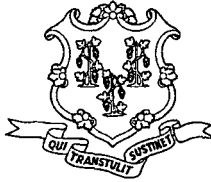


2006

Connecticut General Assembly



SENATE BILLS

Bill No. 429

Resolutions _____

Committee Bills _____

16 property.

17 (3) "Beneficiary surrogate" means a person, other than a trustee,
18 designated by the settlor in the trust instrument to receive notices,
19 information and reports otherwise required to be provided to a current
20 beneficiary under subdivisions (8) and (9) of subsection (b) of section 5
21 of this act.

22 (4) "Charitable trust" means a trust, or portion of a trust, created for
23 a charitable purpose described in section 25 of this act.

24 (5) "Current beneficiary" means a beneficiary who, on the date the
25 beneficiary's qualification is determined, is a distributee or permissible
26 distributee of trust income or principal.

27 (6) "Conservator" means a person appointed by the court to
28 administer the estate of a minor or adult individual and includes a
29 guardian of the estate of a minor.

30 (7) "District" means, for purposes of venue, the district of the court
31 having or accepting jurisdiction over the proceeding.

32 (8) "Environmental law" means a federal, state or local law, rule,
33 regulation or ordinance relating to protection of the environment.

34 (9) "Guardian" means a person appointed by the court to make
35 decisions regarding the support, care, education, health and welfare of
36 a minor or adult individual and includes a conservator of the person of
37 an adult, but does not include a guardian ad litem.

38 (10) "Interests of the beneficiaries" means the beneficial interests
39 provided in the terms of the trust.

40 (11) "Inter vivos trust" means any trust that is not a testamentary
41 trust.

42 (12) "Jurisdiction", with respect to a geographic area, includes a state
43 or country.

44 (13) "Mandatory distribution" means a distribution of income or
45 principal that the trustee is required to make to a beneficiary under the
46 terms of the trust, including a distribution upon termination of the
47 trust. The term does not include a distribution subject to the exercise of
48 the trustee's discretion, regardless of whether the terms of the trust (A)
49 include a support or other standard to guide the trustee in making
50 distribution decisions, or (B) provide that the trustee "may" or "shall"
51 make discretionary distributions, including distributions pursuant to a
52 support or other standard.

53 (14) "Permissible distributee" means a beneficiary who is currently
54 entitled to or eligible to receive a distribution from a trust.

55 (15) "Person" means an individual, corporation, business trust,
56 estate, trust, partnership, limited liability company, association, joint
57 venture, court, government, governmental subdivision, agency or
58 instrumentality, public corporation or any other legal or commercial
59 entity.

60 (16) "Power of withdrawal" means a presently exercisable general
61 power of appointment other than a power exercisable only upon
62 consent of the trustee or a person holding an adverse interest.

63 (17) "Property" means anything that may be the subject of
64 ownership, whether real or personal and whether legal or equitable, or
65 any interest therein.

66 (18) "Qualified beneficiary" means a beneficiary who, on the date the
67 beneficiary's qualification is determined: (A) Is a distributee or
68 permissible distributee of trust income or principal; (B) would be a
69 distributee or permissible distributee of trust income or principal if the
70 interests of the distributees described in subparagraph (A) of this
71 subdivision terminated on such date without causing the trust to
72 terminate; or (C) would be a distributee or permissible distributee of
73 trust income or principal if the trust terminated on such date.

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

77 (20) "Settlor" means a person, including a testator, who creates or
78 contributes property to a trust. If more than one person creates or
79 contributes property to a trust, each person is a settlor of the portion of
80 the trust property attributable to such person's contribution, except to
81 the extent another person has the power to revoke or withdraw such
82 portion.

83 (21) "Spendthrift provision" means a term of a trust that restrains
84 both voluntary and involuntary transfer of a beneficiary's interest.

85 (22) "State" means a state of the United States, the District of
86 Columbia, Puerto Rico, the United States Virgin Islands or any
87 territory or insular possession subject to the jurisdiction of the United
88 States, and includes an Indian tribe or band recognized by federal law
89 or formally acknowledged by a state.

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

94 (24) "Testamentary trust" means a trust created under a will or any
95 other trust created, authorized or approved by order of a probate
96 court.

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

99 (26) "Trustee" includes an original, additional and successor trustee
100 and a cotrustee.

101 Sec. 4. (NEW) (Effective January 1, 2007) (a) Subject to subsection (b)
102 of this section, for the purposes of sections 1 to 86, inclusive, of this act,

103 a person has knowledge of a fact if the person (1) has actual
104 knowledge of the fact, (2) has received a notice or notification of the
105 fact, or (3) from all the facts and circumstances known to the person at
106 the time in question, has reason to know the fact.

107 (b) An organization that conducts activities through employees has
108 notice or knowledge of a fact involving a trust only from the time the
109 information was received by an employee having responsibility to act
110 for the trust, or from the time the information would have been
111 brought to the employee's attention if the organization had exercised
112 reasonable diligence. An organization exercises reasonable diligence if
113 it maintains reasonable routines for communicating significant
114 information to the employee having responsibility to act for the trust
115 and there is reasonable compliance with the routines. Reasonable
116 diligence does not require an employee of the organization to
117 communicate information unless the communication is part of the
118 individual's regular duties or the individual knows a matter involving
119 the trust would be materially affected by the information.

120 Sec. 5. (NEW) (*Effective January 1, 2007*) (a) Except as otherwise
121 provided in the terms of the trust, sections 1 to 86, inclusive, of this act
122 govern the duties and powers of a trustee, relations among trustees
123 and the rights and interests of a beneficiary.

124 (b) The terms of a trust prevail over any provision of sections 1 to
125 86, inclusive, of this act except: (1) The requirements for creating a
126 trust; (2) the duty of a trustee to act in good faith and in accordance
127 with the terms and purposes of the trust; (3) the requirement of section
128 24 of this act that a trust have a purpose that is lawful, not contrary to
129 public policy and possible to achieve; (4) the power of the court to
130 modify or terminate a trust under sections 30 to 36, inclusive, of this
131 act; (5) the effect of a spendthrift provision and the rights of certain
132 creditors and assignees to reach a trust as provided in sections 38 to 45,
133 inclusive, of this act; (6) the power of the court under section 51 of this
134 act to require, dispense with, modify or terminate a bond; (7) the

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135 power of the court under section 57 of this act to adjust a trustee's
136 compensation specified in the terms of the trust that is unreasonably
137 low or high; (8) with respect to the current beneficiaries of a revocable
138 trust that has become irrevocable who have attained twenty-one years
139 of age, the duty under subdivision (3) of subsection (b) of section 67 of
140 this act to notify them of the existence of the trust, of the identity of the
141 trustee, and of their right to request trustee's reports; (9) with respect
142 to the current beneficiaries of a testamentary trust or an inter vivos
143 trust created pursuant to a court approved settlement who have
144 attained twenty-one years of age, the duties under section 67 of this
145 act; (10) the duty under subdivision (2) of subsection (a) of section 67
146 of this act to respond to the request of a beneficiary of an irrevocable
147 trust for information reasonably related to the administration of a
148 trust; (11) the effect of an exculpatory term under section 78 of this act;
149 (12) the rights under sections 80 to 83, inclusive, of this act of a person
150 other than a trustee or beneficiary; (13) periods of limitation for
151 commencing a judicial proceeding; (14) the power of the court to take
152 such action and exercise such jurisdiction as may be necessary in the
153 interests of justice; (15) the subject-matter jurisdiction of the court and
154 venue for commencing a proceeding as provided in sections 14 and 15
155 of this act; or (16) the provisions of sections 1 to 86, inclusive, of this act
156 specifically dealing with the supervision of testamentary trusts by the
157 court.

158 (c) With respect to one or more of the current beneficiaries, the
159 settlor, in the trust instrument, may waive or modify the duties of the
160 trustee described in subdivisions (8) and (9) of subsection (b) of this
161 section. Such a waiver or modification may be made only by the settlor
162 designating in the trust instrument one or more beneficiary surrogates
163 to receive any notices, information or reports otherwise required under
164 said subdivisions to be provided to the current beneficiaries. If the
165 settlor makes such a waiver or modification, the trustee shall provide
166 such notices, information or reports to the beneficiary surrogates, in
167 lieu of providing them to the current beneficiaries. The beneficiary
168 surrogates shall act in good faith to protect the interests of the current

169 beneficiaries for whom the notices, information or reports are received.
170 The beneficiary surrogates are deemed to be representatives of the
171 current beneficiaries not provided such notices, information or reports
172 for all purposes, except for the time limitation for a beneficiary to
173 commence an action against a trustee for breach of trust as provided in
174 subsections (a) and (b) of section 75 of this act.

175 Sec. 6. (NEW) (*Effective January 1, 2007*) The common law of trusts
176 and principles of equity supplement sections 1 to 86, inclusive, of this
177 act, except to the extent modified by sections 1 to 86, inclusive, of this
178 act or another statute of this state.

179 Sec. 7. (NEW) (*Effective January 1, 2007*) (a) The meaning and effect
180 of the terms of an inter vivos trust are determined by: (1) The law of
181 the jurisdiction designated in the terms of the trust, unless the
182 designation of such jurisdiction's law is contrary to a strong public
183 policy of the jurisdiction having the most significant relationship to the
184 matter at issue; or (2) in the absence of a controlling designation in the
185 terms of the trust, the law of the jurisdiction having the most
186 significant relationship to the matter at issue.

187 (b) The meaning and effect of the terms of a testamentary trust are
188 determined by the law of this state.

189 Sec. 8. (NEW) (*Effective January 1, 2007*) (a) Without precluding other
190 means for establishing a sufficient connection with the designated
191 jurisdiction, terms of a trust designating the principal place of
192 administration are valid and controlling if: (1) A trustee's principal
193 place of business is located in or a trustee is a resident of the
194 designated jurisdiction; or (2) all or part of the administration occurs in
195 the designated jurisdiction.

196 (b) A trustee is under a continuing duty to administer the trust at a
197 place appropriate to its purposes, its administration and the interests
198 of the beneficiaries.

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199 (c) The principal place of administration of a testamentary trust
200 shall be (1) in the case of a trust created under a will, in the district in
201 which the settlor's estate was or is being administered, (2) in the case of
202 any other trust created, authorized or approved by order of the
203 Probate Court, in the district in which the court creating the trust is
204 located, or (3) in the case of a trust transferred to this state subject to
205 the continuing supervision of the court, the district in which the
206 trustee's principal place of business is located, where the trustee
207 resides or where all or part of the administration occurs.

208 (d) Without precluding the right of the court to order, approve or
209 disapprove a transfer, the trustee of an inter vivos trust, and the trustee
210 of a testamentary trust with court approval, in furtherance of the duty
211 prescribed by subsection (b) of this section, may transfer the trust's
212 principal place of administration to another state or to a jurisdiction
213 outside of the United States.

214 (e) The trustee of an inter vivos trust shall notify the qualified
215 beneficiaries of a transfer of a trust's principal place of administration
216 not less than sixty days before initiating the transfer. The notice of the
217 transfer shall include: (1) The name of the jurisdiction to which the
218 principal place of administration is to be transferred; (2) the address
219 and telephone number at the new location at which the trustee can be
220 contacted; (3) an explanation of the reasons for the transfer; and (4) the
221 date on which the transfer is anticipated to occur.

222 (f) In connection with a transfer of the trust's principal place of
223 administration, the trustee may transfer some or all of the trust
224 property to a successor trustee designated in the terms of the trust or
225 appointed pursuant to section 53 of this act.

226 Sec. 9. (NEW) (Effective January 1, 2007) (a) Notice to a person under
227 sections 1 to 86, inclusive, of this act, or the sending of a document to a
228 person under sections 1 to 86, inclusive, of this act, shall be
229 accomplished in a manner reasonably suitable under the circumstances
230 and likely to result in receipt of the notice or document. Permissible

231 methods of notice or for sending a document include first-class mail,
232 personal delivery, delivery to the person's last-known place of
233 residence or place of business, or a properly directed electronic
234 message, if the person has consented in advance to receive notices or
235 documents by electronic message.

236 (b) Notice otherwise required under sections 1 to 86, inclusive, of
237 this act, or a document otherwise required to be sent under sections 1
238 to 86, inclusive, of this act need not be provided to a person whose
239 identity or location is unknown to and not reasonably ascertainable by
240 the trustee.

241 (c) Notice under sections 1 to 86, inclusive, of this act or the sending
242 of a document under sections 1 to 86, inclusive, of this act may be
243 waived by the person to be notified or to be sent the document.

244 (d) Notice of a judicial proceeding shall be given as provided in any
245 applicable court rules.

246 Sec. 10. (NEW) (*Effective January 1, 2007*) (a) Whenever notice to
247 qualified beneficiaries of a trust is required under sections 1 to 86,
248 inclusive, of this act, the trustee shall also give notice to any other
249 beneficiary who has sent the trustee a request for notice.

250 (b) A charitable organization expressly designated to receive
251 distributions under the terms of a charitable trust has the rights of a
252 qualified beneficiary under sections 1 to 86, inclusive, of this act if the
253 charitable organization, on the date the charitable organization's
254 qualification is being determined: (1) Is a distributee or permissible
255 distributee of trust income or principal; (2) would be a distributee or
256 permissible distributee of trust income or principal upon the
257 termination of the interests of other distributees or permissible
258 distributees then receiving or eligible to receive distributions; or (3)
259 would be a distributee or permissible distributee of trust income or
260 principal if the trust terminated on such date.

261 (c) A person appointed to enforce a trust created for the care of an
262 animal or another noncharitable purpose as provided in section 28 or
263 29 of this act has the rights of a qualified beneficiary under sections 1
264 to 86, inclusive, of this act.

265 Sec. 11. (NEW) (Effective January 1, 2007) (a) For the purposes of this
266 section, "interested persons" means persons whose consent would be
267 required in order to achieve a binding settlement were the settlement
268 to be approved by the court.

269 (b) Except as otherwise provided in subsections (c) and (e) of this
270 section, interested persons may enter into a binding nonjudicial
271 settlement agreement with respect to any matter involving an inter
272 vivos trust.

273 (c) A nonjudicial settlement agreement is valid only to the extent it
274 does not violate a material purpose of the trust and includes terms and
275 conditions that could be properly approved by the court under
276 sections 1 to 86, inclusive, of this act or other applicable law.

277 (d) Matters that may be resolved by a nonjudicial settlement
278 agreement include: (1) The interpretation or construction of the terms
279 of the trust; (2) the approval of a trustee's report or accounting; (3)
280 direction to a trustee to refrain from performing a particular act or the
281 grant to a trustee of any necessary or desirable power; (4) the
282 resignation or appointment of a trustee and the determination of a
283 trustee's compensation; (5) transfer of a trust's principal place of
284 administration; and (6) liability of a trustee for an action relating to the
285 trust.

286 (e) A nonjudicial settlement agreement may not modify or terminate
287 an irrevocable trust. Such modification or termination may only be
288 accomplished under the provisions of sections 21 to 37, inclusive, of
289 this act.

