beneficiary relating to the appointment or
1100 compensation of the trustee;

1101 (2) payment of reasonable compensation to the trustee;

1102 (3) a transaction between a trust and another trust, decedent's estate, or
1103 conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;

1104 (4) a deposit of trust money in a ~~regulated financial service~~ institution operated by the
1105 trustee or an affiliate; ~~or~~

1106 ~~(5) an advance by the trustee of money for the protection of the trust.;~~

1107 (6) a delegation and any transaction made pursuant to the delegation from a trustee
1108 to an agent that is affiliated or associated with the trustee, provided that notice of the delegation
1109 is given as provided in section 456.8-802.6(4); or

1110 (6) any loan from the trustee or its affiliate.

1111 9. The court may appoint a special fiduciary to make a decision with respect to any
1112 proposed transaction that might violate this section if entered into by the trustee.

1113

1114 **SECTION 456.8-803. IMPARTIALITY.** If a trust has two or more beneficiaries, the
1115 trustee shall act impartially in investing, managing, and distributing the trust property, giving due
1116 regard to the beneficiaries' respective interests.

1117

1118 **SECTION 456.8-804. PRUDENT ADMINISTRATION.** A trustee shall administer the
1119 trust as a prudent person would, by considering the purposes, terms, distributional requirements,
1120 and other circumstances of the trust. In satisfying this standard, the trustee shall exercise
1121 reasonable care, skill, and caution.

1122

1123 **SECTION 456.8-805. COSTS OF ADMINISTRATION.** In administering a trust, the
1124 trustee may incur only costs that are reasonable in relation to the trust property, the purposes of
1125 the trust, and the skills of the trustee.

1126

1127 **SECTION 456.8-806. TRUSTEE'S SKILLS.** A trustee who has special skills or
1128 expertise, or is named trustee in reliance upon the trustee's representation that the trustee has
1129 special skills or expertise, shall use those special skills or expertise.

1130

1131 **SECTION 456.8-807. DELEGATION BY TRUSTEE.**

1132 1. A trustee may delegate to an agent duties and powers that a prudent trustee of
1133 comparable skills could properly delegate under the circumstances. The trustee shall exercise
1134 reasonable care, skill, and caution in:

1135 (1) selecting an agent;

1136 (2) establishing the scope and terms of the delegation, consistent with the purposes
1137 and terms of the trust; and

1138 (3) periodically reviewing the agent's actions in order to monitor the agent's
1139 performance and compliance with the terms of the delegation.

1140 2. In performing a delegated function, an agent owes a duty to the trust to exercise
1141 reasonable care to comply with the terms of the delegation.

1142 3. A trustee who complies with subsection 1 is not liable to the beneficiaries or to the
1143 trust for an action of the agent to whom the function was delegated.

1144 4. By accepting a delegation of powers or duties from the trustee of a trust that is subject
1145 to the law of this State, an agent submits to the jurisdiction of the courts of this State.

1146

1147 **SECTION 456.8-808. POWERS TO DIRECT.**

1148 1. While a trust is revocable, the trustee may follow a direction of the settlor that is
1149 contrary to the terms of the trust.

1150 2. If the terms of a trust confer upon a person other than the settlor of a revocable trust
1151 power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise
1152 of the power unless the attempted exercise is manifestly contrary to the terms of the trust or the
1153 trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that
1154 the person holding the power owes to the beneficiaries of the trust.

1155 3. The terms of a trust may confer upon a trustee or other person a power to direct the
1156 modification or termination of the trust.

1157 4. A person, other than a beneficiary, who holds a power to direct is presumptively a
1158 fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and
1159 the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results
1160 from breach of a fiduciary duty.

1161

1162 **SECTION 456.8-809. CONTROL AND PROTECTION OF TRUST PROPERTY.**

1163 A trustee shall take reasonable steps to take control of and protect the trust property,
1164 except that this duty does not apply to, and the trustee is not responsible for, items of tangible
1165 personal property that are property of a trust revocable by the settlor and that are not in the
1166 possession or control of the trustee.

1167

1168 **SECTION 456.8-810. RECORDKEEPING AND IDENTIFICATION OF TRUST**
1169 **PROPERTY.**

- 1170 1. A trustee shall keep adequate records of the administration of the trust.
- 1171 2. A trustee shall keep trust property separate from the trustee's own property.
- 1172 3. Except as otherwise provided in subsection 4, a trustee shall cause the trust property to
1173 be designated so that the interest of the trust, to the extent feasible, appears in records maintained
1174 by a party other than a trustee or beneficiary.
- 1175 4. If the trustee maintains records clearly indicating the respective interests, a trustee may
1176 invest as a whole the property of two or more separate trusts.

1177

1178 **SECTION 456.8-811. ENFORCEMENT AND DEFENSE OF CLAIMS.** A trustee shall
1179 take reasonable steps to enforce claims of the trust and to defend claims against the trust.

1180 **SECTION 456.8-812. COLLECTING TRUST PROPERTY.** A trustee shall take
1181 reasonable steps to compel a former trustee or other person to deliver trust property to the trustee,
1182 and to redress a breach of trust known to the trustee to have been committed by a former trustee.

1183

1184 **SECTION 456.8-813. DUTY TO INFORM AND REPORT.**

1185 1. A trustee shall keep the qualified beneficiaries of the trust reasonably informed about
1186 the administration of the trust and of the material facts necessary for them to protect their
1187 interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a
1188 beneficiary's request for information related to the administration of the trust.

1189 2. A trustee:

1190 (1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of
1191 the trust instrument;

1192 (2) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries
1193 of the acceptance and of the trustee's name, address, and telephone number;

1194 (3) within 60 days after the date the trustee acquires knowledge of the creation of an
1195 irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has
1196 become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified
1197 beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to
1198 request a copy of the trust instrument, and of the right to a trustee's report as provided in
1199 subsection 3; and

1200 (4) shall notify the qualified beneficiaries in advance of any change in the method or
1201 rate of the trustee's compensation.

1202 Subdivisions (2) and (3) of this subsection ~~1 of this section~~ do not apply to a trust
1203 ~~created~~ that became irrevocable before January 1, <2005>.

1204 3. A trustee shall send to the ~~distributees or~~ permissible distributees of trust income or
1205 principal, and to other ~~qualified or nonqualified~~ beneficiaries who request it, at least annually and

1206 at the termination of the trust, a report of the trust property, liabilities, receipts, and
1207 disbursements, including the source and amount of the trustee's compensation, a listing of the
1208 trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship,
1209 unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the
1210 former trustee. A personal representative, conservator, or guardian may send the qualified
1211 beneficiaries a report on behalf of a deceased or incapacitated trustee.

1212 4. A beneficiary may waive the right to a trustee's report or other information otherwise
1213 required to be furnished under this section. A beneficiary, with respect to future reports and
1214 other information, may withdraw a waiver previously given.

1215 5. A trustee may charge a reasonable fee to a beneficiary for providing information under
1216 this section.

1217 6. The request of any beneficiary for information under any provision of this section shall
1218 be with respect to a single trust that is sufficiently identified to enable the trustee to locate the
1219 records of the trust.

1220

1221 **SECTION 456.8-814. DISCRETIONARY POWERS; TAX SAVINGS.**

1222 1. Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust,
1223 including the use of such terms as "absolute", "sole", or "uncontrolled", the trustee shall exercise
1224 a discretionary power in good faith and in accordance with the terms and purposes of the trust
1225 and the interests of the beneficiaries.