290 (f) Any interested person may request the court to approve a

291 nonjudicial settlement agreement, to determine whether the
292 representation as provided in sections 16 to 20, inclusive, of this act
293 was adequate, and to determine whether the agreement contains terms
294 and conditions the court could have properly approved.

295 Sec. 12. (NEW) (*Effective January 1, 2007*) (a) A testamentary trust is
296 subject to continuing judicial supervision. For this purpose, a
297 testamentary trust shall include any trust created under the laws of
298 another jurisdiction, the principal place of administration of which is
299 transferred to this state and expressly made subject to the continuing
300 supervision of the court by the transferring court or document of
301 transfer.

302 (b) The court may intervene in the administration of an inter vivos
303 trust to the extent its jurisdiction is invoked by an interested person or
304 as provided by law.

305 (c) An inter vivos trust is not subject to continuing judicial
306 supervision.

307 (d) A judicial proceeding involving a trust may relate to any matter
308 involving the trust's administration, including, but not limited to, a
309 proceeding to: (1) Request instructions or declare rights; (2) approve a
310 nonjudicial settlement; (3) interpret or construe the terms of a trust; (4)
311 determine the validity of a trust or of any of its terms; (5) approve a
312 trustee's report or accounting or compel a trustee to report or account;
313 (6) direct a trustee to refrain from performing a particular act or grant
314 to a trustee any necessary or desirable power; (7) review the actions of
315 a trustee, including the exercise of a discretionary power; (8) accept the
316 resignation of a trustee; (9) appoint or remove a trustee; (10) determine
317 a trustee's compensation; (11) transfer a trust's principal place of
318 administration or a trust's property to another jurisdiction; (12)
319 determine the liability of a trustee for an action relating to the trust and
320 compel redress of a breach of trust by any available remedy; (13)
321 modify or terminate a trust; (14) combine trusts or divide a trust; (15)
322 determine liability of a trust for debts of a beneficiary and living

323 settlor; or (16) determine liability of a trust for debts, expenses of
324 administration and statutory allowances chargeable against the estate
325 of a deceased settlor.

326 Sec. 13. (NEW) (Effective January 1, 2007) (a) By accepting the
327 trusteeship of a trust having its principal place of administration in this
328 state, or by moving the principal place of administration to this state,
329 the trustee submits personally to the jurisdiction of the courts of this
330 state regarding any matter involving the trust.

331 (b) With respect to their interests in the trust, the beneficiaries of a
332 trust having its principal place of administration in this state are
333 subject to the jurisdiction of the courts of this state regarding any
334 matter involving the trust. By accepting a distribution from such a
335 trust, the recipient submits personally to the jurisdiction of the courts
336 of this state regarding any matter involving the trust.

337 (c) This section does not preclude other methods of obtaining
338 jurisdiction over a trustee, beneficiary or other person receiving
339 property from the trust.

340 Sec. 14. (NEW) (Effective January 1, 2007) (a) The Probate Court has
341 exclusive jurisdiction of proceedings in this state concerning the
342 interim and final accounts of testamentary trustees.

343 (b) The Probate Court and the Superior Court have concurrent
344 jurisdiction of all other proceedings involving a testamentary or inter
345 vivos trust.

346 Sec. 15. (NEW) (Effective January 1, 2007) (a) Venue for a judicial
347 proceeding in the Superior Court shall be as provided in chapter 890 of
348 the general statutes.

349 (b) (1) Except as otherwise provided in subsection (c) of this section,
350 venue for a judicial proceeding in a court of probate involving an inter
351 vivos trust is, in the following order of priority: (A) In the district of
352 this state in which the trust's principal place of administration is or will

353 be located; (B) in the district of this state where any trustee resides or
354 has a principal place of business; or (C) in the district of this state
355 where the settlor's estate was or is being administered.

356 (2) Except as otherwise provided in subsection (c) of this section,
357 venue for a judicial proceeding involving a testamentary trust is in the
358 district of this state in which the trust's principal place of
359 administration is located.

360 (c) (1) If an inter vivos trust has no trustee, venue for a judicial
361 proceeding for the appointment of a trustee shall be, in the following
362 order of priority: (A) In a district of this state in which a beneficiary
363 resides; (B) in a district of this state in which any trust property is
364 located; or (C) in the district of this state in which the trust's principal
365 place of administration is located.

366 (2) If a testamentary trust has no trustee, venue for a judicial
367 proceeding for the appointment of a trustee shall be in the district of
368 this state in which the trust's principal place of administration is
369 located.

370 (d) A judicial proceeding other than one described in subsection (b)
371 or (c) of this section shall be commenced in accordance with the rules
372 of venue applicable to civil actions.

373 Sec. 16. (NEW) (*Effective January 1, 2007*) (a) Notice to a person who
374 may represent and bind another person under sections 16 to 20,
375 inclusive, of this act has the same effect as if notice were given directly
376 to such other person.

377 (b) The consent of a person who may represent and bind another
378 person under sections 16 to 20, inclusive, of this act is binding on the
379 person represented unless the person represented objects to the
380 representation before the consent would otherwise have become
381 effective.

382 (c) Except as otherwise provided in sections 31 and 47 of this act, a

383 person who, pursuant to sections 16 to 20, inclusive, of this act may
384 represent a settlor who lacks capacity may receive notice and give a
385 binding consent on the settlor's behalf.

386 (d) A settlor may not represent or bind a beneficiary under sections
387 16 to 20, inclusive, of this act with respect to the termination or
388 modification of a trust under subsection (a) of section 31 of this act.

389 (e) Notwithstanding any provision of the general statutes, sections
390 16 to 20, inclusive, of this act shall apply to all judicial proceedings and
391 all nonjudicial settlements, agreements or actions under sections 1 to
392 86, inclusive, of this act and under any other provisions of the general
393 statutes pertaining to trust matters.

394 (f) For the purposes of this section, "represent" shall not be
395 construed to permit a person who has not been admitted as an
396 attorney pursuant to section 51-80 of the general statutes to serve as
397 legal counsel for any other person in any matter arising under sections
398 1 to 86, inclusive, of this act.

399 Sec. 17. (NEW) (Effective January 1, 2007) To the extent there is no
400 conflict of interest between the holder of a power of appointment and
401 the persons represented with respect to the particular question or
402 dispute: (1) The sole holder or all coholders of any power of
403 appointment, whether or not presently exercisable, shall represent the
404 potential appointees; and (2) the sole holder or all coholders of a power
405 of revocation or a general power of appointment, including one in the
406 form of a power of amendment, shall also represent the takers in
407 default of the exercise thereof.

408 Sec. 18. (NEW) (Effective January 1, 2007) To the extent there is no
409 conflict of interest between the representative and the person
410 represented or among those being represented with respect to a
411 particular question or dispute: (1) A conservator may represent and
412 bind the estate that the conservator controls; (2) a guardian may
413 represent and bind the ward if a conservator of the ward's estate has

414 not been appointed; (3) an agent having authority to do so may
415 represent and bind the principal; (4) a trustee may represent and bind
416 the beneficiaries of the trust; (5) an executor or administrator of a
417 decedent's estate may represent and bind persons interested in the
418 estate; and (6) if a conservator or guardian has not been appointed, a
419 parent may represent and bind the parent's minor or unborn child.

420 Sec. 19. (NEW) (*Effective January 1, 2007*) Unless otherwise
421 represented, a minor, an incapacitated or unborn individual, or a
422 person whose identity or location is unknown and not reasonably
423 ascertainable, may be represented by and bound by another person
424 having a substantially identical interest with respect to the particular
425 question or dispute, but only to the extent there is no conflict of
426 interest between the representative and the person being represented.

427 Sec. 20. (NEW) (*Effective January 1, 2007*) (a) If the court determines
428 that an interest is not represented pursuant to sections 16 to 20,
429 inclusive, of this act, or that the otherwise available representation
430 might be inadequate, the court may appoint a guardian ad litem to
431 receive notice, give consent, and otherwise represent, bind and act on
432 behalf of a minor, an incapacitated or unborn individual, or a person
433 whose identity or location is unknown. A guardian ad litem may be
434 appointed to represent several persons or interests.

435 (b) A guardian ad litem may act on behalf of the individual
436 represented with respect to any matter arising under sections 1 to 86,
437 inclusive, of this act, whether or not a judicial proceeding concerning
438 the trust is pending.

439 (c) In making decisions in any matter, a guardian ad litem may
440 consider general benefit accruing to the living members of the
441 individual's family.

442 Sec. 21. (NEW) (*Effective January 1, 2007*) A trust may be created by:
443 (1) Transfer of property to another person as trustee during the
444 settlor's lifetime or by will or other disposition taking effect upon the

445 settlor's death; (2) declaration by the owner of property that the owner
 446 holds identifiable property as trustee; (3) exercise of a power of
 447 appointment in favor of a trustee; or (4) transfer of property pursuant
 448 to a statute or judgment that requires property to be administered in
 449 the manner of an express trust, including, but not limited to, a trust
 450 created by the guardian of the estate of a minor or by the conservator
 451 of an estate, or a trust described in 42 USC 1396p(d)(4), as from time to
 452 time amended.

453 Sec. 22. (NEW) (Effective January 1, 2007) (a) A trust is created only if:
 454 (1) The settlor has capacity to create a trust; (2) the settlor indicates an
 455 intention to create the trust; (3) the trust has a definite beneficiary or is
 456 (A) a charitable trust, (B) a trust for the care of an animal, as provided
 457 in section 28 of this act, or (C) a trust for a noncharitable purpose, as
 458 provided in section 29 of this act; and (4) the trustee has duties to
 459 perform.

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

462 (c) A power in a trustee to select a beneficiary from an indefinite
 463 class is valid. If the power is not exercised within a reasonable time,
 464 the power fails and the property subject to the power passes to the
 465 persons who would have taken the property had the power not been
 466 conferred.

467 Sec. 23. (NEW) (Effective January 1, 2007) An inter vivos trust is
 468 validly created if its creation complies with the law of the jurisdiction
 469 in which the trust instrument was executed, or the law of the
 470 jurisdiction in which, at the time of creation: (1) The settlor was
 471 domiciled, had a place of abode or was a national; (2) a trustee was
 472 domiciled or had a place of business; or (3) any trust property was
 473 located.

474 Sec. 24. (NEW) (Effective January 1, 2007) A trust may be created only
 475 to the extent its purposes are lawful, not contrary to public policy and

476 possible to achieve.

477 Sec. 25. (NEW) (*Effective January 1, 2007*) (a) A charitable trust may
478 be created for the relief of poverty, the advancement of education or
479 religion, the promotion of health, governmental or municipal purposes
480 or other purposes the achievement of which is beneficial to the
481 community.

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

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

488 Sec. 26. (NEW) (*Effective January 1, 2007*) A trust is void to the extent
489 its creation was induced by fraud, duress or undue influence.

490 Sec. 27. (NEW) (*Effective January 1, 2007*) Except as required by any
491 provision of the general statutes other than sections 1 to 86, inclusive,
492 of this act, a trust need not be evidenced by a trust instrument, but the
493 creation of an oral trust and its terms may be established only by clear
494 and convincing evidence.

495 Sec. 28. (NEW) (*Effective January 1, 2007*) (a) A trust may be created
496 to provide for the care of an animal alive during the settlor's lifetime.
497 The trust terminates upon the death of the animal or, if the trust was
498 created to provide for the care of more than one animal alive during
499 the settlor's lifetime, upon the death of the last surviving animal.

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

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

511 Sec. 29. (NEW) (Effective January 1, 2007) Except as provided by
512 section 28 of this act or by any provision of the general statutes, the
513 following rules apply:

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

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

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

527 Sec. 30. (NEW) (Effective January 1, 2007) (a) In addition to the
528 methods of termination prescribed by sections 31 to 34, inclusive, of
529 this act, a trust terminates to the extent the trust is revoked or expires
530 pursuant to its terms, no purpose of the trust remains to be achieved,
531 or the purposes of the trust have become unlawful or impossible to
532 achieve.

533 (b) A proceeding to approve or disapprove a proposed modification
534 or termination under sections 31 to 36, inclusive, of this act, or trust

535 combination or division under section 37 of this act, may be
536 commenced by a trustee or beneficiary. A proceeding to approve or
537 disapprove a proposed modification or termination under section 31 of
538 this act, may be commenced by the settlor. The settlor of a charitable
539 trust may maintain a proceeding to modify the trust under section 33
540 of this act.

541 Sec. 31. (NEW) (*Effective January 1, 2007*) (a) If, upon petition, the
542 court finds that the settlor and all beneficiaries consent to the
543 modification or termination of a noncharitable irrevocable trust, the
544 court may approve the modification or termination even if the
545 modification or termination is inconsistent with a material purpose of
546 the trust. A settlor's power to consent to a trust's modification or
547 termination may be exercised by (1) an agent pursuant to a power of
548 attorney only to the extent expressly authorized by the power of
549 attorney or the terms of the trust, (2) the settlor's conservator with the
550 approval of the court supervising the conservatorship if an agent is not
551 so authorized, or (3) the settlor's guardian with the approval of the
552 court supervising the guardianship, if an agent is not so authorized
553 and a conservator has not been appointed. This subsection does not
554 apply to irrevocable trusts created before or to revocable trusts that
555 become irrevocable before the effective date of this section.

556 (b) A noncharitable irrevocable trust may be terminated or modified
557 upon consent of all of the beneficiaries if the court concludes that the
558 termination or modification is not inconsistent with a material purpose
559 of the trust and the probable intent of the settlor.

560 (c) For the purposes of this section, a spendthrift provision in the
561 terms of the trust is not presumed to constitute a material purpose of
562 the trust. In determining whether a spendthrift provision is a material
563 purpose of a trust for purposes of modification or termination of the
564 trust, the court shall consider the settlor's intent and the facts and
565 circumstances surrounding the creation of the trust.

566 (d) Upon termination of a trust pursuant to subsections (a) or (b) of

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567 this section, the trustee shall distribute the trust property as agreed by
568 the parties consenting to the termination of the trust.

569 (e) If not all of the beneficiaries consent to a proposed modification
570 or termination of the trust pursuant to subsections (a) or (b) of this
571 section, the modification or termination may be approved by the court
572 if the court is satisfied that: (1) If all of the beneficiaries had consented,
573 the trust could have been modified or terminated under this section;
574 and (2) the interests of a beneficiary who does not consent will be
575 adequately protected.

576 Sec. 32. (NEW) (*Effective January 1, 2007*) (a) The court may modify
577 the administrative or dispositive terms of a trust or terminate the trust
578 if, because of circumstances not anticipated by the settlor, modification
579 or termination will further the purposes of the trust. To the extent
580 practicable, the modification shall be made in accordance with the
581 settlor's probable intention.

582 (b) The court may modify the administrative terms of a trust if
583 continuation of the trust on its existing terms would be impracticable
584 or wasteful or impair the trust's administration.