1226 2. Subject to subsection 4, and unless the terms of the trust expressly indicate that a rule
1227 in this subsection does not apply:

1228 (1) a person other than a settlor who is a beneficiary and trustee of a trust that confers
1229 on the trustee a power to make discretionary distributions to or for the trustee's personal benefit
1230 may exercise the power only in accordance with an ascertainable standard relating to the trustee's
1231 individual health, education, support, or maintenance within the meaning of section
1232 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, ~~as in effect on January 1,~~
1233 ~~<2005> or as later amended; and~~

1234 (2) a trustee may not exercise a power to make discretionary distributions to satisfy a
1235 legal obligation of support that the trustee personally owes another person; and

1236 (3) for purposes of this subsection 2, the term "trustee" shall include a person who is
1237 deemed to have any power of a trustee, whether because such person has the right to remove or
1238 replace any trustee, because a reciprocal trust or power doctrine applies, or for any other reason.

1239 3. A power whose exercise is limited or prohibited by subsection 2 may be exercised by a
1240 majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If
1241 the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with
1242 authority to exercise the power.

1243 4. Subsection 2 does not apply to:

1244 (1) a power held by the settlor's spouse who is the trustee of a trust for which a
1245 marital deduction, as defined in section 2056(b)(5) or 2523(b)(5) of the Internal Revenue Code of
1246 ~~1986, as in effect on January 1, <2005> or as later amended,~~ was previously allowed;

1247 (2) any trust during any period that the trust may be revoked or amended by its settlor;
1248 or

1249 (3) a trust if contributions to the trust qualify for the annual exclusion under section

1250 2503(c) of the Internal Revenue Code of 1986, as in effect on January 1, <2005> or as later
1251 amended.

1252

1253 **SECTION 456.8-815. GENERAL POWERS OF TRUSTEE.**

1254 1. A trustee, without authorization by the court, may exercise:

1255 (1) powers conferred by the terms of the trust; ~~or~~ and

1256 (2) except as limited by the terms of the trust:

1257 (a) all powers over the trust property which an unmarried competent owner has
1258 over individually owned property;

1259 (b) any other powers appropriate to achieve the proper investment, management,
1260 and distribution of the trust property; and

1261 (c) any other powers conferred by sections 456.1-101 to 456.11-1106.

1262 2. The exercise of a power is subject to the fiduciary duties prescribed by section 456.8-
1263 801 through 456.8-814.

1264

1265 **SECTION 456.8-816. SPECIFIC POWERS OF TRUSTEE.** Without limiting the
1266 authority conferred by section 456.8-815, a trustee may:

1267 (1) collect trust property and accept or reject additions to the trust property from a settlor
1268 or any other person;

1269 (2) acquire or sell property in divided or undivided interests, for cash or on credit, at
1270 public or private sale;

1271 (3) exchange, partition, or otherwise change the character of trust property;

1272 (4) deposit trust money in an account in a ~~regulated financial-service~~ institution;

1273 (5) borrow money, with or without security, and mortgage or pledge trust property for a
1274 period within or extending beyond the duration of the trust;

1275 (6) with respect to an interest in a proprietorship, partnership, limited liability company,
1276 business trust, corporation, or other form of business or enterprise, continue the business or other
1277 enterprise and take any action that may be taken by shareholders, members, or property owners,
1278 including merging, dissolving, or otherwise changing the form of business organization or
1279 contributing additional capital;

1280 (7) with respect to stocks or other securities, exercise the rights of an absolute owner,
1281 including the right to:

1282 (a) vote, or give proxies to vote, with or without power of substitution, or enter into or
1283 continue a voting trust agreement;

1284 (b) hold a security in the name of a nominee or in other form without disclosure of the
1285 trust so that title may pass by delivery;

1286 (c) pay calls, assessments, and other sums chargeable or accruing against the
1287 securities, and sell or exercise stock subscription or conversion rights; and

1288 (d) deposit the securities with a depository or other ~~regulated financial-service~~
1289 institution;

1290 (8) with respect to an interest in real property, construct, or make ordinary or
1291 extraordinary repairs to, alterations to, or improvements in, buildings or other structures,
1292 demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop
1293 land, dedicate land to public use or grant public or private easements, and make or vacate plats

1294 and adjust boundaries;

1295 (9) enter into a lease for any purpose as lessor or lessee, including a lease or other
1296 arrangement for exploration and removal of natural resources, with or without the option to
1297 purchase or renew, for a period within or extending beyond the duration of the trust;

1298 (10) grant an option involving a sale, lease, or other disposition of trust property or
1299 acquire an option for the acquisition of property, including an option exercisable beyond the
1300 duration of the trust, and exercise an option so acquired;

1301 (11) insure the property of the trust against damage or loss and insure the trustee, the
1302 trustee's agents, and beneficiaries against liability arising from the administration of the trust;

1303 (12) abandon or decline to administer property of no value or of insufficient value to
1304 justify its collection or continued administration;

1305 (13) with respect to possible liability for violation of environmental law:

1306 (a) inspect or investigate property the trustee holds or has been asked to hold, or
1307 property owned or operated by an organization in which the trustee holds or has been asked to
1308 hold an interest, for the purpose of determining the application of environmental law with respect
1309 to the property;

1310 (b) take action to prevent, abate, or otherwise remedy any actual or potential violation
1311 of any environmental law affecting property held directly or indirectly by the trustee, whether
1312 taken before or after the assertion of a claim or the initiation of governmental enforcement;

1313 (c) decline to accept property into trust or disclaim any power with respect to property
1314 that is or may be burdened with liability for violation of environmental law;

1315 (d) compromise claims against the trust which may be asserted for an alleged

1316 violation of environmental law; and

1317 (e) pay the expense of any inspection, review, abatement, or remedial action to

1318 comply with environmental law;

1319 (14) pay or contest any claim, settle a claim by or against the trust, and release, in whole

1320 or in part, a claim belonging to the trust;

1321 (15) pay taxes, assessments, compensation of the trustee and of employees and agents of

1322 the trust, and other expenses incurred in the administration of the trust;

1323 (16) exercise elections with respect to federal, state, and local taxes;

1324 (17) select a mode of payment under any employee benefit or retirement plan, annuity, or

1325 life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to

1326 indemnification for expenses and against liabilities, and take appropriate action to collect the

1327 proceeds;

1328 (18) make loans out of trust property, including loans to a beneficiary on terms and

1329 conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee

1330 has a lien on future distributions for repayment of those loans;

1331 (19) pledge trust property to guarantee or secure loans made by others to the beneficiary;

1332 (20) appoint a trustee to act in another jurisdiction with respect to trust property located in

1333 the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the

1334 appointing trustee, require that the appointed trustee furnish security, and remove any trustee so

1335 appointed;

1336 (21) pay an amount distributable to a beneficiary who is under a legal disability or who

1337 the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or

1338 applying it for the beneficiary's benefit, or by:

1339 (a) paying it to the beneficiary's conservator or, if the beneficiary does not have a
1340 conservator, the beneficiary's guardian;

1341 (b) paying it to the beneficiary's custodian under the Missouri Transfers to Minors
1342 Law under sections 404.005 to 404.094 or a personal custodian ~~custodial trustee~~ under sections
1343 404.400 to 404.650 [~~the Uniform Custodial Trust Act~~], and, for that purpose, creating a
1344 custodianship or custodial trust;

1345 (c) if the trustee does not know of a conservator, guardian, custodian, or custodial
1346 trustee, paying it to an adult relative or other person having legal or physical care or custody of
1347 the beneficiary, to be expended on the beneficiary's behalf; or

1348 (d) managing it as a separate fund on the beneficiary's behalf, subject to the
1349 beneficiary's continuing right to withdraw the distribution;

1350 (22) on distribution of trust property or the division or termination of a trust, make
1351 distributions in divided or undivided interests, allocate particular assets in proportionate or
1352 disproportionate shares, value the trust property for those purposes, and adjust for resulting
1353 differences in valuation;

1354 (23) resolve a dispute concerning the interpretation of the trust or its administration by
1355 mediation, arbitration, or other procedure for alternative dispute resolution;

1356 (24) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to
1357 protect trust property and the trustee in the performance of the trustee's duties;

1358 (25) sign and deliver contracts and other instruments that are useful to achieve or
1359 facilitate the exercise of the trustee's powers; and

1360 (26) on termination of the trust, exercise the powers appropriate to wind up the
1361 administration of the trust and distribute the trust property to the persons entitled to it.

1362 (27) To invest and reinvest trust assets in accordance with the <PRUDENT INVESTOR
1363 ACT>; including investing and reinvesting in securities or obligations of any state or its political
1364 subdivisions, including securities or obligations that are underwritten by the trustee or an affiliate of
1365 the trustee or a syndicate in which the trustee or an affiliate of the trustee is a member which meet
1366 the standards established by the division of finance pursuant to subsection 5 of section 362.550,
1367 RSMo.

1368

1369 **SECTION 456.8-817. DISTRIBUTION UPON TERMINATION.**

1370 1. Upon termination or partial termination of a trust, the trustee may send to the
1371 beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed
1372 distribution terminates if the beneficiary does not notify the trustee of an objection within 30
1373 days after the proposal was sent but only if the proposal informed the beneficiary of the right to
1374 object and of the time allowed for objection.

1375 2. Upon the occurrence of an event terminating or partially terminating a trust, the trustee
1376 shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to
1377 the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and
1378 taxes.

1379 3. A release by a beneficiary of a trustee from liability for breach of trust is invalid to the
1380 extent:

1381 (1) it was induced by improper conduct of the trustee; or

1382 (2) the beneficiary, at the time of the release, did not know of the beneficiary's rights
1383 or of the material facts relating to the breach.

1384

1385 **[ARTICLE 9**

1386 **UNIFORM PRUDENT INVESTOR ACT]**

1387 < PRUDENT INVESTOR SECTIONS SHOULD BE MOVED TO CHAPTER 469>

1388

1389 **[ARTICLE 10**

1390 **LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH TRUSTEE]**

1391

1392 **SECTION 456.10-1001. REMEDIES FOR BREACH OF TRUST.**

1393 1. A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.

1394 2. To remedy a breach of trust that has occurred or may occur, the court may:

1395 (1) compel the trustee to perform the trustee's duties;

1396 (2) enjoin the trustee from committing a breach of trust;

1397 (3) compel the trustee to redress a breach of trust by paying money, restoring

1398 property, or other means;

1399 (4) order a trustee to account;

1400 (5) appoint a special fiduciary to take possession of the trust property and administer

1401 the trust;

1402 (6) suspend the trustee;

1403 (7) remove the trustee as provided in section 456.7-706;

1404 (8) reduce or deny compensation to the trustee;

1405 (9) subject to section 456.10-1012, void an act of the trustee, impose a lien or a
1406 constructive trust on trust property, or trace trust property wrongfully disposed of and recover the
1407 property or its proceeds; or

1408 (10) order any other appropriate relief.

1409

1410 **SECTION 456.10-1002. DAMAGES FOR BREACH OF TRUST.**

1411 1. A trustee who commits a breach of trust is liable to the beneficiaries affected for the
1412 greater of:

1413 (1) the amount required to restore the value of the trust property and trust distributions
1414 to what they would have been had the breach not occurred; or

1415 (2) the profit the trustee made by reason of the breach.

1416 2. Except as otherwise provided in this subsection, if more than one trustee is liable to
1417 the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or
1418 trustees that are also liable. A trustee is not entitled to contribution if the trustee was
1419 substantially more at fault than another trustee or if the trustee committed the breach of trust in
1420 bad faith or with reckless indifference to the purposes of the trust or the interests of the
1421 beneficiaries. A trustee who received a benefit from the breach of trust is not entitled to
1422 contribution from another trustee to the extent of the benefit received.

1423

1424 **SECTION 456.10-1003. DAMAGES IN ABSENCE OF BREACH.**

1425 1. A trustee is accountable to an affected beneficiary for any profit made by the trustee

1426 arising from the administration of the trust, even absent a breach of trust.

1427 2. Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or

1428 depreciation in the value of trust property or for not having made a profit.

1429

1430 **SECTION 456.10-1004. ATTORNEY’S FEES AND COSTS.** In a judicial proceeding
1431 involving the administration of a trust, the court, as justice and equity may require, may award
1432 costs and expenses, including reasonable attorney’s fees, to any party, to be paid by another party
1433 or from the trust that is the subject of the controversy.

1434

1435 **SECTION 456.10-1005. LIMITATION OF ACTION AGAINST TRUSTEE.**

1436 1. A beneficiary may not commence a proceeding against a trustee for breach of trust
1437 more than one year after the date the beneficiary or a representative of the beneficiary was sent a
1438 report that adequately disclosed the existence of a potential claim for breach of trust and
1439 informed the beneficiary of the time allowed for commencing a proceeding.

1440 2. A report adequately discloses the existence of a potential claim for breach of trust if it
1441 provides sufficient information so that the beneficiary or representative knows of the potential
1442 claim or should have inquired into its existence.

1443 3. If subsection 1 does not apply, a judicial proceeding by a beneficiary against a trustee
1444 for breach of trust must be commenced within five years after the first to occur of:

1445 (1) the removal, resignation, or death of the trustee;

1446 (2) the termination of the beneficiary’s interest in the trust; or

1447 (3) the termination of the trust.

1448

1449 **SECTION 456.10-1006. RELIANCE ON TRUST INSTRUMENT.** A trustee who acts in
1450 reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a
1451 beneficiary for a breach of trust to the extent the breach resulted from the reliance.

1452

1453 **SECTION 456.10-1007. EVENT AFFECTING ADMINISTRATION OR**
1454 **DISTRIBUTION.** If the happening of an event, including marriage, divorce, performance of
1455 educational requirements, or death, affects the administration or distribution of a trust, a trustee
1456 who has exercised reasonable care to ascertain the happening of the event is not liable for a loss
1457 resulting from the trustee's lack of knowledge.

1458

1459 **SECTION 456.10-1008. EXCULPATION OF TRUSTEE.**

1460 1. A term of a trust relieving a trustee of liability for breach of trust is unenforceable to
1461 the extent that it:

1462 (1) relieves the trustee of liability for breach of trust committed in bad faith or with
1463 reckless indifference to the purposes of the trust or the interests of the beneficiaries; or

1464 (2) was inserted as the result of an abuse by the trustee of a fiduciary or confidential
1465 relationship to the settlor.

1466 2. Unless the settlor was represented by an attorney not employed by the trustee with
1467 respect to the trust containing the exculpatory term, ~~A~~an exculpatory term drafted or caused to be
1468 drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the
1469 trustee proves that the exculpatory term is fair under the circumstances and that its existence and

1470 contents were adequately communicated to the settlor.

1471

1472 **SECTION 456.10-1009. BENEFICIARY'S CONSENT, RELEASE, OR**

1473 **RATIFICATION.** A trustee is not liable to a beneficiary for breach of trust if the beneficiary,
1474 while having capacity, consented to the conduct constituting the breach, released the trustee from
1475 liability for the breach, or ratified the transaction constituting the breach, unless:

1476 (1) the consent, release, or ratification of the beneficiary was induced by improper
1477 conduct of the trustee; or

1478 (2) at the time of the consent, release, or ratification, the beneficiary did not know of the
1479 beneficiary's rights or of the material facts relating to the breach.

1480

1481 **SECTION 456.10-1010. LIMITATION ON PERSONAL LIABILITY OF TRUSTEE.**

1482 1. Except as otherwise provided in the contract, a trustee is not personally liable on a
1483 contract properly entered into in the trustee's fiduciary capacity in the course of administering the
1484 trust if the trustee in the contract disclosed the fiduciary capacity.

1485 2. A trustee is personally liable for torts committed in the course of administering a trust,
1486 or for obligations arising from ownership or control of trust property, including liability for
1487 violation of environmental law, only if the trustee is personally at fault.

1488 3. A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity,
1489 on an obligation arising from ownership or control of trust property, or on a tort committed in the
1490 course of administering a trust, may be asserted in a judicial proceeding against the trustee in the
1491 trustee's fiduciary capacity, whether or not the trustee is personally liable for the claim.