585 (c) Upon termination of a trust under this section, the trustee shall
586 distribute the trust property in a manner consistent with the purposes
587 of the trust.

588 Sec. 33. (NEW) (*Effective January 1, 2007*) (a) Except as otherwise
589 provided in subsection (b) of this section, if a particular charitable
590 purpose becomes unlawful, impracticable, impossible to achieve or
591 wasteful: (1) The trust does not fail, in whole or in part; (2) the trust
592 property does not revert to the settlor or the settlor's successors in
593 interest; and (3) the court may apply cy pres to modify or terminate the
594 trust by directing that the trust property be applied or distributed, in
595 whole or in part, in a manner consistent with the settlor's charitable
596 purposes.

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597 (b) A provision in the terms of a charitable trust that would result in
598 distribution of the trust property to a noncharitable beneficiary
599 prevails over the power of the court under subsection (a) of this section
600 to apply *cy pres* to modify or terminate the trust only if, when the
601 provision takes effect: (1) The trust property is to revert to the settlor
602 and the settlor is still living; or (2) fewer than twenty-one years have
603 elapsed since the date of the trust's creation.

604 Sec. 34. (NEW) (*Effective January 1, 2007*) (a) If trust property has a
605 total value less than fifty thousand dollars and after notice to the
606 qualified beneficiaries, the trustee of a testamentary noncharitable trust
607 who obtains court approval, or the trustee of an *inter vivos*
608 noncharitable trust, with or without court approval, may terminate the
609 trust if such trustee concludes that the termination is not inconsistent
610 with the probable intent of the settlor and the value or character of the
611 trust property is insufficient or inappropriate to justify the cost of
612 administration.

613 (b) The court may modify or terminate a trust or remove the trustee
614 and appoint a different trustee if it determines that the value or
615 character of the trust property is insufficient or inappropriate to justify
616 the cost of administration.

617 (c) Upon termination of a trust under this section, the trustee shall
618 distribute the trust property in a manner consistent with the purposes
619 of the trust.

620 (d) This section does not apply to an easement for conservation or
621 preservation.

622 Sec. 35. (NEW) (*Effective January 1, 2007*) The court may reform the
623 terms of a trust, even if unambiguous, to conform the terms to the
624 settlor's intention if it is proven by clear and convincing evidence that
625 both the settlor's intent and the terms of the trust were affected by a
626 mistake of fact or law, whether in expression or inducement.

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627 Sec. 36. (NEW) (*Effective January 1, 2007*) To achieve the settlor's tax
628 objectives, the court may modify the terms of a trust in a manner that
629 is not contrary to the settlor's probable intention. The court may
630 provide that the modification has retroactive effect.

631 Sec. 37. (NEW) (*Effective January 1, 2007*) After notice to the qualified
632 beneficiaries, a trustee may combine two or more trusts into a single
633 trust or divide a trust into two or more separate trusts, if the result
634 does not impair rights of any beneficiary or adversely affect
635 achievement of the purposes of the trust.

636 Sec. 38. (NEW) (*Effective January 1, 2007*) To the extent a beneficiary's
637 interest is not subject to a spendthrift provision, except as otherwise
638 provided in sections 38 to 45, inclusive, of this act, the court may
639 authorize a creditor or assignee of the beneficiary to reach the
640 beneficiary's interest by attachment of present or future distributions
641 to or for the benefit of the beneficiary. The court may limit the award
642 to such relief as is appropriate under the circumstances, provided, the
643 court may not grant relief beyond the attachment of present or future
644 distributions.

645 Sec. 39. (NEW) (*Effective January 1, 2007*) (a) A spendthrift provision
646 is valid only if it restrains both voluntary and involuntary transfer of a
647 beneficiary's interest. A provision in the terms of the trust permitting
648 the voluntary transfer of a beneficiary's interest, but only with the
649 consent of another person or entity, including the trustee, specified in
650 the terms of the trust, shall be deemed to be an acceptable restraint on
651 voluntary transfer.

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

656 (c) A beneficiary may not transfer an interest in a trust in violation
657 of a valid spendthrift provision and, except as otherwise provided in

658 sections 38 to 45, inclusive, of this act, a creditor or assignee of the
659 beneficiary may not reach the interest or a distribution by the trustee
660 before its receipt by the beneficiary.

661 (d) A spendthrift provision is valid even though a beneficiary is
662 named as the sole trustee or as a cotrustee of the trust.

663 (e) A spendthrift provision is enforceable against the beneficiary's
664 former spouse.

665 Sec. 40. (NEW) (*Effective January 1, 2007*) (a) For the purposes of this
666 section, "child" includes any person for whom an order or judgment
667 for child support has been entered in this or another state.

668 (b) Even if a trust contains a spendthrift provision, a beneficiary's
669 child who has a judgment or court order against the beneficiary for
670 support or maintenance may obtain from a court an order attaching
671 present or future distributions to or for the benefit of the beneficiary,
672 but only if distributions can be made for the beneficiary's support
673 under the terms of the trust.

674 Sec. 41. (NEW) (*Effective January 1, 2007*) (a) For the purposes of this
675 section, "child" includes any person for whom an order or judgment
676 for child support has been entered in this or another state.

677 (b) Except as otherwise provided in subsection (c) of this section,
678 whether or not a trust contains a spendthrift provision, a creditor of a
679 beneficiary may not compel a distribution that is subject to the trustee's
680 discretion, even if: (1) The discretion is expressed in the form of a
681 standard of distribution; or (2) the trustee has abused the discretion.

682 (c) To the extent a trustee has not complied with a standard of
683 distribution or has abused a discretion: (1) A distribution may be
684 ordered by the court to satisfy a judgment or court order against the
685 beneficiary for support or maintenance of the beneficiary's child; and
686 (2) the court may direct the trustee to pay to the child only such
687 amount as is equitable under the circumstances, but in no event more

688 than the amount the trustee would have been required to distribute to
689 or for the benefit of the beneficiary had the trustee complied with the
690 standard or not abused the discretion.

691 (d) This section does not limit the right of a beneficiary to maintain a
692 judicial proceeding against a trustee for an abuse of discretion or
693 failure to comply with a standard for distribution.

694 (e) With respect to the powers set forth in section 45 of this act, the
695 provisions of this section shall apply even though the beneficiary is the
696 sole trustee or a cotrustee of the trust.

697 Sec. 42. (NEW) (Effective January 1, 2007) (a) Whether or not the
698 terms of a trust contain a spendthrift provision, the following rules
699 apply:

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

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

708 (3) With respect to a trust created pursuant to 42 USC
709 1396p(d)(4)(A) or (C), as from time to time amended, the court may
710 limit the award to a creditor of the settlor under subdivision (1) or (2)
711 of this subsection to such relief as is appropriate under the
712 circumstances, considering, among any other factors determined to be
713 appropriate by the court, the supplemental needs of the beneficiary.

714 (4) After the death of a settlor, and subject to the settlor's right to
715 direct the source from which liabilities will be paid, except as
716 otherwise provided in section 45a-472 of the general statutes, the
717 property of a trust that was revocable at the settlor's death is subject to

718 claims of the settlor's creditors, costs of administration of the settlor's
719 estate, the expenses of the settlor's funeral and disposal of remains,
720 and the allowance to a surviving spouse or family as provided in
721 section 45a-320 of the general statutes to the extent the settlor's probate
722 estate is inadequate to satisfy such claims, costs, expenses and
723 allowance.

724 (b) With respect to claims, expenses and taxes in connection with
725 the settlement of a trust that was revocable at the settlor's death, the
726 following rules apply:

727 (1) Any claim of a creditor that would be barred against the
728 fiduciary of a decedent's estate, the estate of the decedent or any
729 creditor or beneficiary of the decedent's estate, shall be barred against
730 the trustee, the trust property and the creditors and beneficiaries of the
731 trust.

732 (2) The trustee may use the optional notice procedures set forth in
733 section 45a-357 of the general statutes and, upon the trustee's
734 compliance with such procedures, any person notified in accordance
735 with said section shall be forever barred from asserting or recovering
736 on any claim such person may have from the trustee, the trust
737 property or any creditor or beneficiary of the trust.

738 (3) The provisions of section 45a-365 of the general statutes
739 concerning the order of payment of claims, expenses and taxes shall
740 apply to the settlement of the revocable trust.

741 (4) If any claim is not presented in writing to the fiduciary of the
742 settlor's estate or the trustee within one hundred fifty days from the
743 date of the appointment of the first fiduciary of the settlor's estate or, if
744 no fiduciary is so appointed, within one hundred fifty days from the
745 date of the settlor's death, no trustee shall be chargeable for any assets
746 that a trustee may have paid or distributed in good faith in satisfaction
747 of any lawful claims, expenses or taxes or to any beneficiary before
748 such claim was presented. A payment or distribution of assets by a

749 trustee shall be deemed to have been made in good faith unless the
750 creditor can prove that the trustee had actual knowledge of such claim
751 at the time of such payment or distribution. Such one-hundred-fifty-
752 day period shall not be interrupted or affected by the death,
753 resignation or removal of a trustee, except that the time during which
754 there is no fiduciary in office shall not be counted as part of such
755 period.

756 (c) For the purposes of this section:

757 (1) Except as otherwise provided in section 45 of this act, during the
758 period the power may be exercised, the holder of a power of
759 withdrawal is treated in the same manner as the settlor of a revocable
760 trust to the extent of the property subject to the power; and

761 (2) Upon the lapse, release or waiver of the power, the holder is
762 treated as the settlor of the trust only to the extent the value of the
763 property affected by the lapse, release or waiver exceeds the greater of
764 the amount specified in Section 2041(b)(2) or 2514(e) of the Internal
765 Revenue Code of 1986, and the regulations thereunder, or Section
766 2503(b) of the Internal Revenue Code of 1986, and the regulations
767 thereunder, in each case as in effect on the effective date of this section.

768 Sec. 43. (NEW) (Effective January 1, 2007) Except as otherwise
769 provided in section 45 of this act, whether or not a trust contains a
770 spendthrift provision, a creditor or assignee of a beneficiary may reach
771 a mandatory distribution of income or principal, including a
772 distribution upon termination of the trust, if the trustee has not made
773 the distribution to the beneficiary within a reasonable time after the
774 mandated distribution date.

775 Sec. 44. (NEW) (Effective January 1, 2007) Trust property is not
776 subject to personal obligations of the trustee, even if the trustee
777 becomes insolvent or bankrupt.

778 Sec. 45 (NEW) (Effective January 1, 2007) (a) For all purposes under

779 sections 38 to 45, inclusive, of this act, whether or not a trust contains a
780 spendthrift provision, a creditor of a beneficiary, other than the settlor
781 if the settlor is a beneficiary of the trust, may not attach or compel a
782 distribution of property that is subject:

783 (1) To a power of withdrawal held by the beneficiary if the value of
784 the property subject to the power does not exceed the greater of the
785 amount specified in Section 2041(b)(2) or 2514(e) of the Internal
786 Revenue Code of 1986, and the regulations thereunder, or Section
787 2503(b) of the Internal Revenue Code of 1986, and the regulations
788 thereunder, in each case as in effect on the effective date of this section;

789 (2) Except as otherwise provided in subsection (c) of section 41 of
790 this act, to a power, whether mandatory or discretionary, held by the
791 trustee of the trust, including a power held by the beneficiary as the
792 sole trustee or a cotrustee of the trust, to make distributions to or for
793 the benefit of the beneficiary, if the power is exercisable by the trustee
794 only in accordance with an ascertainable standard relating to such
795 beneficiary's individual health, education, support or maintenance
796 within the meaning of Section 2041(b)(1)(A) or Section 2514(c)(1) of the
797 Internal Revenue Code of 1986, and the regulations thereunder, as in
798 effect on the effective date of this section; or

799 (3) To a power, whether mandatory or discretionary, held by the
800 trustee of the trust, including a power held by the beneficiary as the
801 sole trustee or a cotrustee of the trust, to make distributions to or for
802 the benefit of a person who the beneficiary has an obligation to
803 support, if the power is exercisable by the trustee only in accordance
804 with an ascertainable standard relating to such person's individual
805 health, education, support or maintenance within the meaning of
806 Section 2041(b)(1)(A) or Section 2514(c)(1) of the Internal Revenue
807 Code of 1986, and the regulations thereunder, as in effect on the
808 effective date of this section.

809 (b) A beneficiary holding a power set forth in subsection (a) of this
810 section shall not, during the period the power may be exercised or

811 upon the lapse, release or waiver of the power, be treated as a settlor of
812 the trust.

813 Sec. 46. (NEW) (Effective January 1, 2007) The capacity required to
814 create, amend, revoke or add property to a revocable trust, or to direct
815 the actions of the trustee of a revocable trust, is the same as that
816 required to make a will.

817 Sec. 47. (NEW) (Effective January 1, 2007) (a) Unless the terms of a
818 trust expressly provide that the trust is irrevocable, the settlor may
819 revoke or amend the trust. This subsection does not apply to a trust
820 created under an instrument executed before the effective date of this
821 section.

822 (b) If a revocable trust is created or funded by more than one settlor:
823 (1) To the extent the trust consists of community property, the trust
824 may be revoked by either spouse acting alone, but may be amended
825 only by joint action of both spouses; and (2) to the extent the trust
826 consists of property other than community property, each settlor may
827 revoke or amend the trust with regard to the portion of the trust
828 property attributable to such settlor's contribution.

829 (c) (1) The settlor may revoke or amend a revocable trust by
830 substantial compliance with a method provided in the terms of the
831 trust.

832 (2) If the terms of the trust do not provide a method, or the method
833 provided in the terms is not expressly made exclusive, the settlor may
834 revoke or amend a revocable trust by (A) executing a later will or
835 codicil that has been admitted to probate and that expressly refers to
836 the trust or expressly devises specifically identified items of real or
837 personal property that would otherwise have passed according to the
838 terms of the trust, or (B) any other method manifesting clear and
839 convincing evidence of the settlor's intent, provided (i) a written
840 revocable trust may only be amended by a later written instrument,
841 and (ii) a written revocable trust may only be revoked by a later

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842 written instrument or by the burning, cancellation, tearing or
843 obliteration of the revocable trust by the settlor or by some person in
844 the settlor's presence and at the settlor's direction.

845 (d) Upon revocation of a revocable trust, the trustee shall deliver the
846 trust property as the settlor directs.

847 (e) A settlor's powers with respect to revocation, amendment or
848 distribution of trust property may be exercised by an agent under a
849 power of attorney only to the extent expressly authorized by the terms
850 of the trust or the power of attorney.

851 (f) Unless expressly prohibited by the terms of the trust, a
852 conservator of the settlor may exercise a settlor's powers with respect
853 to revocation, amendment or distribution of trust property with the
854 approval of the court supervising the conservatorship.

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

859 (h) A trust created pursuant to 42 USC 1396p(d)(4), as from time to
860 time amended, is irrevocable if the terms of the trust prohibit the
861 settlor from revoking it, even if the settlor's estate or the settlor's heirs
862 at law are named as the remainder beneficiary of the trust upon the
863 settlor's death.