1492

1493 **{SECTION 456.10-1011. INTEREST AS GENERAL PARTNER.**

1494 1. Except as otherwise provided in subsection 3 or unless personal liability is imposed in
1495 the contract, a trustee who holds an interest as a general partner in a general or limited
1496 partnership is not personally liable on a contract entered into by the partnership after the trust's
1497 acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement
1498 previously filed with the Secretary of State of this State pursuant to the Uniform Partnership Act
1499 ~~or Uniform Limited Partnership Act.~~

1500 2. Except as otherwise provided in subsection 3, a trustee who holds an interest as a
1501 general partner is not personally liable for torts committed by the partnership or for obligations
1502 arising from ownership or control of the interest unless the trustee is personally at fault.

1503 3. The immunity provided by this section does not apply if an interest in the partnership
1504 is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or
1505 one or more of the trustee's descendants, siblings, or parents, or the spouse of any of them.

1506 4. If the trustee of a revocable trust holds an interest as a general partner, the settlor is
1507 personally liable for contracts and other obligations of the partnership as if the settlor were a
1508 general partner.}

1509

1510 **SECTION 456.10-1012. PROTECTION OF PERSON DEALING WITH TRUSTEE.**

1511 1. A person other than a beneficiary who in good faith assists a trustee, or who in good
1512 faith and for value deals with a trustee, without knowledge that the trustee is exceeding or
1513 improperly exercising the trustee's powers is protected from liability as if the trustee properly

1514 exercised the power.

1515 2. A person other than a beneficiary who in good faith deals with a trustee is not required
1516 to inquire into the extent of the trustee's powers or the propriety of their exercise.

1517 3. A person who in good faith delivers assets to a trustee need not ensure their proper
1518 application.

1519 4. A person other than a beneficiary who in good faith assists a former trustee, or who in
1520 good faith and for value deals with a former trustee, without knowledge that the trusteeship has
1521 terminated is protected from liability as if the former trustee were still a trustee.

1522 5. Comparable protective provisions of other laws relating to commercial transactions or
1523 transfer of securities by fiduciaries prevail over the protection provided by this section.

1524

1525 **SECTION 456.10-1013. CERTIFICATION OF TRUST.**

1526 1. Instead of furnishing a copy of the trust instrument to a person other than a
1527 beneficiary, the trustee may furnish to the person a certification of trust containing the following
1528 information:

1529 (1) that the trust exists and the date the trust instrument was executed;

1530 (2) the identity of the settlor;

1531 (3) the identity and address of the currently acting trustee;

1532 (4) the powers of the trustee;

1533 (5) the revocability or irrevocability of the trust and the identity of any person holding
1534 a power to revoke the trust;

1535 (6) the authority of cotrustees to sign or otherwise authenticate and whether all or less

1536 than all are required in order to exercise powers of the trustee;

1537 (7) the trust's taxpayer identification number; and

1538 (8) the manner of taking title to trust property.

1539 2. A certification of trust ~~may~~must be signed ~~or otherwise authenticated by any~~all the
1540 trustees. A third party may require that the certification of trust be acknowledged or guaranteed.

1541 3. A certification of trust must state that the trust has not been revoked, modified, or
1542 amended in any manner that would cause the representations contained in the certification of
1543 trust to be incorrect.

1544 4. A certification of trust need not contain the dispositive terms of a trust.

1545 5. A recipient of a certification of trust may require the trustee to furnish copies of those
1546 excerpts from the original trust instrument and later amendments which designate the trustee and
1547 confer upon the trustee the power to act in the pending transaction.

1548 6. A person who acts in reliance upon a certification of trust without knowledge that the
1549 representations contained therein are incorrect is not liable to any person for so acting and may
1550 assume without inquiry the existence of the facts contained in the certification. Knowledge of
1551 the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust
1552 instrument is held by the person relying upon the certification.

1553 7. A person who in good faith enters into a transaction in reliance upon a certification of
1554 trust may enforce the transaction against the trust property as if the representations contained in
1555 the certification were correct.

1556 8. A person making a demand for the trust instrument in addition to a certification of
1557 trust or excerpts is liable for damages if the court determines that the person did not act in good

1558 faith in demanding the trust instrument.

1559 9. This section does not limit the right of a person to obtain a copy of the trust instrument
1560 in a judicial proceeding concerning the trust.

1561

1562 [ARTICLE 11

1563 MISCELLANEOUS PROVISIONS]

1564

1565 SECTION 456.11-1101. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

1566 In applying and construing this Uniform Act , consideration must be given to the need to
1567 promote uniformity of the law with respect to its subject matter among States that enact it.

1568

1569 SECTION 456.11-1102. ~~ELECTRONIC RECORDS AND SIGNATURES.~~ The

1570 provisions of this Code governing the legal effect, validity, or enforceability of electronic records

1571 or electronic signatures, and of contracts formed or performed with the use of such records or

1572 signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and

1573 National Commerce Act (15 U.S.C. § 7002) and supersede, modify, and limit the requirements of

1574 the Electronic Signatures in Global and National Commerce Act. RELATION TO

1575 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

1576 Sections 456.1-101 to 456.11-1106 modifies, limits, and supersedes the federal Electronic

1577 Signatures in Global and National Commerce Act (15 U.S.C. section 7001, et seq.) but does not

1578 modify, limit, or supersede section 101(c) of that act (15 U.S.C. section 7001(c)) or authorize

1579 electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. section

1580 7003(b)).

1581

1582 **SECTION 456.11-1103. SEVERABILITY CLAUSE.** If any provision of sections 456.1-
1583 101 to 456.11-1106 or its application to any person or circumstances is held invalid, the
1584 invalidity does not affect other provisions or applications of sections 456.1-101 to 456.11-1106
1585 which can be given effect without the invalid provision or application, and to this end the
1586 provisions of sections 456.1-101 to 456.11-1106 are severable.

1587

1588 **SECTION 456.11-1104. EFFECTIVE DATE.** Sections 456.1-101 to 456.11-1106 takes
1589 effect on January 1, <2005>.

1590

1591 ~~**SECTION 1105. REPEALS.** The following Acts are repealed:~~

1592 ~~(1) Uniform Trustee Powers Act;~~

1593 ~~(2) Uniform Probate Code, Article VII;~~

1594 ~~(3) Uniform Trusts Act (1937); and~~

1595 ~~(4) Uniform Prudent Investor Act.]~~

1596

1597 **SECTION 456.11-1106. APPLICATION TO EXISTING RELATIONSHIPS.**

1598 1. Except as otherwise provided in sections 456.1-101 to 456.11-1106, on ~~the effective~~
1599 ~~date of sections 456.1-101 to 456.11-1106]~~January 1, <2005>:

1600 (1) sections 456.1-101 to 456.11-1106 ~~applies~~ to all trusts created before, on, or after
1601 January 1, <2005>;

1602 (2) sections 456.1-101 to 456.11-1106 apply~~ies~~ to all judicial proceedings concerning
1603 trusts commenced on or after January 1, <2005>;

1604 (3) sections 456.1-101 to 456.11-1106 apply~~ies~~ to judicial proceedings concerning
1605 trusts commenced before January 1, <2005> unless the court finds that application of a particular
1606 provision of sections 456.1-101 to 456.11-1106 would substantially interfere with the effective
1607 conduct of the judicial proceedings or prejudice the rights of the parties, in which case the
1608 particular provision of sections 456.1-101 to 456.11-1106 does not apply and the superseded law
1609 applies;

1610 (4) any rule of construction or presumption provided in sections 456.1-101 to 456.11-
1611 1106 apply~~ies~~ to trust instruments executed before January 1, <2005> unless there is a clear
1612 indication of a contrary intent in the terms of the trust; and

1613 (5) an act done before January 1, <2005> is not affected by any provisions contained
1614 in sections 456.1-101 to 456.11-1106.

1615 2. If a right is acquired, extinguished, or barred upon the expiration of a prescribed
1616 period that has commenced to run under any other statute before January 1, <2005>, that statute
1617 continues to apply to the right even if it has been repealed or superseded.

1618

1619

[ARTICLE 12

1620

MISCELLANEOUS STATUTES]

1621

1622

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

1623

1. If an instrument providing for a pecuniary bequest or transfer to or for the benefit of the

1624 spouse of the testator or transferor requires or permits the satisfaction of such bequest or transfer
1625 wholly or partly by the distribution of property valued at some date or on some basis other than
1626 its fair market value at the time of distribution, and does not require that such bequest or transfer
1627 be satisfied by the distribution of assets, including cash, having an aggregate fair market value on
1628 the date or dates of distribution amounting to no less than the amount of such bequest or transfer,
1629 then in such case, the provisions of the instrument notwithstanding, any property distributed in
1630 satisfaction of such bequest or transfer shall have an aggregate fair market value on the date of
1631 distribution fairly reflecting the distributee's proportionate share of the appreciation or
1632 depreciation in value to the date of distribution of all property then available for distribution.

1633 2. If, in any instrument which provides for a pecuniary bequest or transfer, the personal
1634 representative or trustee is empowered to satisfy such bequest or transfer by distribution of
1635 property in kind, and the instrument is silent as to the value to be given to property distributed in
1636 kind, any property distributed in satisfaction of the bequest or transfer shall be valued at the fair
1637 market value thereof on the date of distribution.

1638 3. ~~456.016. What instruments affected.~~ This sections ~~456.015 and 456.016~~ shall be
1639 effective with respect to wills and revocable inter vivos trusts executed or created before or after
1640 October 13, 1969, by persons who die on or after said date, and to irrevocable inter vivos trusts
1641 which are created on or after October 13, 1969.

1642

1643 **456.020. ABSENCE OF ACTIVE DUTIES NOT TO CURTAIL POWERS OF**
1644 **TRUSTEE.** When the terms of an instrument creating a trust manifest intention that the trustee
1645 shall have the legal fee simple in land, the full legal ownership of an estate for years, or the

1646 absolute legal ownership of chattels personal, investment securities or choses in action, an
1647 exercise by the trustee or a successor trustee of an express or implied power of sale, mortgage,
1648 leasing, improvement or conducting any other transaction incident to the administration of the
1649 trust, shall bind the fee simple, term of years or absolute ownership notwithstanding the
1650 execution of a future interest under the trust into a legal estate or interest by the operation of the
1651 Statute of Uses, or former section 456.020, or a judicial doctrine imposing such execution on dry
1652 or passive trusts.

1653

1654 **456.030. LIFE INSURANCE TRUSTS.** Proceeds of life insurance policies heretofore
1655 made payable to a trustee or trustees named as beneficiary or hereafter to be named beneficiary
1656 under an inter vivos trust shall be paid directly to the trustee or trustees and held and disposed of
1657 by the trustee or trustees as provided in the trust agreement or declaration of trust in writing made
1658 and in existence on the date of death of the insured, whether or not such trust or declaration of
1659 trust is amendable or revocable or both, or whether it may have been amended, and
1660 notwithstanding the reservation of any or all rights of ownership under the insurance policy or
1661 annuity contract; subject, however, to a valid assignment of any part of the proceeds. It is not
1662 necessary to the validity of such trust agreement or declaration of trust that it be funded or have a
1663 corpus other than the right, which need not be irrevocable, of the trustee or trustees named
1664 therein to receive such proceeds as beneficiary. A policy of life insurance or annuity contract
1665 may designate as beneficiary a trustee or trustees named or to be named by will if the designation
1666 is made in accordance with the provisions of the policy or contract whether or not the will is in
1667 existence at the time of the designation.

1668

1669 **456.040. LESSOR, TRUSTEE OF DEPOSITS BY LESSEE, WHEN — EXCEPTION.**

1670 1. Whenever any person, firm or corporation, engaged in the leasing of personal property,
1671 shall require a deposit or advance payment to be made by the lessee to bind the lessee to the
1672 performance of such contract, then such money so deposited, with any accruing interest thereon,
1673 shall, until returned or applied in accordance with the terms of such contract or agreement,
1674 continue to be the money of the person making the deposit and shall become and remain a trust
1675 fund in the possession of the person with whom such deposit shall be made, and the person, firm
1676 or corporation, receiving such deposit shall be the holder of such fund as trustee, and as the
1677 trustee as herein defined shall forthwith, and within seven days after the receipt of such trust
1678 fund, deposit the same in some bank or trust company in the county in which the cestui que trust
1679 shall reside or have his principal office or place of business, and such fund shall not be mingled
1680 with any other funds or assets of such trustee. Any person, firm or corporation receiving any
1681 money in trust, as herein defined, who shall violate any of the provisions of this section shall be
1682 deemed guilty of a misdemeanor; provided, however, that this section and section 456.050 shall
1683 not apply to such transactions where the property used or leased is delivered to lessee at time of
1684 agreement and remains in the actual and continuous possession of lessee during the term of such
1685 agreement.

1686 2. Subsection 1 of this section shall not apply to any lease entered into by lessors which
1687 are banks, trust companies, savings and loan associations, savings banks and credit unions, their
1688 subsidiaries and affiliates, or to any other financial institutions as defined in subdivision (4) of
1689 section 381.410, RSMo, or to other lessors in commercial lease transactions of at least twenty-

1690 five thousand dollars.

1691

1692 **456.050. LESSOR LIABLE FOR DOUBLE AMOUNT OF DEPOSIT SO HELD IN**

1693 **TRUST, WHEN.** Any person, firm or corporation being a trustee, as provided in section

1694 456.040, who shall violate any of the provisions thereof, shall pay to the depositor a sum of

1695 money double the amount of the deposit or advance payment, which may be recovered in any

1696 court of competent jurisdiction, together with a reasonable attorney's fee to be fixed by the court

1697 and collected as other costs in the case. Any waiver or attempt to waive the provisions of

1698 sections 456.040 and 456.050 shall be void.

1699 3. The phrase "pecuniary bequest or transfer", as used in this section, means a bequest or

1700 transfer either in a stated amount or in an amount determined by the use of a formula.

1701

1702 **SECTION 456.060. TRUSTS FOR BENEFIT OF EMPLOYEES OR SELF-**

1703 **EMPLOYED PERSONS — PERPETUITIES — SUSPENSION OF ALIENATION.** A

1704 trust of real or personal property, or both, created as part of a stock bonus plan, pension plan,

1705 disability or death benefit plan, medical benefit plan, profit-sharing plan or retirement plan, for

1706 the exclusive benefit of employees or self-employed persons, to which contributions are made by

1707 an employer, or employees, or both, or by self-employed persons, for the purpose of distributing

1708 to such employees or self-employed persons the earnings or the principal, or both earnings and

1709 principal of the fund so held in trust, shall not be deemed to be invalid as violating any existing

1710 laws against perpetuities or suspension of the power of alienation of title to property; but such a

1711 trust may continue for such time as may be necessary to accomplish the purposes for which it

1712 may be created.

1713

1714 **SECTION 56.070. TRUSTS FOR BENEFIT OF EMPLOYEES OR SELF-**

1715 **EMPLOYED PERSONS — ACCUMULATION.** The income arising from any property held

1716 in a trust created as part of a stock bonus plan, pension plan, disability or death benefit plan,

1717 medical benefit plan, profit-sharing plan or retirement plan for the exclusive benefit of employees

1718 or self-employed persons to which contributions are made by an employer or employees, or both,

1719 or by self-employed persons, for the purpose of distributing in accordance with such plan to such

1720 employees or self-employed persons the earnings or the principal or both earnings and principal

1721 of the trust fund, may be permitted to accumulate until the fund shall be sufficient to accomplish

1722 the purposes of such plan.