864 Sec. 48. (NEW) (*Effective January 1, 2007*) (a) While a trust is
865 revocable and the settlor has capacity to revoke the trust, rights of the
866 beneficiaries are subject to the control of, and the duties of the trustee
867 are owed exclusively to, the settlor.

868 (b) If a revocable trust has more than one settlor, the duties of the
869 trustee are owed to all of the settlors having capacity to revoke the
870 trust.

871 (c) During the period the power may be exercised, the holder of a
872 power of withdrawal has the rights of a settlor of a revocable trust
873 under this section to the extent of the property subject to the power.

874 Sec. 49. (NEW) (*Effective January 1, 2007*) (a) A person may
875 commence a judicial proceeding to contest the validity of a trust that
876 was revocable at the settlor's death within the earlier of:

877 (1) Two years after the settlor's death; or

878 (2) One hundred fifty days after the trustee sent the person a copy of
879 the trust instrument and a notice informing the person of the trust's
880 existence, of the trustee's name and address, and of the time allowed
881 for commencing a proceeding. The trustee shall have the right to
882 provide the documentation and information set forth in this
883 subdivision to (A) all persons who would be entitled to notice of the
884 application for probate of a will or administration of an intestate estate
885 or to notice of the admission of a will to probate or the granting of
886 letters of administration, and (B) all persons whose interests are, in the
887 opinion of the trustee, adversely affected by the trust.

888 (b) Upon the death of the settlor of a trust that was revocable at the
889 settlor's death, the trustee may proceed to distribute the trust property
890 in accordance with the terms of the trust. The trustee is not subject to
891 liability for doing so unless: (1) The trustee knows of a pending judicial
892 proceeding contesting the validity of the trust; (2) a potential
893 contestant has notified the trustee of a possible judicial proceeding to
894 contest the trust and a judicial proceeding is commenced within sixty
895 days after the contestant sent the notification; or (3) the trustee failed to
896 give notice to the qualified or current beneficiaries in accordance with
897 section 67 of this act.

898 (c) A beneficiary of a trust that is determined to have been invalid is
899 liable to return any distribution received.

900 Sec. 50. (NEW) (*Effective January 1, 2007*) (a) Except as otherwise

901 provided in subsection (c) of this section, a person designated as
 902 trustee accepts the trusteeship: (1) By substantially complying with a
 903 method of acceptance provided in the terms of the trust; (2) if the terms
 904 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
 906 trust property, exercising powers or performing duties as trustee, or
 907 otherwise indicating acceptance of the trusteeship; or (3) in the case of
 908 a testamentary trust, filing an acceptance of trust in the court with
 909 jurisdiction over the trust.

910 (b) A person designated as trustee who has not yet accepted the
 911 trusteeship may reject the trusteeship. A designated trustee who does
 912 not accept the trusteeship within a reasonable time after knowing of
 913 the designation is deemed to have rejected the trusteeship.

914 (c) A person designated as trustee, without accepting the
 915 trusteeship, may: (1) Act to preserve the trust property if, within a
 916 reasonable time after acting, the person sends a rejection of the
 917 trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a
 918 qualified beneficiary; and (2) inspect or investigate trust property to
 919 determine potential liability under state or federal environmental or
 920 other law or for any other purpose.

921 (d) A testamentary trustee that is a foreign corporation shall also
 922 comply with section 45a-206 of the general statutes.

923 Sec. 51. (NEW) (*Effective January 1, 2007*) (a) A trustee shall give
 924 bond to secure performance of the trustee's duties only if the court
 925 finds that a bond is needed to protect the interests of the beneficiaries
 926 or is required by the terms of the trust and the court has not dispensed
 927 with the requirement.

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

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931 Sec. 52. (NEW) (Effective January 1, 2007) (a) Cotrustees who are
932 unable to reach a unanimous decision may act by majority decision.

933 (b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees
934 may act for the trust.

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

940 (d) If a cotrustee is unavailable to perform duties because of
941 absence, illness, disqualification under other law or other temporary
942 incapacity, and prompt action is necessary to achieve the purposes of
943 the trust or to avoid injury to the trust property, the remaining
944 cotrustee or a majority of the remaining cotrustees may act for the
945 trust.

946 (e) A trustee may delegate to a cotrustee the performance of any
947 function other than a function that the terms of the trust expressly
948 require to be performed by the trustees jointly. Unless a delegation
949 was irrevocable, a delegating trustee may revoke a delegation
950 previously made.

951 (f) Except as otherwise provided in subsection (g) of this section, a
952 trustee who does not join in an action of another trustee is not liable for
953 the action.

954 (g) Each trustee shall exercise reasonable care to: (1) Prevent a
955 cotrustee from committing a serious breach of trust; and (2) compel a
956 cotrustee to redress a serious breach of trust.

957 (h) A dissenting trustee who joins in an action at the direction of the
958 majority of the trustees and who notified any cotrustee of the dissent at
959 or before the time of the action is not liable for the action unless the
960 action is a serious breach of trust.

961 Sec. 53. (NEW) (*Effective January 1, 2007*) (a) A vacancy in a
 962 trusteeship occurs if: (1) A person designated as trustee rejects the
 963 trusteeship; (2) a person designated as trustee cannot be identified or
 964 does not exist; (3) a trustee resigns; (4) a trustee is disqualified or
 965 removed; (5) a trustee dies; or (6) a conservator is appointed for an
 966 individual serving as trustee.

967 (b) If one or more cotrustees remain in office, a vacancy in a
 968 trusteeship need not be filled, unless otherwise required by the terms
 969 of the trust. A vacancy in a trusteeship shall be filled if the trust has no
 970 remaining trustee.

971 (c) A vacancy in a trusteeship required to be filled shall be filled in
 972 the following order of priority: (1) By a person designated in the terms
 973 of the trust to act as successor trustee or appointed according to a
 974 procedure specified in such terms; (2) by a person appointed by
 975 unanimous agreement of the qualified beneficiaries; (3) in the case of
 976 an inter vivos charitable trust, by a person selected by the charitable
 977 organizations expressly designated to receive distributions under the
 978 terms of the trust; or (4) by a person appointed by the court.

979 (d) Whether or not a vacancy in a trusteeship exists or is required to
 980 be filled, the court may appoint an additional trustee or special
 981 fiduciary whenever the court considers the appointment necessary for
 982 the administration of the trust.

983 Sec. 54. (NEW) (*Effective January 1, 2007*) (a) A trustee of an inter
 984 vivos trust may resign without court approval upon at least thirty days
 985 notice to either: (1) The qualified beneficiaries, the settlor, if living, and
 986 all cotrustees; or (2) the court.

987 (b) A trustee of a testamentary trust may resign: (1) Without court
 988 approval upon at least thirty days notice to the qualified beneficiaries
 989 and the court; or (2) with the approval of the court.

990 (c) In approving a resignation pursuant to subdivision (2) of

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991 subsection (b) of this section, the court may issue orders and impose
992 conditions reasonably necessary for the protection of the trust
993 property, the beneficiaries and the other trustees, and may issue such
994 other orders as law and equity may require.

995 (d) Any liability of a resigning trustee or of any sureties on such
996 trustee's bond for acts or omissions of such trustee is not discharged or
997 affected by such trustee's resignation.

998 Sec. 55. (NEW) (Effective January 1, 2007) (a) The settlor, a cotrustee
999 or a beneficiary may request the court to remove a trustee, or a trustee
1000 may be removed by the court on its own initiative.

1001 (b) The court may remove a trustee if:

1002 (1) The trustee has committed a serious breach of trust;

1003 (2) Lack of cooperation among cotrustees substantially impairs the
1004 administration of the trust;

1005 (3) Because of unfitness, unwillingness, or persistent failure of the
1006 trustee to administer the trust effectively, the court determines that
1007 removal of the trustee best serves the interests of the beneficiaries; or

1008 (4) The trustee is not an individual appointed by the person who
1009 created the trust and (A) there has been a substantial change of
1010 circumstances or removal is requested by all of the qualified
1011 beneficiaries, (B) the court finds that removal of the trustee best serves
1012 the interests of all of the beneficiaries and is not inconsistent with a
1013 material purpose of the trust, and (C) a suitable cotrustee or successor
1014 trustee is available. A successor corporate fiduciary shall not be
1015 removed in such a manner as to discriminate against state banks or
1016 national banking associations. No consolidated state bank or national
1017 banking association and no receiving state bank or national banking
1018 association may be removed solely because it is a successor fiduciary,
1019 as defined in section 45a-245a of the general statutes.

1020 (c) Pending a final decision on a request to remove a trustee, or in
1021 lieu of or in addition to removing a trustee, the court may order
1022 appropriate relief under subsection (b) of section 72 of this act.

1023 Sec. 56. (NEW) (*Effective January 1, 2007*) (a) Unless a cotrustee
1024 remains in office or the court otherwise orders, and until the trust
1025 property is delivered to a successor trustee or other person entitled to
1026 it, a trustee who has resigned or been removed has the duties of a
1027 trustee and the powers necessary to protect the trust property.

1028 (b) A trustee who has resigned or been removed shall proceed
1029 expeditiously to deliver the trust property within the trustee's
1030 possession to the cotrustee, successor trustee or other person entitled
1031 to it.

1032 Sec. 57. (NEW) (*Effective January 1, 2007*) (a) If the terms of a trust do
1033 not specify the trustee's compensation, a trustee is entitled to
1034 compensation that is reasonable under the circumstances.

1035 (b) If the terms of a trust specify the trustee's compensation, the
1036 trustee is entitled to be compensated as specified, but the court may
1037 allow more or less compensation if: (1) The duties of the trustee are
1038 substantially different from those contemplated when the trust was
1039 created; or (2) the compensation specified by the terms of the trust
1040 would be unreasonably low or high.

1041 Sec. 58. (NEW) (*Effective January 1, 2007*) (a) A trustee is entitled to
1042 be reimbursed out of the trust property, with interest as appropriate,
1043 for: (1) Expenses that were properly incurred in the defense or
1044 administration of the trust, unless the trustee is determined to have
1045 committed a breach of trust; and (2) to the extent necessary to prevent
1046 unjust enrichment of the trust, expenses that were not properly
1047 incurred in the administration of the trust.

1048 (b) An advance by the trustee of money for the protection of the
1049 trust gives rise to a lien against trust property to secure reimbursement

1050 with reasonable interest.

1051 Sec. 59. (NEW) (Effective January 1, 2007) Upon acceptance of a
1052 trusteeship, the trustee shall administer the trust in good faith, in
1053 accordance with its terms and purposes, the intentions of the settlor
1054 and the interests of the beneficiaries, and in accordance with sections 1
1055 to 86, inclusive, of this act.

1056 Sec. 60. (NEW) (Effective January 1, 2007) (a) A trustee shall invest
1057 and manage the trust assets solely in the interests of the beneficiaries.

1058 (b) Subject to the rights of persons dealing with or assisting the
1059 trustee as provided in section 82 of this act, a sale, encumbrance or
1060 other transaction involving the investment or management of trust
1061 property entered into by the trustee for the trustee's own personal
1062 account or which is otherwise affected by a conflict between the
1063 trustee's fiduciary and personal interests is voidable by a beneficiary
1064 affected by the transaction unless: (1) The transaction was authorized
1065 by the terms of the trust; (2) the transaction was approved by the court;
1066 (3) the beneficiary did not commence a judicial proceeding within the
1067 time allowed by section 75 of this act; (4) the beneficiary consented to
1068 the trustee's conduct, ratified the transaction or released the trustee as
1069 provided in section 79 of this act; or (5) the transaction involves a
1070 contract entered into or claim acquired by the trustee before the person
1071 became or contemplated becoming trustee.

1072 (c) A sale, encumbrance or other transaction involving the
1073 investment or management of trust property is presumed to be
1074 affected by a conflict between personal and fiduciary interests if it is
1075 entered into by the trustee with: (1) The trustee's spouse; (2) the
1076 trustee's descendants, sibling, parents or their spouses; (3) an agent or
1077 attorney of the trustee; or (4) a corporation or other person or
1078 enterprise in which the trustee, or a person that owns a significant
1079 interest in the trustee, has an interest that might affect the trustee's best
1080 judgment.

1081 (d) A transaction between a trustee and a beneficiary that does not
1082 concern trust property but that occurs during the existence of the trust
1083 or while the trustee retains significant influence over the beneficiary
1084 and from which the trustee obtains an advantage is voidable by the
1085 beneficiary unless the trustee establishes that the transaction was fair
1086 to the beneficiary.

1087 (e) A transaction not concerning trust property in which the trustee
1088 engages in the trustee's individual capacity involves a conflict between
1089 personal and fiduciary interests if the transaction concerns an
1090 opportunity properly belonging to the trust.

1091 (f) (1) The following transactions are not presumed to be affected by
1092 a conflict of interest between a trustee's personal and fiduciary
1093 interests, provided the transaction and any investment made pursuant
1094 to the transaction complies with the Connecticut Uniform Prudent
1095 Investor Act, sections 45a-541 to 45a-541i, inclusive, of the general
1096 statutes: (A) An investment by a trustee in securities of an investment
1097 company or investment trust to which the trustee, or its affiliate,
1098 provides services in a capacity other than as trustee; (B) an investment
1099 by a trustee in an insurance contract purchased from an insurance
1100 agency owned by, or affiliated with, the trustee or its affiliate; (C) the
1101 placing of securities transactions by a trustee through a securities
1102 broker that is a part of the same company as the trustee, is owned by
1103 the trustee or is affiliated with the trustee.

1104 (2) A trustee may be compensated for any transaction described in
1105 this subsection out of fees charged to the trust if the trustee, at least
1106 annually, notifies the persons entitled under section 67 of this act to
1107 receive a copy of the trustee's annual report of the rate and method by
1108 which the compensation was determined.

1109 (g) In voting shares of stock or in exercising powers of control over
1110 similar interests in other forms of enterprise, the trustee shall act in the
1111 best interests of the beneficiaries. If the trust is the sole owner of a
1112 corporation or other form of enterprise, the trustee shall elect or

1113 appoint directors or other managers who will manage the corporation
1114 or enterprise in the best interests of the beneficiaries.

1115 (h) This section does not preclude the following transactions, if fair
1116 to the beneficiaries: (1) An agreement between a trustee and a
1117 beneficiary relating to the appointment or compensation of the trustee;
1118 (2) payment of reasonable compensation to the trustee; (3) a
1119 transaction between a trust and another trust, decedent's estate or
1120 conservatorship of which the trustee is a fiduciary or in which a
1121 beneficiary has an interest; (4) a deposit of trust money in a regulated
1122 financial service institution operated by the trustee; or (5) an advance
1123 by the trustee of money for the protection of the trust.

1124 (i) The court may appoint a special fiduciary to make a decision
1125 with respect to any proposed transaction that might violate this section
1126 if entered into by the trustee.