1723

1724 **SECTION 456.072. TRUST FOR BENEFIT OF EMPLOYEES — SPENDTHRIFT**

1725 **TRUST, WHEN — EXEMPT FROM CERTAIN ATTACHMENTS, EXCEPTION.** A trust

1726 created as part of a stock bonus plan, nonpublic pension plan, disability or death benefit plan,

1727 profit-sharing plan, or retirement plan, for the exclusive benefit of employees to which

1728 contributions are made by an employer, or participant, or both, for the purpose of distributing to

1729 such participant the earnings or the principal, or both earnings and principal of the fund so held

1730 in trust, shall be deemed to be a spendthrift trust if the plan or trust includes a provision

1731 restraining the assignment, alienation, or other voluntary or involuntary transfer of the interest of

1732 a participant in the trust. Prior to payment or delivery thereof to such participant by the plan

1733 trustee, such an interest of the participant shall be exempt from attachment or execution under the

1734 laws of this state, and such provision restraining the assignment, alienation, or other voluntary or
1735 involuntary transfer of the interest of a participant in the trust shall preclude any creditor of the
1736 participant from satisfying a claim from the assets or property of such a plan or trust before
1737 payment or delivery of such interest to the participant by the plan trustee, provided that the
1738 interest of any such participant shall be subject to attachment or execution pursuant to a qualified
1739 domestic relations order, as defined by section 414(p) of the United States Internal Revenue
1740 Code issued by a court in any proceeding for dissolution of marriage or legal separation or a
1741 proceeding for disposition of property following dissolution of marriage by a court which lacked
1742 personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property
1743 at the time of the original judgment of dissolution.

1744

1745 **SECTION 456.075. APPLICABILITY OF SECTIONS 456.060, 456.070 AND 456.072.**

1746 The provisions of sections 456.060, 456.070, and 456.072 shall apply to every trust of the kind
1747 described in such sections hereafter created or heretofore created or attempted to be created as if
1748 such sections had been effective on and after the date of the creation, or attempted creation, of
1749 each such trust.

1750

1751 **SECTION 456.230. TRUSTEES OF PRIVATE FOUNDATIONS, CHARITABLE**
1752 **TRUSTS OR SPLIT-INTEREST TRUSTS, CERTAIN ACTS PROHIBITED.**

1753 1. In the administration of any trust which is a “private foundation”, as defined in section
1754 509 of the United States Internal Revenue Code, a “charitable trust”, as defined in section
1755 4947(a)(1) of the United States Internal Revenue Code, or a “split-interest trust”, as defined in

1756 section 4947(a)(2) of the United States Internal Revenue Code, the following acts shall be
1757 prohibited:

1758 (1) Engaging in any act of “self-dealing”, as defined in section 4941(d) of the United
1759 States Internal Revenue Code, which would give rise to any liability for the tax imposed by
1760 section 4941(a) of the United States Internal Revenue Code;

1761 (2) Retaining any “excess business holdings”, as defined in section 4943(c) of the
1762 United States Internal Revenue Code, which would give rise to any liability for the tax imposed
1763 by section 4943(a) of the United States Internal Revenue Code;

1764 (3) Making any investments which would jeopardize the carrying out of any of the
1765 exempt purposes of the trust, within the meaning of section 4944 of the United States Internal
1766 Revenue Code, so as to give rise to any liability for the tax imposed by section 4944(a) of the
1767 United States Internal Revenue Code; and

1768 (4) Making any “taxable expenditures”, as defined in section 4945(d) of the United
1769 States Internal Revenue Code, which would give rise to any liability for the tax imposed by
1770 section 4945(a) of the United States Internal Revenue Code; provided, however, that this section
1771 shall not apply either to those split-interest trusts or to amounts thereof which are not subject to
1772 the prohibitions applicable to private foundations by reason of the provisions of section 4947 of
1773 the United States Internal Revenue Code.

1774 2. In the administration of any trust which is a “private foundation”, as defined in section
1775 509 of the United States Internal Revenue Code, or which is a “charitable trust”, as defined in
1776 section 4947(a)(1) of the United States Internal Revenue Code, there shall be distributed, for the
1777 purposes specified in the trust instrument, for each taxable year, amounts at least sufficient to

1778 avoid liability for the tax imposed by section 4942(a) of the United States Internal Revenue
1779 Code.

1780 3. The provisions of subsections 1 and 2 of this section shall not apply to any trust to the
1781 extent that a court of competent jurisdiction shall determine that such application would be
1782 contrary to the terms of the instrument governing such trust and that the same may not properly
1783 be changed to conform to such sections. The trustee shall not be held liable to anyone for any
1784 payments made under subsection 2 prior to such determination.

1785 4. Nothing in this section shall impair the rights and powers of the courts or the attorney
1786 general of this state with respect to any trust.

1787 5. All references to sections of the United States Internal Revenue Code shall be to such
1788 law as of June 14, 1971.

1789

1790 **SECTION 456.232. ADDITION TO TRUSTS.** A devise or other transfer, the validity of
1791 which is determinable by the law of this state, may be made by a will or other instrument of
1792 transfer, including a designation of beneficiary under a life insurance policy, to the trustee or
1793 trustees of a trust established or to be established by the testator or transferor or by the testator or
1794 transferor and some other person or persons or by some other person or persons, including a
1795 funded or unfunded life insurance trust, although the settlor thereof has reserved any or all rights
1796 of ownership of the insurance contracts, if the trust is identified in the testator's will or the
1797 instrument of transfer and its terms are set forth in a written instrument. The devise or transfer
1798 shall not be invalid because the trust is amendable or revocable, or both, or because the trust was
1799 amended after the execution of the will, the delivery of the instrument of transfer, or the death of

1800 the testator. Notwithstanding whether a devise or transfer is made before or after August 28,
1801 1996, a devise or transfer is valid if the devise or transfer is made only to the name of the trust or
1802 if the devise or transfer is made to the name or names of the trustee or trustees as the trustee or
1803 trustees of the trust. Unless the testator's will or the instrument of transfer provides otherwise,
1804 the property so devised:

1805 (1) shall not be deemed to be held under a testamentary trust of the testator or transferor
1806 but shall become a part of the trust to which it is given; and

1807 (2) shall be administered and disposed of in accordance with the provisions of the
1808 instrument or will setting forth the terms of the trust, including any amendments thereto made
1809 before the death of the testator or transferor, regardless of whether made before or after the
1810 execution of the testator's will or the delivery of the instrument of transfer, and, if the testator's
1811 will or the instrument of transfer so provides, including any amendments to the trust made after
1812 the death of the testator or transferor. A revocation or termination of the trust before the death of
1813 the testator shall cause a devise to the trustees of that trust to lapse.

1814

1815 **SECTION 456.235. POWER OF APPOINTMENT NOT EXERCISED BY WILL,**

1816 **WHEN.** A general residuary clause in a will, or a will making general disposition of all of the
1817 testator's property, does not exercise a power of appointment granted in an instrument creating or
1818 amending a trust unless specific reference is made to the power or there is some other indication
1819 of intention to include the property subject to the power.

1820

1821 **SECTION 456.236. INAPPLICABILITY OF THE RULE AGAINST PERPETUITIES**

1822 — **RULE PROHIBITING UNREASONABLE RESTRAINTS OR SUSPENSION OF**
1823 **POWER OF ALIENATION NOT VIOLATED, WHEN — RULE AGAINST**
1824 **ACCUMULATIONS NOT APPLICABLE, WHEN.**

1825 1. The rule against perpetuities shall not apply to and any rule prohibiting unreasonable
1826 restraints on or suspension of the power of alienation shall not be violated by a trust if a trustee,
1827 or other person or persons to whom the power is properly granted or delegated, has the power
1828 pursuant to the terms of the trust or applicable law to sell the trust property during the period of
1829 time the trust continues beyond the period of the rule against perpetuities that would apply to the
1830 trust but for this subsection.

1831 2. No rule against accumulations shall apply to a trust described in subsection 1 of this
1832 section unless the terms of the trust require that the income be accumulated during a period of
1833 time the trust continues beyond the period of the rule against perpetuities that would apply to the
1834 trust but for subsection 1 of this section. If the terms of the trust require that the income be
1835 accumulated during any period of time the trust continues beyond the period of the rule against
1836 perpetuities that would apply to the trust but for subsection 1 of this section, then during that
1837 period of time the trustee shall have the power to make discretionary distributions of net income
1838 to such recipients and in such shares and in such manner as most closely effectuates the settlor's
1839 or testator's manifested plan of distribution.

1840 3. The provisions of this section apply to:

1841 (1) Any trust created by a will or inter vivos agreement, or pursuant to the exercise of
1842 a power of appointment other than a general power of appointment granted under a will or inter
1843 vivos agreement, executed or amended on or after August 28, 2001;

1844 (2) Any trust created pursuant to the exercise of a general power of appointment
1845 exercised in an instrument executed or amended on or after August 28, 2001; or

1846 (3) Any trust created by a will or inter vivos agreement, or pursuant to the exercise of
1847 a power of appointment granted under a will or inter vivos agreement, executed or amended
1848 before August 28, 2001, if the laws of this state become applicable to the trust after such date, the
1849 laws of any other state applied to the trust before such date, and the rule against perpetuities did
1850 not apply to the trust pursuant to the laws of the other state.

1851 4. As used in this section, the term “trust” means an express trust created by a trust
1852 instrument, including a will, whereby a trustee has the duty to administer a trust asset for the
1853 benefit of a named or otherwise described income or principal beneficiary, or both, the term
1854 “trust” does not include a resulting or constructive trust, a business trust which provides for
1855 certificates to be issued to the beneficiary, an investment trust, a voting trust, a security
1856 instrument, a trust created by the judgment or decree of a court, a liquidation trust, or a trust for
1857 the primary purpose of paying dividends, interests, interest coupons, salaries, wages, pensions or
1858 profits, or employee benefits of any kind, an instrument wherein a person is nominee or escrowee
1859 for another, a trust created in deposits in any financial institution, a trust that is not subject to the
1860 rule against perpetuities by reason of any other law of this state, or any other trust the nature of
1861 which does not admit of general trust administration.

1862

1863 **UNIFORM FIDUCIARIES ACT**

1864 **SECTION 456.240. DEFINITIONS.**

1865 1. In sections 456.240 to 456.350 unless the context or subject matter otherwise requires:

1866 (1) "Bank" includes any person or association of persons, whether incorporated or
1867 not, carrying on the business of banking;

1868 (2) "Fiduciary" includes a trustee under any trust, expressed, implied, resulting or
1869 constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in
1870 bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or
1871 private, public officer, or any other person acting in a fiduciary capacity for any person, trust or
1872 estate;

1873 (3) "Person" includes a corporation, partnership, or other association, or two or more
1874 persons having a joint or common interest;

1875 (4) "Principal" includes any person to whom a fiduciary as such owes an obligation.

1876 2. A thing is done "in good faith" within the meaning of sections 456.240 to 456.350,
1877 when it is in fact done honestly, whether it be done negligently or not.

1878

1879 **SECTION 456.250. PAYMENT OR TRANSFERS TO FIDUCIARIES OR AT THE**
1880 **DIRECTION OF THE FIDUCIARY, EFFECT ON TRANSFEROR.** A person who in good
1881 faith pays or transfers to a fiduciary or to any other person as directed by a fiduciary any money
1882 or other property which the fiduciary as such is authorized to receive, is not responsible for the
1883 proper application thereof by the fiduciary, and any right or title acquired from the fiduciary in
1884 consideration of such payment or transfer is not invalid in consequence of a misapplication by
1885 the fiduciary.

1886

1887 **SECTION 456.260. TRANSFER OF NEGOTIABLE INSTRUMENT BY**

1888 **FIDUCIARY.** If any negotiable instrument payable or endorsed to a fiduciary as such is
1889 endorsed by the fiduciary, or if any negotiable instrument payable or endorsed to his principal is
1890 endorsed by a fiduciary empowered to endorse such instrument on behalf of his principal, the
1891 endorsee is not bound to inquire whether the fiduciary is committing a breach of his obligation as
1892 fiduciary in endorsing or delivering the instrument, and is not chargeable with notice that the
1893 fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with
1894 actual knowledge of such breach or with knowledge of such facts that his action in taking the
1895 instrument amounts to bad faith. If, however, such instrument is transferred by the fiduciary in
1896 payment of or as security for a personal debt of the fiduciary to the actual knowledge of the
1897 creditor, or is transferred in any transaction known by the transferee to be for the personal benefit
1898 of the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary in fact
1899 commits a breach of his obligation as fiduciary in transferring the instrument.

1900

1901 **SECTION 456.270. CHECK DRAWN BY FIDUCIARY PAYABLE TO THIRD**

1902 **PERSON.** If a check or other bill of exchange is drawn by a fiduciary as such, or in the name of
1903 his principal by a fiduciary empowered to draw such instrument in the name of his principal, the
1904 payee is not bound to inquire whether the fiduciary is committing a breach of his obligation as
1905 fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the
1906 fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with
1907 actual knowledge of such breach or with knowledge of such facts that this action in taking the
1908 instrument amounts to bad faith. If, however, such instrument is payable to a personal creditor of
1909 the fiduciary and delivered to the creditor in payment of or as security for a personal debt of the

1910 fiduciary to the actual knowledge of the creditor, or is drawn and delivered in any transaction
1911 known by the payee to be for the personal benefit of the fiduciary, the creditor or other payee is
1912 liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in
1913 drawing or delivering the instrument.

1914

1915 **SECTION 456.280. CHECK DRAWN BY AND PAYABLE TO FIDUCIARY.** If a
1916 check or other bill of exchange is drawn by a fiduciary as such or in the name of his principal by
1917 a fiduciary empowered to draw such instrument in the name of his principal, payable to the
1918 fiduciary personally, or payable to a third person and by him transferred to the fiduciary, and is
1919 thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or
1920 otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of
1921 his obligation as fiduciary in transferring the instrument, and is not chargeable with notice that
1922 the fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument
1923 with actual knowledge of such breach or with knowledge of such facts that his action in taking
1924 the instrument amounts to bad faith.

1925

1926 **SECTION 456.290. DEPOSIT IN NAME OF FIDUCIARY AS SUCH.** If a deposit is
1927 made in a bank to the credit of a fiduciary as such, the bank is authorized to pay the amount of
1928 the deposit or any part thereof upon the check of the fiduciary, signed with the name in which
1929 such deposit is entered, without being liable to the principal, unless the bank pays the check with
1930 actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in
1931 drawing the check or with knowledge of such facts that its action in paying the check amounts to

1932 bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in
1933 payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the
1934 principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or
1935 delivering the check.

1936

1937 **SECTION 456.300. DEPOSIT IN NAME OF PRINCIPAL.** If a check is drawn upon the
1938 account of his principal in a bank by a fiduciary who is empowered to draw checks upon his
1939 principal's account, the bank is authorized to pay such check without being liable to the
1940 principal, unless the bank pays the check with actual knowledge that the fiduciary is committing
1941 a breach of his obligation as fiduciary in drawing such check, or with knowledge of such facts
1942 that its action in paying the check amounts to bad faith. If, however, such a check is payable to
1943 the drawee bank and is delivered to it in payment of or as security for a personal debt of the
1944 fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of his
1945 obligation as fiduciary in drawing or delivering the check.