1127 Sec. 61. (NEW) (*Effective January 1, 2007*) A trustee shall administer
1128 the trust as a prudent person would, by considering the purposes,
1129 terms, distributional requirements and other circumstances of the
1130 trust. In satisfying this standard, the trustee shall exercise reasonable
1131 care, skill and caution.

1132 Sec. 62. (NEW) (*Effective January 1, 2007*) (a) While a trust is
1133 revocable, the trustee may follow a direction of the settlor that is
1134 contrary to the terms of the trust.

1135 (b) If the terms of a trust confer upon a person other than the settlor
1136 of a revocable trust power to direct certain actions of the trustee, the
1137 trustee shall act in accordance with an exercise of such power unless
1138 the attempted exercise is manifestly contrary to the terms of the trust
1139 or the trustee knows the attempted exercise would constitute a serious
1140 breach of a fiduciary duty that the person holding such power owes to
1141 the beneficiaries of the trust.

1142 (c) The terms of a trust may confer upon a trustee or other person a

1143 power to direct the modification or termination of the trust.

1144 (d) A person, other than a beneficiary, who holds a power to direct
 1145 as specified in subsection (b) or (c) of this section is presumptively a
 1146 fiduciary and is required to act in good faith with regard to the
 1147 purposes of the trust and the interests of the beneficiaries. The holder
 1148 of a power to direct is liable for any loss that results from breach of a
 1149 fiduciary duty.

1150 Sec. 63. (NEW) (*Effective January 1, 2007*) A trustee shall take
 1151 reasonable steps to take control of and protect the trust property.

1152 Sec. 64. (NEW) (*Effective January 1, 2007*) (a) A trustee shall keep
 1153 adequate records of the administration of the trust.

1154 (b) A trustee shall keep trust property separate from the trustee's
 1155 own property.

1156 (c) Except as otherwise provided in subsection (d) of this section, a
 1157 trustee shall cause the trust property to be designated so that the
 1158 interest of the trust, to the extent feasible, appears in records
 1159 maintained by a party other than a trustee or beneficiary.

1160 (d) If the trustee maintains records clearly indicating the respective
 1161 interests, a trustee may invest as a whole the property of two or more
 1162 separate trusts.

1163 Sec. 65. (NEW) (*Effective January 1, 2007*) A trustee shall take
 1164 reasonable steps to enforce claims of the trust and to defend claims
 1165 against the trust.

1166 Sec. 66. (NEW) (*Effective January 1, 2007*) A trustee shall take
 1167 reasonable steps to compel a former trustee or other person to deliver
 1168 trust property to the trustee, and to redress a breach of trust known to
 1169 the trustee to have been committed by a former trustee.

1170 Sec. 67. (NEW) (*Effective January 1, 2007*) (a) Unless, under the

1171 circumstances, disclosure is unreasonable: (1) A trustee shall keep the
1172 current beneficiaries of the trust reasonably informed about the
1173 administration of the trust and of the material facts necessary for them
1174 to protect their interests; and (2) a trustee shall promptly respond to a
1175 qualified beneficiary's request for trustee's reports and other
1176 information reasonably related to the administration of the trust.

1177 (b) A trustee: (1) Upon request of a beneficiary, shall promptly
1178 furnish to the beneficiary a copy of the trust instrument; (2) within
1179 sixty days after accepting a trusteeship, shall notify the current
1180 beneficiaries of the acceptance and of the trustee's name, address and
1181 telephone number; and (3) within sixty days after the date the trustee
1182 acquires knowledge of the creation of an irrevocable trust, or the date
1183 the trustee acquires knowledge that a formerly revocable trust has
1184 become irrevocable, whether by the death of the settlor or otherwise,
1185 shall notify the current beneficiaries of the trust's existence, of the
1186 identity of the settlor or settlors, of the right to request a copy of the
1187 trust instrument and of the right to trustee's reports.

1188 (c) A trustee shall send to the current beneficiaries of the trust, and
1189 to other beneficiaries who request it, at least annually and at the
1190 termination of the trust, a report of the trust property, liabilities,
1191 receipts and disbursements, including the source and amount of the
1192 trustee's compensation, a listing of the trust assets and, if feasible, their
1193 respective market values. Upon a vacancy in a trusteeship, unless a
1194 cotrustee remains in office, a report shall be sent to the current
1195 beneficiaries by the former trustee. An executor, administrator or
1196 conservator may send the current beneficiaries a report on behalf of a
1197 deceased or incapacitated trustee.

1198 (d) A beneficiary may waive the right to trustee's reports or other
1199 information otherwise required to be furnished under this section. A
1200 beneficiary, with respect to future reports and other information, may
1201 withdraw a waiver previously given.

1202 (e) Judicial approval of a trustee's report forecloses claims as to

1203 those given notice of the proceeding as to matters disclosed in the
1204 report.

1205 Sec. 68. (NEW) (Effective January 1, 2007) (a) Notwithstanding the
1206 breadth of discretion granted to a trustee in the terms of the trust,
1207 including the use of such terms as "absolute", "sole" or "uncontrolled",
1208 the trustee shall exercise a discretionary power in good faith and in
1209 accordance with the terms and purposes of the trust, the intentions of
1210 the settlor and the interests of the beneficiaries.

1211 (b) Subject to subsection (d) of this section, and unless the terms of
1212 the trust expressly indicate that a rule in this subsection does not
1213 apply: (1) A person, other than a settlor, who is a beneficiary and
1214 trustee of a trust that confers on the trustee a power to make
1215 discretionary distributions to or for the trustee's personal benefit may
1216 exercise the power only in accordance with an ascertainable standard
1217 relating to the trustee's individual health, education, support or
1218 maintenance within the meaning of Section 2041(b)(1)(A) or 2514(c)(1)
1219 of the Internal Revenue Code of 1986, or any subsequent
1220 corresponding internal revenue code of the United States, as from time
1221 to time amended; and (2) a trustee may not exercise a power to make
1222 discretionary distributions to satisfy a legal obligation of support that
1223 the trustee personally owes another person.

1224 (c) A power to make discretionary distributions, the exercise of
1225 which is limited or prohibited by subsection (b) of this section, may be
1226 exercised by a majority of the remaining trustees whose exercise of
1227 such power is not so limited or prohibited. If the exercise of such
1228 power by all trustees is so limited or prohibited, the court may appoint
1229 a special fiduciary with authority to exercise such power.

1230 (d) Subsection (b) of this section, does not apply to: (1) A power
1231 held by the settlor's spouse who is the trustee of a trust for which a
1232 marital deduction, as defined in Section 2056(b)(5) or 2523(e) of the
1233 Internal Revenue Code of 1986, or any subsequent corresponding
1234 internal revenue code of the United States, as from time to time

1235 amended, was previously allowed; (2) any trust during any period that
1236 the trust may be revoked or amended by its settlor; or (3) a trust, if
1237 contributions to the trust qualify for the annual exclusion under
1238 Section 2503(c) of the Internal Revenue Code of 1986, or any
1239 subsequent corresponding internal revenue code of the United States,
1240 as from time to time amended.

1241 Sec. 69. (NEW) (*Effective January 1, 2007*) (a) A trustee, without
1242 authorization by the court, may exercise: (1) Powers conferred by the
1243 terms of the trust; and (2) except as limited by the terms of the trust,
1244 (A) all powers over the trust property which an unmarried competent
1245 owner has over individually-owned property, (B) any other powers
1246 appropriate to achieve the proper investment, management and
1247 distribution of the trust property, and (C) any other powers conferred
1248 by sections 1 to 86, inclusive, of this act.

1249 (b) The exercise of any power is subject to the fiduciary duties
1250 prescribed by sections 59 to 71, inclusive, of this act.

1251 Sec. 70. (NEW) (*Effective January 1, 2007*) Without limiting the
1252 authority conferred by section 69 of this act, a trustee may:

1253 (1) Collect trust property and accept or reject additions to the trust
1254 property from a settlor or any other person;

1255 (2) Acquire or sell property, for cash or on credit, at public or
1256 private sale;

1257 (3) Exchange, partition or otherwise change the character of trust
1258 property;

1259 (4) Deposit trust money in an account in a regulated financial
1260 service institution;

1261 (5) Borrow money, with or without security, and mortgage or
1262 pledge trust property for a period within or extending beyond the
1263 duration of the trust;

1264 (6) With respect to an interest in a proprietorship, partnership,
 1265 limited liability company, business trust, corporation or other form of
 1266 business or enterprise, continue the business or other enterprise and
 1267 take any action that may be taken by shareholders, members or
 1268 property owners, including merging, dissolving or otherwise changing
 1269 the form of business organization or contributing additional capital;

1270 (7) With respect to stocks or other securities, exercise the rights of an
 1271 absolute owner, including the right to (A) vote or give proxies to vote,
 1272 with or without power of substitution, or enter into or continue a
 1273 voting trust agreement, (B) hold a security in the name of a nominee or
 1274 in other form without disclosure of the trust so that title may pass by
 1275 delivery, (C) pay calls, assessments and other sums chargeable or
 1276 accruing against the securities, and sell or exercise stock subscription
 1277 or conversion rights, and (D) deposit the securities with a depository
 1278 or other regulated financial service institution;

1279 (8) With respect to an interest in real property, construct or make
 1280 ordinary or extraordinary repairs to, alterations to or improvements in
 1281 buildings or other structures, demolish improvements, raze existing or
 1282 erect new party walls or buildings, subdivide or develop land,
 1283 dedicate land to public use or grant public or private easements, and
 1284 make or vacate plats and adjust boundaries;

1285 (9) Enter into a lease for any purpose as lessor or lessee, including a
 1286 lease or other arrangement for exploration and removal of natural
 1287 resources, with or without the option to purchase or renew, for a
 1288 period within or extending beyond the duration of the trust;

1289 (10) Grant an option involving a sale, lease or other disposition of
 1290 trust property or acquire an option for the acquisition of property,
 1291 including an option exercisable beyond the duration of the trust, and
 1292 exercise an option so acquired;

1293 (11) Insure the property of the trust against damage or loss, and
 1294 insure the trustee, the trustee's agents and beneficiaries against liability

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- 1295 arising from the administration of the trust;
- 1296 (12) Abandon or decline to administer property of no value or of
1297 insufficient value to justify its collection or continued administration;
- 1298 (13) With respect to possible liability for violation of environmental
1299 law, (A) inspect or investigate property the trustee holds or has been
1300 asked to hold, or property owned or operated by an organization in
1301 which the trustee holds or has been asked to hold an interest, for the
1302 purpose of determining the application of environmental law with
1303 respect to the property, (B) take action to prevent, abate or otherwise
1304 remedy any actual or potential violation of any environmental law
1305 affecting property held directly or indirectly by the trustee, whether
1306 taken before or after the assertion of a claim or the initiation of
1307 governmental enforcement, (C) decline to accept property into trust or
1308 disclaim any power with respect to property that is or may be
1309 burdened with liability for violation of environmental law, (D)
1310 compromise claims against the trust which may be asserted for an
1311 alleged violation of environmental law, and (E) pay the expense of any
1312 inspection, review, abatement or remedial action to comply with
1313 environmental law;
- 1314 (14) Pay or contest any claim, settle a claim by or against the trust,
1315 and release, in whole or in part, a claim belonging to the trust;
- 1316 (15) Pay taxes, assessments, compensation of the trustee and of
1317 employees and agents of the trust, and other expenses incurred in the
1318 administration of the trust;
- 1319 (16) Exercise elections with respect to federal, state and local taxes;
- 1320 (17) Select a mode of payment under any employee benefit or
1321 retirement plan, annuity or life insurance payable to the trustee,
1322 exercise rights thereunder, including exercise of the right to
1323 indemnification for expenses and against liabilities, and take
1324 appropriate action to collect the proceeds;

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1325 (18) Make loans out of trust property, including loans to a
1326 beneficiary on terms and conditions the trustee considers to be fair and
1327 reasonable under the circumstances, with the trustee having a lien on
1328 future distributions for repayment of such loans;

1329 (19) Pledge trust property to guarantee loans made by others to the
1330 beneficiary;

1331 (20) Appoint a trustee to act in another jurisdiction with respect to
1332 trust property located in the other jurisdiction, confer upon such
1333 appointed trustee all of the powers and duties of the appointing
1334 trustee, require that such appointed trustee furnish security, and
1335 remove any trustee so appointed;

1336 (21) Pay an amount distributable to a beneficiary who is under a
1337 legal disability or who the trustee reasonably believes is incapacitated,
1338 by: (A) Paying it directly to the beneficiary or applying it for the
1339 beneficiary's benefit; (B) paying it to the beneficiary's conservator; (C)
1340 paying it to the beneficiary's custodian under the Uniform Transfers to
1341 Minors Act or to the beneficiary's custodial trustee under the Uniform
1342 Custodial Trust Act, and, for such purpose, creating a custodianship or
1343 custodial trust; (D) if the trustee does not know of a conservator,
1344 custodian or custodial trustee, paying it to an adult relative or other
1345 person having legal or physical care or custody of the beneficiary, to be
1346 expended on the beneficiary's behalf; or (E) managing it as a separate
1347 fund on the beneficiary's behalf, subject to the beneficiary's continuing
1348 right to withdraw the distribution;

1349 (22) On distribution of trust property or the division or termination
1350 of a trust, make distributions in divided or undivided interests,
1351 allocate particular assets in proportionate or disproportionate shares,
1352 value the trust property for such purposes and adjust for resulting
1353 differences in valuation;

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

1356 alternative dispute resolution;

1357 (24) Prosecute or defend an action, claim or judicial proceeding in
1358 any jurisdiction to protect trust property and the trustee in the
1359 performance of the trustee's duties;

1360 (25) Sign and deliver contracts and other instruments that are useful
1361 to achieve or facilitate the exercise of the trustee's powers; and

1362 (26) On termination of the trust, exercise the powers appropriate to
1363 wind up the administration of the trust and distribute the trust
1364 property to the persons entitled to it.

1365 Sec. 71. (NEW) (Effective January 1, 2007) (a) Upon termination or
1366 partial termination of a trust, the trustee of an inter vivos trust may
1367 send to the beneficiaries a proposal for distribution. The right of any
1368 beneficiary to object to the proposed distribution terminates if the
1369 beneficiary does not notify the trustee of an objection not later than
1370 thirty days after the proposal was sent, but only if the proposal
1371 informed the beneficiary of the right to object and of the time allowed
1372 for objection.

1373 (b) Upon the occurrence of an event terminating or partially
1374 terminating a trust, the trustee shall proceed expeditiously to
1375 distribute the trust property to the persons entitled to it, subject to the
1376 right of the trustee to retain a reasonable reserve for the payment of
1377 debts, expenses and taxes.

1378 (c) A release by a beneficiary of a trustee from liability for breach of
1379 trust is invalid to the extent: (1) It was induced by improper conduct of
1380 the trustee; or (2) the beneficiary, at the time of the release, did not
1381 know of the beneficiary's rights or of the material facts relating to the
1382 breach.

1383 Sec. 72. (NEW) (Effective January 1, 2007) (a) A violation by a trustee
1384 of a duty the trustee owes to a beneficiary is a breach of trust.

1385 (b) To remedy a breach of trust that has occurred or may occur, the
 1386 court may: (1) Compel the trustee to perform the trustee's duties; (2)
 1387 enjoin the trustee from committing a breach of trust; (3) compel the
 1388 trustee to redress a breach of trust by paying money, restoring
 1389 property or other means; (4) order a trustee to account; (5) appoint a
 1390 special fiduciary to take possession of the trust property and
 1391 administer the trust; (6) suspend the trustee; (7) remove the trustee as
 1392 provided in section 55 of this act; (8) reduce or deny compensation to
 1393 the trustee; (9) subject to the provisions of section 82 of this act, void an
 1394 act of the trustee, impose a lien or a constructive trust on trust
 1395 property, or trace trust property wrongfully disposed of and recover
 1396 the property or its proceeds; or (10) order any other appropriate relief.

1397 Sec. 73. (NEW) (Effective January 1, 2007) (a) A trustee who commits
 1398 a breach of trust is liable to the beneficiaries affected for the greater of:
 1399 (1) The amount required to restore the value of the trust property and
 1400 trust distributions to what they would have been had the breach not
 1401 occurred; or (2) the profit the trustee made by reason of the breach.

1402 (b) Except as otherwise provided in this subsection, if more than one
 1403 trustee is liable to the beneficiaries for a breach of trust, a trustee is
 1404 entitled to contribution from the other trustee or trustees. A trustee is
 1405 not entitled to contribution if the trustee was substantially more at
 1406 fault than another trustee or if the trustee committed the breach of
 1407 trust in bad faith or with reckless indifference to the purposes of the
 1408 trust or the interests of the beneficiaries. A trustee who received a
 1409 benefit from the breach of trust is not entitled to contribution from
 1410 another trustee to the extent of the benefit received.

1411 Sec. 74. (NEW) (Effective January 1, 2007) (a) A trustee is accountable
 1412 to an affected beneficiary for any profit made by the trustee arising
 1413 from the administration of the trust, even absent a breach of trust.

1414 (b) Absent a breach of trust, a trustee is not liable to a beneficiary for
 1415 a loss or depreciation in the value of trust property or for not having
 1416 made a profit.

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1417 Sec. 75. (NEW) (*Effective January 1, 2007*) (a) A beneficiary may not
1418 commence a proceeding against a trustee for breach of trust more than
1419 one year after the date the beneficiary or a representative of the
1420 beneficiary was sent a report that adequately disclosed the existence of
1421 a potential claim for breach of trust and informed the beneficiary of the
1422 time allowed for commencing a proceeding.

1423 (b) A report adequately discloses the existence of a potential claim
1424 for breach of trust if it provides sufficient information so that the
1425 beneficiary or representative knows of the potential claim or should
1426 have inquired into its existence.

1427 (c) If subsection (a) of this section does not apply, a judicial
1428 proceeding by a beneficiary against a trustee for breach of trust shall
1429 be commenced not later than six years after the first to occur of: (1) The
1430 removal or resignation of the trustee; (2) the termination of the
1431 beneficiary's interest in the trust; or (3) the termination of the trust.

1432 Sec. 76. (NEW) (*Effective January 1, 2007*) A trustee who acts in
1433 reasonable reliance on the terms of the trust as expressed in the trust
1434 instrument is not liable to a beneficiary for a breach of trust to the
1435 extent the breach resulted from the reliance.

1436 Sec. 77. (NEW) (*Effective January 1, 2007*) If the happening of an
1437 event, including marriage, divorce, performance of educational
1438 requirements or death, affects the administration or distribution of a
1439 trust, a trustee who has exercised reasonable care to ascertain the
1440 happening of the event is not liable for a loss resulting from the
1441 trustee's lack of knowledge.

1442 Sec. 78. (NEW) (*Effective January 1, 2007*) (a) A term of a trust
1443 relieving a trustee of liability for breach of trust is unenforceable to the
1444 extent that it: (1) Relieves the trustee of liability for breach of trust
1445 committed in bad faith or with reckless indifference to the purposes of
1446 the trust or the interests of the beneficiaries; or (2) was inserted as the
1447 result of an abuse by the trustee of a fiduciary or confidential

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1448 relationship to the settlor.

1449 (b) Except for terms intended to provide protection for carrying out
1450 a stated trust purpose, an exculpatory term drafted or caused to be
1451 drafted by the trustee is invalid as an abuse of a fiduciary or
1452 confidential relationship unless the trustee proves that the exculpatory
1453 term is fair under the circumstances and that its existence and contents
1454 were adequately communicated to the settlor.

1455 Sec. 79. (NEW) (*Effective January 1, 2007*) A trustee is not liable to a
1456 beneficiary for breach of trust if the beneficiary consented to the
1457 conduct constituting the breach, released the trustee from liability for
1458 the breach, or ratified the transaction constituting the breach, unless:
1459 (1) The consent, release or ratification of the beneficiary was induced
1460 by improper conduct of the trustee; or (2) at the time of the consent,
1461 release or ratification, the beneficiary did not know of the beneficiary's
1462 rights or of the material facts relating to the breach.

1463 Sec. 80. (NEW) (*Effective January 1, 2007*) (a) Except as otherwise
1464 provided in the contract, a trustee is not personally liable on a contract
1465 properly entered into in the trustee's fiduciary capacity in the course of
1466 administering the trust if the trustee in the contract disclosed the
1467 fiduciary capacity.

1468 (b) Except as otherwise limited by state statute, a trustee is
1469 personally liable for torts committed in the course of administering a
1470 trust, or for obligations arising from ownership or control of trust
1471 property, including liability for violation of environmental law, only if
1472 the trustee is personally at fault.

1473 (c) A claim based on (1) a contract entered into by a trustee in the
1474 trustee's fiduciary capacity, (2) an obligation arising from ownership or
1475 control of trust property, or (3) a tort committed in the course of
1476 administering a trust, may be asserted in a judicial proceeding against
1477 the trustee in the trustee's fiduciary capacity, whether or not the
1478 trustee is personally liable for the claim.

1479 Sec. 81. (NEW) (*Effective January 1, 2007*) (a) Except as otherwise
 1480 provided in subsection (c) of this section, or unless personal liability is
 1481 imposed in the contract, a trustee who holds an interest as a general
 1482 partner in a general or limited partnership is not personally liable on a
 1483 contract entered into by the partnership after the trust's acquisition of
 1484 the interest if the fiduciary capacity was disclosed in the contract or in
 1485 a statement previously filed pursuant to the Uniform Partnership Act,
 1486 sections 34-300 to 34-399, inclusive, of the general statutes, or the
 1487 Uniform Limited Partnership Act, sections 34-9 to 34-38u, inclusive, of
 1488 the general statutes.

1489 (b) Except as otherwise provided in subsection (c) of this section, a
 1490 trustee who holds an interest as a general partner is not personally
 1491 liable for torts committed by the partnership or for obligations arising
 1492 from ownership or control of the interest unless the trustee is
 1493 personally at fault.

1494 (c) The immunity provided by this section does not apply if an
 1495 interest in the partnership is held by the trustee in a capacity other
 1496 than that of trustee or is held by the trustee's spouse or one or more of
 1497 the trustee's descendants, siblings or parents or the spouse of any of
 1498 them.

1499 (d) If the trustee of a revocable trust holds an interest as a general
 1500 partner, the settlor is personally liable for contracts and other
 1501 obligations of the partnership as if the settlor were a general partner.

1502 Sec. 82. (NEW) (*Effective January 1, 2007*) (a) A person other than a
 1503 beneficiary who in good faith assists a trustee, or who in good faith
 1504 and for value deals with a trustee, without knowledge that the trustee
 1505 is exceeding or improperly exercising the trustee's powers, is protected
 1506 from liability as if the trustee properly exercised the power.

1507 (b) A person other than a beneficiary who in good faith deals with a
 1508 trustee is not required to inquire into the extent of the trustee's powers
 1509 or the propriety of their exercise.

1510 (c) A person who in good faith delivers assets to a trustee need not
 1511 ensure their proper application.

1512 (d) A person other than a beneficiary who in good faith assists a
 1513 former trustee, or who in good faith and for value deals with a former
 1514 trustee, without knowledge that the trustee has terminated, is
 1515 protected from liability as if the former trustee were still a trustee.

1516 (e) Comparable protective provisions of other laws relating to
 1517 commercial transactions or transfer of securities by fiduciaries prevail
 1518 over the protection provided by this section.

1519 Sec. 83. (NEW) (*Effective January 1, 2007*) (a) Instead of furnishing a
 1520 copy of the trust instrument to a person other than a beneficiary, the
 1521 trustee may furnish to the person a certification of trust containing the
 1522 following information: (1) That the trust exists and the date the trust
 1523 instrument was executed; (2) the identity of the settlor; (3) the identity
 1524 and address of the currently acting trustee; (4) the powers of the
 1525 trustee; (5) the revocability or irrevocability of the trust and the
 1526 identity of any person holding a power to revoke the trust; (6) the
 1527 authority of cotrustees to sign or otherwise authenticate, and whether
 1528 all or less than all are required in order to exercise powers of the
 1529 trustee; (7) the trust's taxpayer identification number; and (8) the
 1530 manner of taking title to trust property.

1531 (b) A certification of trust may be signed or otherwise authenticated
 1532 by any trustee.

1533 (c) A certification of trust shall state that the trust has not been
 1534 revoked, modified or amended in any manner that would cause the
 1535 representations contained in the certification of trust to be incorrect.

1536 (d) A certification of trust need not contain the dispositive terms of a
 1537 trust.

1538 (e) A recipient of a certification of trust may require the trustee to
 1539 furnish copies of those excerpts from the original trust instrument and

1540 later amendments which designate the trustee and confer upon the
1541 trustee the power to act in the pending transaction.

1542 (f) A person who acts in reliance upon a certification of trust
1543 without knowledge that the representations contained therein are
1544 incorrect is not liable to any person for so acting and may assume
1545 without inquiry the existence of the facts contained in the certification.

1546 (g) A person who in good faith enters into a transaction in reliance
1547 upon a certification of trust may enforce the transaction against the
1548 trust property as if the representations contained in the certification
1549 were correct.

1550 (h) A person making a demand for the trust instrument in addition
1551 to a certification of trust or excerpts is liable for damages if the court
1552 determines that the person did not act in good faith in demanding the
1553 trust instrument.

1554 (i) This section does not limit the right of a person to obtain a copy
1555 of the trust instrument in a judicial proceeding concerning the trust.

1556 Sec. 84. (NEW) (*Effective January 1, 2007*) In applying and construing
1557 the uniform provisions of sections 1 to 86, inclusive, of this act,
1558 consideration must be given to the need to promote uniformity of the
1559 law with respect to the subject matter among states that enact such
1560 uniform provisions.

1561 Sec. 85. (NEW) (*Effective January 1, 2007*) If any provision of sections
1562 1 to 86, inclusive, of this act or its application to any person or
1563 circumstances is held invalid, the invalidity does not affect other
1564 provisions or applications of sections 1 to 86, inclusive, of this act
1565 which can be given effect without the invalid provision or application,
1566 and to this end the provisions of sections 1 to 86, inclusive, of this act
1567 are severable.

1568 Sec. 86. (NEW) (*Effective January 1, 2007*) (a) Except as otherwise
1569 provided in sections 1 to 86, inclusive, of this act, on the effective date

1570 of this section:

1571 (1) Sections 1 to 86, inclusive, of this act apply to all trusts created
 1572 before, on or after the effective date of this section;

1573 (2) Sections 1 to 86, inclusive, of this act apply to all judicial
 1574 proceedings concerning trusts commenced on or after the effective
 1575 date of this section;

1576 (3) Sections 1 to 86, inclusive, of this act apply to judicial
 1577 proceedings concerning trusts commenced before the effective date of
 1578 this section, unless the court finds that application of a particular
 1579 provision of sections 1 to 86, inclusive, of this act would substantially
 1580 interfere with the effective conduct of the judicial proceedings or
 1581 prejudice the rights of the parties, in which case the particular
 1582 provision of sections 1 to 86, inclusive, of this act does not apply and
 1583 the superseded law applies;

1584 (4) Any rule of construction or presumption provided in sections 1
 1585 to 86, inclusive, of this act applies to trust instruments executed before
 1586 the effective date of this section unless there is a clear indication of a
 1587 contrary intent in the terms of the trust;

1588 (5) An act done before the effective date of this section is not
 1589 affected by sections 1 to 86, inclusive, of this act;

1590 (6) The ninety-year period specified in subdivision (1) of section 29
 1591 of this act shall only apply to trusts that become irrevocable on or after
 1592 the effective date of this section;

1593 (7) The provisions of subdivision (4) of subsection (a) of section 42 of
 1594 this act shall only apply to revocable trusts of settlors dying on or after
 1595 the effective date of this section; and

1596 (8) The provisions of subsections (b) and (c) of section 67 of this act,
 1597 shall only apply to trusts that become irrevocable on or after the
 1598 effective date of this section.

1599 (b) If a right is acquired, extinguished or barred upon the expiration
1600 of a prescribed period that has commenced to run under any other
1601 statute before the effective date of this section, such statute continues
1602 to apply to the right even if it has been repealed or superseded.

1603 Sec. 87. Subsection (a) of section 45a-98 of the general statutes is
1604 repealed and the following is substituted in lieu thereof (*Effective*
1605 *January 1, 2007*):

1606 (a) Courts of probate in their respective districts shall have the
1607 power to: (1) [grant] Grant administration of intestate estates of
1608 persons who have died domiciled in their districts and of intestate
1609 estates of persons not domiciled in this state which may be granted as
1610 provided [by] in section 45a-303; (2) admit wills to probate of persons
1611 who have died domiciled in their districts or of nondomiciliaries
1612 whose wills may be proved in their districts as provided in section 45a-
1613 287; (3) except as provided in section 45a-98a or as limited by an
1614 applicable statute of limitations, determine title or rights of possession
1615 and use in and to any real, tangible or intangible property that
1616 constitutes, or may constitute, all or part of any trust, any decedent's
1617 estate, or any estate under control of a guardian or conservator, which
1618 trust or estate is otherwise subject to the jurisdiction of the Probate
1619 Court, including the rights and obligations of any beneficiary of the
1620 trust or estate and including the rights and obligations of any joint
1621 tenant with respect to survivorship property; (4) except as provided in
1622 section 45a-98a, construe the meaning and effect of any will or trust
1623 agreement if a construction is required in connection with the
1624 administration or distribution of a trust or estate otherwise subject to
1625 the jurisdiction of the Probate Court, or, with respect to an inter vivos
1626 trust, if that trust is or could be subject to jurisdiction of the court for
1627 an accounting pursuant to section 45a-175, provided such an
1628 accounting need not be required; (5) except as provided in section 45a-
1629 98a, apply the doctrine of cy pres or approximation; (6) to the extent
1630 provided for in section 45a-175, call executors, administrators, trustees,
1631 guardians, conservators, persons appointed to sell the land of minors,

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1632 and attorneys-in-fact acting under powers of attorney created in
 1633 accordance with section 45a-562, to account concerning the estates
 1634 entrusted to their charge; (7) in trust matters, to take any action
 1635 authorized in subsection (d) of section 12 of this act; and [(7)] (8) make
 1636 any lawful orders or decrees to carry into effect the power and
 1637 jurisdiction conferred upon them by the laws of this state.