1946

1947 **SECTION 456.310. DEPOSIT IN FIDUCIARY'S PERSONAL ACCOUNT.** If a
1948 fiduciary makes a deposit in a bank to his personal credit of checks drawn by him upon an
1949 account in his own name as fiduciary, or of checks payable to him as fiduciary, or of checks
1950 drawn by him upon an account in the name of his principal if he is empowered to draw checks
1951 thereon, or of checks payable to his principal and endorsed by him, if he is empowered to endorse
1952 such checks, or if he otherwise makes a deposit of funds held by him as fiduciary, the bank
1953 receiving such deposit is not bound to inquire whether the fiduciary is committing thereby a

1954 breach of his obligation as fiduciary; and the bank is authorized to pay the amount of the deposit
1955 or any part thereof upon the personal check of the fiduciary without being liable to the principal,
1956 unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is
1957 committing a breach of his obligation as fiduciary in making such deposit or in drawing such
1958 check, or with knowledge of such facts that its action in receiving the deposit or paying the check
1959 amounts to bad faith.

1960

1961 **SECTION 456.320. DEPOSIT IN NAMES OF TWO OR MORE TRUSTEES.** When a
1962 deposit is made in a bank in the name of two or more persons as trustees and a check is drawn
1963 upon the trust account by any trustee or trustees authorized by the other trustee or trustees to
1964 draw checks upon the trust account, neither the payee nor other holder nor the bank is bound to
1965 inquire whether it is a breach of trust to authorize such trustee or trustees to draw checks upon
1966 the trust account, and is not liable unless the circumstances be such that the action of the payee or
1967 other holder or the bank amounts to bad faith.

1968

1969 **SECTION 456.330. CASES NOT PROVIDED FOR IN LAW.** In any case not provided
1970 for in sections 456.240 to 456.350 the rules of law and equity, including the law merchant and
1971 those rules of law and equity relating to trusts, agency, negotiable instruments and banking, shall
1972 continue to apply.

1973

1974 **SECTION 456.340. UNIFORMITY OF INTERPRETATION.** [This law] shall be so
1975 interpreted and construed as to effectuate its general purpose to make uniform the law of those

1976 states which enact it.

1977

1978 **SECTION 456.350. SHORT TITLE.** Sections 456.240 to 456.350 may be cited as the
1979 “Uniform Fiduciaries Law”.

1980

1981 **SECTION 456.400. REGISTRATION OF TRUST.**

1982 1. The trustee of a trust having its principal place of administration in this state may
1983 register the trust in the probate division of the circuit court of the county wherein the principal
1984 place of administration is located.

1985 4. The right to register under this section does not apply to the trustee of a trust if
1986 registration would be inconsistent with the retained jurisdiction of a foreign court from which the
1987 trustee cannot obtain release of registration.

1988

1989 **SECTION 456.410. REGISTRATION PROCEDURE.** Such registration shall be
1990 accomplished by filing a statement, indicating the name and address of the trustee and
1991 acknowledging the trusteeship. The statement shall indicate whether the trust has been registered
1992 elsewhere and shall identify the trust:

1993 (1) in the case of a testamentary trust, by the name of the testator and the date and place
1994 of domiciliary probate;

1995 (2) in the case of a written inter vivos trust, by the name of each settlor and the original
1996 trustee and the date of the trust instrument; or

1997 (3) in the case of an oral trust, by information identifying the settlor or other source of

1998 funds and describing the time and manner of the trust's creation and the terms of the trust,
1999 including the subject matter, beneficiaries and time of performance. A registration may be
2000 withdrawn by a similar statement.

2001

2002 **SECTION 456.420. RECORDS AND CERTIFIED COPIES.** The clerk of the
2003 probate division of the circuit court shall keep a record for each trust so registered, including trust
2004 registration statements, petitions and applications, demands for notices or bonds, and of any
2005 orders or responses relating thereto by the court, and establish and maintain a system for
2006 indexing, filing or recording which is sufficient to enable users of the records to identify and
2007 obtain information about such registered trusts. Upon payment of the fees required by law the
2008 clerk must issue certified copies of any record or paper filed or recorded.

2009

2010 **SECTION 456.430. EFFECT OF REGISTRATION.**

2011 1. By registering a trust, or accepting the trusteeship of a registered trust, the trustee
2012 submits personally to the jurisdiction of the court in any proceeding involving the administration
2013 of the trust that may be initiated by any interested person while the trust remains registered.
2014 Notice of any such proceeding shall be delivered to the trustee or mailed to him by ordinary first-
2015 class mail at his address as listed in the registration statement or as thereafter reported to the
2016 court and to his address as then known to the petitioner.

2017 2. To the extent of their interests in the trust, all beneficiaries of a trust registered in this
2018 state are subject to the jurisdiction of the court of registration for the purposes of proceedings
2019 involving administration of the trust, provided notice is given pursuant to section 472.100,

2020 RSMo.

2021 <INSERT SECTION 456.524>

2022 **SECTION 456.620. EVIDENCE AS TO DEATH OR STATUS — FIVE-YEAR**
2023 **ABSENCE PRESUMPTION OF DEATH.**

2024 1. A certified or authenticated copy of a death certificate purporting to be issued by an
2025 official or agency of the place where the death purportedly occurred is prima facie proof of the
2026 fact, place, date and time of death and the identity of the deceased settlor, trustee, beneficiary or
2027 other interested person.

2028 2. A certified or authenticated copy of any record or report of a governmental agency,
2029 domestic or foreign, that a person is missing, detained, dead, or alive is prima facie evidence of
2030 the status and of the dates, circumstances and places disclosed by the record or report.

2031 3. A person who is absent for a continuous period of five years, during which he has not
2032 been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry
2033 is presumed to be dead. His death is presumed to have occurred at the end of the period unless
2034 there is sufficient evidence for determining that death occurred earlier.

2035

2036 **SECTION 456.640. TRUST PROPERTY — WHEN DEEMED UNCLAIMED.**

2037 1. Property of any kind remaining in a trust which is not subject to administration or
2038 distribution to or for an identifiable beneficiary may be deemed to be unclaimed property when
2039 the trustee, after reasonable and diligent search, is unable to find or ascertain the existence of any
2040 heirs, legal representatives, successors or assigns of any beneficiary to whom such property is
2041 distributable by the trust instrument, by any other instrument pertaining to the trust estate, or by

2042 the laws of Missouri.

2043 2. Property of any kind remaining in a trust, which is distributable to or for the benefit of
2044 an identified beneficiary, may be deemed to be unclaimed when such beneficiary has, for three
2045 years after a good faith attempt to notify him in writing of his right to such property, failed or
2046 refused to claim the property.

2047

2048 **SECTION 56.650. PROCEDURE BY TRUSTEE WITH RESPECT TO UNCLAIMED**
2049 **PROPERTY.**

2050 1. Any trustee holding such unclaimed property may file with the state treasurer a
2051 verified statement setting forth the reason or reasons why such property is presumed to be
2052 unclaimed, the efforts made to find or ascertain any heirs, legal representatives, successors or
2053 assigns of any beneficiary or beneficiaries to whom such property is distributable, a list of all
2054 instruments known to the trustee that pertain to the trust and their location, with copies of those
2055 that are in possession of the trustee, and any further facts causing the trustee to believe that the
2056 property is unclaimed, and transfer such property to the state treasurer, who shall issue his receipt
2057 therefor.

2058 2. All property so received shall be credited to the escheat fund of the state of Missouri.

2059

2060 **SECTION 456.660. UNCLAIMED PROPERTY — LIABILITY OF TRUSTEE.**

2061 1. The payment or delivery of such unclaimed property to the state treasurer by the
2062 trustee shall terminate any legal relationship between the trustee and beneficiary or apparent
2063 beneficiary to receive such property and shall release and discharge the trustee from any and all

2064 liability to such beneficiary, his heirs, personal representatives, successors and assigns by such
2065 payment or delivery, regardless of whether such property is in fact or in law unclaimed property.
2066 2. Such payment or delivery may be pleaded as a bar to recovery and shall be a defense in any
2067 suit or action brought by the apparent owner, or his heirs, personal representatives, successors or
2068 assigns, or any claimant against the trustee by reason of the delivery of payment.