1638 Sec. 88. Subsection (c) of section 45a-475 of the general statutes is
 1639 repealed and the following is substituted in lieu thereof (*Effective*
 1640 *January 1, 2007*):

1641 (c) The provisions of section [45a-474] 53 of this act shall not apply
 1642 to the trusts specified in this section.

1643 Sec. 89. Section 45a-482 of the general statutes is repealed and the
 1644 following is substituted in lieu thereof (*Effective January 1, 2007*):

1645 When the facts at the time of distribution from an estate to a trust or
 1646 from a testamentary trust to a successive trust are such that no trust
 1647 would be operative under the terms of the instrument creating such
 1648 trust or successive trust because of the death of the life tenant, or
 1649 because the beneficiary has reached a stipulated age, or if such trust
 1650 would qualify for termination under section [45a-484] 34 of this act, or
 1651 for any other reason, the fiduciary of such estate or prior trust may
 1652 distribute, with the approval of the court of probate having
 1653 jurisdiction, directly from the estate or prior trust to the remaindermen
 1654 of such trust, the corpus of such trust and any income earned during
 1655 the period of estate administration or administration of the prior trust
 1656 and distributable to such remaindermen, without the interposition of
 1657 the establishment of such trust or successive trust. If distribution is
 1658 based on the fact that the trust would qualify for termination under
 1659 section [45a-484] 34 of this act, reasonable notice shall be provided to
 1660 all beneficiaries who are known and in being and who have vested or
 1661 contingent interests in the trust.

1662 Sec. 90. Section 52-321 of the general statutes is repealed and the

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1663 following is substituted in lieu thereof (Effective January 1, 2007):

1664 [Except as provided in sections 52-321a and 52-352b:

1665 (a) If property has been given to trustees to pay over the income to
1666 any person, without provision for accumulation or express
1667 authorization to the trustees to withhold the income, and the income
1668 has not been expressly given for the support of the beneficiary or his
1669 family, the income shall be liable in equity to the claims of all creditors
1670 of the beneficiary.

1671 (b) Any creditor of the beneficiary who has secured a judgment
1672 against the beneficiary may bring an action against him and serve the
1673 trustees with garnishee process, and the court to which the action is
1674 returnable may direct the trustees to pay over the net income derived
1675 from the trust estate to the judgment creditor, as the income may
1676 accrue, until the creditor's debt is satisfied.

1677 (c) The court having jurisdiction over the fund may make such an
1678 order for payment pursuant to subsection (b) when the beneficiary is a
1679 nonresident of this state, as well as when the beneficiary is a resident,
1680 but in the case of a nonresident beneficiary notice shall be given to the
1681 nonresident of the action against him as provided in section 52-87. The
1682 nonresidence of the beneficiary shall not deprive the court of authority
1683 to make such an order.

1684 (d) If any such trust has been expressly provided to be for the
1685 support of the beneficiary or his family, a court of equity having
1686 jurisdiction may make such order regarding the surplus, if any, not
1687 required for the support of the beneficiary or his family, as justice and
1688 equity may require.

1689 (e) The defendant trustee in any such action] In any action brought
1690 by a creditor of a beneficiary of a trust to enforce a judgment against
1691 the beneficiary in which a defendant trustee is served with garnishee
1692 process, the trustee shall be entitled to charge in the administration

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1693 account of the trust such expenses and disbursements as the court to
 1694 which the action is brought determines to be reasonable and proper.

1695 Sec. 91. Sections 45a-473, 45a-474, 45a-477, 45a-484 and 45a-487 to
 1696 45a-487f, inclusive, of the general statutes are repealed. (Effective
 1697 January 1, 2007)

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2007	New section
Sec. 2	January 1, 2007	New section
Sec. 3	January 1, 2007	New section
Sec. 4	January 1, 2007	New section
Sec. 5	January 1, 2007	New section
Sec. 6	January 1, 2007	New section
Sec. 7	January 1, 2007	New section
Sec. 8	January 1, 2007	New section
Sec. 9	January 1, 2007	New section
Sec. 10	January 1, 2007	New section
Sec. 11	January 1, 2007	New section
Sec. 12	January 1, 2007	New section
Sec. 13	January 1, 2007	New section
Sec. 14	January 1, 2007	New section
Sec. 15	January 1, 2007	New section
Sec. 16	January 1, 2007	New section
Sec. 17	January 1, 2007	New section
Sec. 18	January 1, 2007	New section
Sec. 19	January 1, 2007	New section
Sec. 20	January 1, 2007	New section
Sec. 21	January 1, 2007	New section
Sec. 22	January 1, 2007	New section
Sec. 23	January 1, 2007	New section
Sec. 24	January 1, 2007	New section
Sec. 25	January 1, 2007	New section
Sec. 26	January 1, 2007	New section
Sec. 27	January 1, 2007	New section
Sec. 28	January 1, 2007	New section
Sec. 29	January 1, 2007	New section

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Sec. 30	January 1, 2007	New section
Sec. 31	January 1, 2007	New section
Sec. 32	January 1, 2007	New section
Sec. 33	January 1, 2007	New section
Sec. 34	January 1, 2007	New section
Sec. 35	January 1, 2007	New section
Sec. 36	January 1, 2007	New section
Sec. 37	January 1, 2007	New section
Sec. 38	January 1, 2007	New section
Sec. 39	January 1, 2007	New section
Sec. 40	January 1, 2007	New section
Sec. 41	January 1, 2007	New section
Sec. 42	January 1, 2007	New section
Sec. 43	January 1, 2007	New section
Sec. 44	January 1, 2007	New section
Sec. 45	January 1, 2007	New section
Sec. 46	January 1, 2007	New section
Sec. 47	January 1, 2007	New section
Sec. 48	January 1, 2007	New section
Sec. 49	January 1, 2007	New section
Sec. 50	January 1, 2007	New section
Sec. 51	January 1, 2007	New section
Sec. 52	January 1, 2007	New section
Sec. 53	January 1, 2007	New section
Sec. 54	January 1, 2007	New section
Sec. 55	January 1, 2007	New section
Sec. 56	January 1, 2007	New section
Sec. 57	January 1, 2007	New section
Sec. 58	January 1, 2007	New section
Sec. 59	January 1, 2007	New section
Sec. 60	January 1, 2007	New section
Sec. 61	January 1, 2007	New section
Sec. 62	January 1, 2007	New section
Sec. 63	January 1, 2007	New section
Sec. 64	January 1, 2007	New section
Sec. 65	January 1, 2007	New section
Sec. 66	January 1, 2007	New section
Sec. 67	January 1, 2007	New section
Sec. 68	January 1, 2007	New section
Sec. 69	January 1, 2007	New section

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Sec. 70	January 1, 2007	New section
Sec. 71	January 1, 2007	New section
Sec. 72	January 1, 2007	New section
Sec. 73	January 1, 2007	New section
Sec. 74	January 1, 2007	New section
Sec. 75	January 1, 2007	New section
Sec. 76	January 1, 2007	New section
Sec. 77	January 1, 2007	New section
Sec. 78	January 1, 2007	New section
Sec. 79	January 1, 2007	New section
Sec. 80	January 1, 2007	New section
Sec. 81	January 1, 2007	New section
Sec. 82	January 1, 2007	New section
Sec. 83	January 1, 2007	New section
Sec. 84	January 1, 2007	New section
Sec. 85	January 1, 2007	New section
Sec. 86	January 1, 2007	New section
Sec. 87	January 1, 2007	45a-98(a)
Sec. 88	January 1, 2007	45a-475(c)
Sec. 89	January 1, 2007	45a-482
Sec. 90	January 1, 2007	52-321
Sec. 91	January 1, 2007	Repealer section

Statement of Purpose:

To adopt the Connecticut Uniform Trust Code.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



Senate

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General Assembly

File No. 493

February Session, 2006

Substitute Senate Bill No. 429

Senate, April 12, 2006

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT ADOPTING THE CONNECTICUT UNIFORM TRUST CODE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2007*) Sections 1 to 58,
2 inclusive, of this act may be cited as the "Connecticut Uniform Trust
3 Code".

4 Sec. 2. (NEW) (*Effective January 1, 2007*) Sections 1 to 58, inclusive, of
5 this act apply to express trusts, whether testamentary or inter vivos
6 and whether charitable or noncharitable, and trusts created pursuant
7 to a statute, judgment or decree that requires the trust to be
8 administered in the manner of an express trust.

9 Sec. 3. (NEW) (*Effective January 1, 2007*) As used in sections 1 to 58,
10 inclusive, of this act:

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

13 (2) "Beneficiary" means a person that (A) has a present or future
14 beneficial interest in a trust, vested or contingent, or (B) in a capacity
15 other than that of trustee, holds a power of appointment over trust
16 property.

17 (3) "Charitable trust" means a trust, or portion of a trust, created for
18 a charitable purpose described in section 18 of this act.

19 (4) "Conservator" means a person appointed by the court to
20 administer the estate of a minor or adult individual and includes a
21 guardian of the estate of a minor.

22 (5) "Environmental law" means a federal, state or local law, rule,
23 regulation or ordinance relating to protection of the environment.

24 (6) "Guardian" means a person appointed by the court to make
25 decisions regarding the support, care, education, health and welfare of
26 a minor or adult individual and includes a conservator of the person of
27 an adult, but does not include a guardian ad litem.

28 (7) "Inter vivos trust" means any trust that is not a testamentary
29 trust.

30 (8) "Jurisdiction", with respect to a geographic area, includes a state
31 or country.

32 (9) "Person" means an individual, corporation, business trust, estate,
33 trust, partnership, limited liability company, association, joint venture,
34 court, government, governmental subdivision, agency or
35 instrumentality, public corporation or any other legal or commercial
36 entity.

37 (10) "Power of withdrawal" means a presently exercisable general
38 power of appointment other than a power exercisable only upon
39 consent of the trustee or a person holding an adverse interest.

40 (11) "Property" means anything that may be the subject of
41 ownership, whether real or personal and whether legal or equitable, or

42 any interest therein.

43 (12) "Revocable", as applied to a trust, means revocable by the
44 settlor without the consent of the trustee or a person holding an
45 adverse interest.

46 (13) "Settlor" means a person, including a testator, who creates or
47 contributes property to a trust. If more than one person creates or
48 contributes property to a trust, each person is a settlor of the portion of
49 the trust property attributable to such person's contribution, except to
50 the extent another person has the power to revoke or withdraw such
51 portion.

52 (14) "Spendthrift provision" means a term of a trust that restrains
53 both voluntary and involuntary transfer of a beneficiary's interest.

54 (15) "State" means a state of the United States, the District of
55 Columbia, Puerto Rico, the United States Virgin Islands or any
56 territory or insular possession subject to the jurisdiction of the United
57 States, and includes an Indian tribe or band recognized by federal law
58 or formally acknowledged by a state.

59 (16) "Testamentary trust" means a trust created under a will or any
60 other trust created, authorized or approved by order of a probate
61 court.

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

64 (18) "Trustee" includes an original, additional and successor trustee
65 and a cotrustee.

66 Sec. 4. (NEW) (*Effective January 1, 2007*) (a) Subject to subsection (b)
67 of this section, for the purposes of sections 1 to 58, inclusive, of this act,
68 a person has knowledge of a fact if the person (1) has actual
69 knowledge of the fact, (2) has received a notice or notification of the
70 fact, or (3) from all the facts and circumstances known to the person at
71 the time in question, has reason to know the fact.

72 (b) An organization that conducts activities through employees has
73 notice or knowledge of a fact involving a trust only from the time the
74 information was received by an employee having responsibility to act
75 for the trust, or from the time the information would have been
76 brought to the employee's attention if the organization had exercised
77 reasonable diligence. An organization exercises reasonable diligence if
78 it maintains reasonable routines for communicating significant
79 information to the employee having responsibility to act for the trust
80 and there is reasonable compliance with the routines. Reasonable
81 diligence does not require an employee of the organization to
82 communicate information unless the communication is part of the
83 individual's regular duties or the individual knows a matter involving
84 the trust would be materially affected by the information.

85 Sec. 5. (NEW) (*Effective January 1, 2007*) The common law of trusts
86 and principles of equity supplement sections 1 to 58, inclusive, of this
87 act, except to the extent modified by sections 1 to 58, inclusive, of this
88 act or another statute of this state.

89 Sec. 6. (NEW) (*Effective January 1, 2007*) (a) The meaning and effect
90 of the terms of an inter vivos trust are determined by: (1) The law of
91 the jurisdiction designated in the terms of the trust, unless the
92 designation of such jurisdiction's law is contrary to a strong public
93 policy of the jurisdiction having the most significant relationship to the
94 matter at issue; or (2) in the absence of a controlling designation in the
95 terms of the trust, the law of the jurisdiction having the most
96 significant relationship to the matter at issue.

97 (b) The meaning and effect of the terms of a testamentary trust are
98 determined by the law of this state.

99 Sec. 7. (NEW) (*Effective January 1, 2007*) (a) Notice to a person under
100 sections 1 to 58, inclusive, of this act, or the sending of a document to a
101 person under sections 1 to 58, inclusive, of this act, shall be
102 accomplished in a manner reasonably suitable under the circumstances
103 and likely to result in receipt of the notice or document. Permissible
104 methods of notice or for sending a document include first-class mail,

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105 personal delivery, delivery to the person's last-known place of
106 residence or place of business, or a properly directed electronic
107 message, if the person has consented in advance to receive notice by
108 electronic message.

109 (b) Notice otherwise required under sections 1 to 58, inclusive, of
110 this act, or a document otherwise required to be sent under sections 1
111 to 58, inclusive, of this act need not be provided to a person whose
112 identity or location is unknown to and not reasonably ascertainable by
113 the trustee.

114 (c) Notice under sections 1 to 58, inclusive, of this act or the sending
115 of a document under sections 1 to 58, inclusive, of this act may be
116 waived by the person to be notified or to be sent the document.

117 (d) Notice of a judicial proceeding shall be given as provided in any
118 applicable court rules.

119 Sec. 8. (NEW) (*Effective January 1, 2007*) (a) By accepting the
120 trusteeship of a trust having its principal place of administration in this
121 state, or by moving the principal place of administration to this state,
122 the trustee submits personally to the jurisdiction of the courts of this
123 state regarding any matter involving the trust.

124 (b) With respect to their interests in the trust, the beneficiaries of a
125 trust having its principal place of administration in this state are
126 subject to the jurisdiction of the courts of this state regarding any
127 matter involving the trust. By accepting a distribution from such a
128 trust, the recipient submits personally to the jurisdiction of the courts
129 of this state regarding any matter involving the trust.

130 (c) This section does not preclude other methods of obtaining
131 jurisdiction over a trustee, beneficiary or other person receiving
132 property from the trust.

133 Sec. 9. (NEW) (*Effective January 1, 2007*) (a) Notice to a person who
134 may represent and bind another person under sections 9 to 13,
135 inclusive, of this act has the same effect as if notice were given directly

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136 to such other person.

137 (b) The consent of a person who may represent and bind another
138 person under sections 9 to 13, inclusive, of this act is binding on the
139 person represented unless the person represented objects to the
140 representation before the consent would otherwise have become
141 effective.

142 (c) Except as otherwise provided in section 31 of this act, a person
143 who, pursuant to sections 9 to 13, inclusive, of this act may represent a
144 settlor who lacks capacity may receive notice and give a binding
145 consent on the settlor's behalf.

146 (d) Notwithstanding any provision of the general statutes, sections 9
147 to 13, inclusive, of this act shall apply to all judicial proceedings and all
148 nonjudicial settlements, agreements or acts under sections 1 to 58,
149 inclusive, of this act and under any other provisions of the general
150 statutes pertaining to trust matters.

151 (e) For the purposes of this section, "represent" shall not be
152 construed to permit a person who has not been admitted as an
153 attorney pursuant to section 51-80 of the general statutes to serve as
154 legal counsel for any other person in any matter arising under sections
155 1 to 58, inclusive, of this act.

156 Sec. 10. (NEW) (*Effective January 1, 2007*) To the extent there is no
157 conflict of interest between the holder of a power of appointment and
158 the persons represented with respect to the particular question or
159 dispute: (1) The sole holder or all coholders of any power of
160 appointment, whether or not presently exercisable, shall represent the
161 potential appointees; and (2) the sole holder or all coholders of a power
162 of revocation or a general power of appointment, including one in the
163 form of a power of amendment, shall also represent the takers in
164 default of the exercise thereof.

165 Sec. 11. (NEW) (*Effective January 1, 2007*) To the extent there is no
166 conflict of interest between the representative and the person

167 represented or among those being represented with respect to a
 168 particular question or dispute: (1) A conservator may represent and
 169 bind the estate that the conservator controls; (2) a guardian may
 170 represent and bind the ward if a conservator of the ward's estate has
 171 not been appointed; (3) an agent having authority to do so may
 172 represent and bind the principal; (4) a trustee may represent and bind
 173 the beneficiaries of the trust; (5) an executor or administrator of a
 174 decedent's estate may represent and bind persons interested in the
 175 estate; and (6) if a conservator or guardian has not been appointed, a
 176 parent may represent and bind the parent's minor or unborn child.

177 Sec. 12. (NEW) (*Effective January 1, 2007*) Unless otherwise
 178 represented, a minor, an incapacitated or unborn individual, or a
 179 person whose identity or location is unknown and not reasonably
 180 ascertainable, may be represented by and bound by another person
 181 having a substantially identical interest with respect to the particular
 182 question or dispute, but only to the extent there is no conflict of
 183 interest between the representative and the person being represented.

184 Sec. 13. (NEW) (*Effective January 1, 2007*) (a) If the court determines
 185 that an interest is not represented pursuant to sections 9 to 13,
 186 inclusive, of this act, or that the otherwise available representation
 187 might be inadequate, the court may appoint a guardian ad litem to
 188 receive notice, give consent, and otherwise represent, bind and act on
 189 behalf of a minor, an incapacitated or unborn individual, or a person
 190 whose identity or location is unknown. A guardian ad litem may be
 191 appointed to represent several persons or interests.

192 (b) A guardian ad litem may act on behalf of the individual
 193 represented with respect to any matter arising under sections 1 to 58,
 194 inclusive, of this act, whether or not a judicial proceeding concerning
 195 the trust is pending.

196 (c) In making decisions in any matter, a guardian ad litem may
 197 consider general benefit accruing to the living members of the
 198 individual's family.

199 Sec. 14. (NEW) (*Effective January 1, 2007*) A trust may be created by:
200 (1) Transfer of property to another person as trustee during the
201 settlor's lifetime or by will or other disposition taking effect upon the
202 settlor's death; (2) declaration by the owner of property that the owner
203 holds identifiable property as trustee; or (3) exercise of a power of
204 appointment in favor of a trustee.

205 Sec. 15. (NEW) (*Effective January 1, 2007*) A trust is created only if: (1)
206 The settlor has capacity to create a trust; (2) the settlor indicates an
207 intention to create the trust; (3) the trust has a definite beneficiary or is
208 (A) a charitable trust, or (B) a trust for the care of an animal, as
209 provided in section 21 of this act; and (4) the trustee has duties to
210 perform.

211 Sec. 16. (NEW) (*Effective January 1, 2007*) An inter vivos trust is
212 validly created if its creation complies with the law of the jurisdiction
213 in which the trust instrument was executed, or the law of the
214 jurisdiction in which, at the time of creation: (1) The settlor was
215 domiciled, had a place of abode or was a national; (2) a trustee was
216 domiciled or had a place of business; or (3) any trust property was
217 located.

218 Sec. 17. (NEW) (*Effective January 1, 2007*) A trust may be created only
219 to the extent its purposes are lawful, not contrary to public policy and
220 possible to achieve.

221 Sec. 18. (NEW) (*Effective January 1, 2007*) (a) A charitable trust may
222 be created for the relief of poverty, the advancement of education or
223 religion, the promotion of health, governmental or municipal
224 purposes, or other purposes the achievement of which is beneficial to
225 the community.

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

228 Sec. 19. (NEW) (*Effective January 1, 2007*) A trust is void to the extent
229 its creation was induced by fraud, duress or undue influence.

230 Sec. 20. (NEW) (*Effective January 1, 2007*) Except as required by a
 231 statute other than sections 1 to 58, inclusive, of this act, a trust need not
 232 be evidenced by a trust instrument, but the creation of an oral trust
 233 and its terms may be established only by clear and convincing
 234 evidence.

235 Sec. 21. (NEW) (*Effective January 1, 2007*) (a) A trust may be created
 236 to provide for the care of an animal alive during the settlor's lifetime.
 237 The trust terminates upon the death of the animal or, if the trust was
 238 created to provide for the care of more than one animal alive during
 239 the settlor's lifetime, upon the death of the last surviving animal.

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

245 (c) Property of a trust authorized by this section may be applied
 246 only to its intended use, except to the extent the court determines that
 247 the value of the trust property exceeds the amount required for the
 248 intended use. Except as otherwise provided in the terms of the trust,
 249 property not required for the intended use shall be distributed to the
 250 settlor, if then living, otherwise to the settlor's successors in interest.

251 Sec. 22. (NEW) (*Effective January 1, 2007*) To achieve the settlor's tax
 252 objectives, the court may modify the terms of a trust in a manner that
 253 is not contrary to the settlor's probable intention. The court may
 254 provide that the modification has retroactive effect.

255 Sec. 23. (NEW) (*Effective January 1, 2007*) To the extent a beneficiary's
 256 interest is not protected by a spendthrift provision, the court may
 257 authorize a creditor or assignee of the beneficiary to reach the
 258 beneficiary's interest by attachment of present or future distributions
 259 to or for the benefit of the beneficiary or by other means. The court
 260 may limit the award to such relief as is appropriate under the
 261 circumstances.

262 Sec. 24. (NEW) (*Effective January 1, 2007*) (a) A spendthrift provision
263 is valid only if it restrains both voluntary and involuntary transfer of a
264 beneficiary's interest.

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

269 (c) A beneficiary may not transfer an interest in a trust in violation
270 of a valid spendthrift provision and, except as otherwise provided in
271 sections 23 to 29, inclusive, of this act, a creditor or assignee of the
272 beneficiary may not reach the interest or a distribution by the trustee
273 before its receipt by the beneficiary.

274 Sec. 25. (NEW) (*Effective January 1, 2007*) (a) For the purposes of this
275 section, "child" includes any person for whom an order or judgment
276 for child support has been entered in this or another state.

277 (b) Even if a trust contains a spendthrift provision, a beneficiary's
278 child, spouse or former spouse who has a judgment or court order
279 against the beneficiary for support or maintenance, or a judgment
280 creditor who has provided services for the protection of a beneficiary's
281 interest in the trust, may obtain from a court an order attaching present
282 or future distributions to or for the benefit of the beneficiary.

283 (c) A spendthrift provision is unenforceable against a claim of this
284 state or the United States to the extent a statute of this state or federal
285 law so provides.

286 Sec. 26. (NEW) (*Effective January 1, 2007*) (a) For the purposes of this
287 section, "child" includes any person for whom an order or judgment
288 for child support has been entered in this or another state.

289 (b) Except as otherwise provided in subsection (c) of this section,
290 whether or not a trust contains a spendthrift provision, a creditor of a
291 beneficiary may not compel a distribution that is subject to the trustee's
292 discretion, even if: (1) The discretion is expressed in the form of a

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293 standard of distribution; or (2) the trustee has abused the discretion.

294 (c) To the extent a trustee has not complied with a standard of
295 distribution or has abused a discretion: (1) A distribution may be
296 ordered by the court to satisfy a judgment or court order against the
297 beneficiary for support or maintenance of the beneficiary's child,
298 spouse or former spouse; and (2) the court shall direct the trustee to
299 pay to the child, spouse or former spouse such amount as is equitable
300 under the circumstances, but not more than the amount the trustee
301 would have been required to distribute to or for the benefit of the
302 beneficiary had the trustee complied with the standard or not abused
303 the discretion.

304 (d) This section does not limit the right of a beneficiary to maintain a
305 judicial proceeding against a trustee for an abuse of discretion or
306 failure to comply with a standard for distribution.

307 Sec. 27. (NEW) (*Effective January 1, 2007*) (a) Whether or not the
308 terms of a trust contain a spendthrift provision, the following rules
309 apply:

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

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

318 (3) After the death of a settlor, and subject to the settlor's right to
319 direct the source from which liabilities will be paid, except as
320 otherwise provided in section 45a-472 of the general statutes, the
321 property of a trust that was revocable at the settlor's death is subject to
322 claims of the settlor's creditors, costs of administration of the settlor's
323 estate, the expenses of the settlor's funeral and disposal of remains,

324 and the allowance to a surviving spouse or family as provided in
325 section 45a-320 of the general statutes, to the extent the settlor's
326 probate estate is inadequate to satisfy such claims, costs, expenses and
327 allowance.

328 (b) With respect to claims, expenses and taxes in connection with
329 the settlement of a trust that was revocable at the settlor's death, the
330 following rules apply:

331 (1) Any claim of a creditor that would be barred against the
332 fiduciary of a decedent's estate, the estate of the decedent or any
333 creditor or beneficiary of the decedent's estate, shall be barred against
334 the trustee, the trust property and the creditors and beneficiaries of the
335 trust.

336 (2) The trustee may use the optional notice procedures set forth in
337 section 45a-357 of the general statutes and, upon the trustee's
338 compliance with such procedures, any person notified in accordance
339 with said section shall be forever barred from asserting or recovering
340 on any claim such person may have from the trustee, the trust
341 property or any creditor or beneficiary of the trust.

342 (3) The provisions of section 45a-365 of the general statutes
343 concerning the order of payment of claims, expenses and taxes shall
344 apply to the settlement of the revocable trust.

345 (4) If any claim is not presented in writing to the fiduciary of the
346 settlor's estate or the trustee within one hundred fifty days from the
347 date of the appointment of the first fiduciary of the settlor's estate or,
348 no fiduciary is so appointed, within one hundred fifty days from the
349 date of the settlor's death, no trustee shall be chargeable for any assets
350 that a trustee may have paid or distributed in good faith in satisfaction
351 of any lawful claims, expenses or taxes or to any beneficiary before
352 such claim was presented. A payment or distribution of assets by a
353 trustee shall be deemed to have been made in good faith unless the
354 creditor can prove that the trustee had actual knowledge of such claim
355 at the time of such payment or distribution. Such one-hundred-fifty-

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356 day period shall not be interrupted or affected by the death,
357 resignation or removal of a trustee, except that the time during which
358 there is no fiduciary in office shall not be counted as part of such
359 period.

360 (c) For the purposes of this section:

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

365 (2) Upon the lapse, release or waiver of a power of withdrawal, the
366 holder of the power of withdrawal is treated as the settlor of the trust
367 only to the extent the value of the property affected by the lapse,
368 release or waiver exceeds the greater of the amount specified in Section
369 2041(b)(2), 2503(b) or 2514(e) of the Internal Revenue Code of 1986, or
370 any subsequent corresponding internal revenue code of the United
371 States, as from time to time amended.

372 Sec. 28. (NEW) (Effective January 1, 2007) Whether or not a trust
373 contains a spendthrift provision, a creditor or assignee of a beneficiary
374 may reach a mandatory distribution of income or principal, including
375 a distribution upon termination of the trust, if the trustee has not made
376 the distribution to the beneficiary within a reasonable time after the
377 mandated distribution date.

378 Sec. 29. (NEW) (Effective January 1, 2007) Trust property is not
379 subject to personal obligations of the trustee, even if the trustee
380 becomes insolvent or bankrupt.

381 Sec. 30. (NEW) (Effective January 1, 2007) The capacity required to
382 create, amend, revoke or add property to a revocable trust, or to direct
383 the actions of the trustee of a revocable trust, is the same as that
384 required to make a will.

385 Sec. 31. (NEW) (Effective January 1, 2007) (a) Unless the terms of a
386 trust expressly provide that the trust is irrevocable, the settlor may

387 revoke or amend the trust. This subsection does not apply to a trust
388 created under an instrument executed before the effective date of this
389 section.

390 (b) If a revocable trust is created or funded by more than one settlor:
391 (1) To the extent the trust consists of community property, the trust
392 may be revoked by either spouse acting alone, but may be amended
393 only by joint action of both spouses; and (2) to the extent the trust
394 consists of property other than community property, each settlor may
395 revoke or amend the trust with regard to the portion of the trust
396 property attributable to such settlor's contribution.

397 (c) (1) The settlor may revoke or amend a revocable trust by
398 substantial compliance with a method provided in the terms of the
399 trust.

400 (2) If the terms of the trust do not provide a method, or the method
401 provided in the terms is not expressly made exclusive, the settlor may
402 revoke or amend a revocable trust by (A) a later will or codicil that has
403 been admitted to probate and that expressly refers to the trust or
404 expressly devises specifically identified items of real or personal
405 property that would otherwise have passed according to the terms of
406 the trust, or (B) any other method manifesting clear and convincing
407 evidence of the settlor's intent, provided (i) a written revocable trust
408 may only be amended by a later written instrument, and (ii) a written
409 revocable trust may only be revoked by a later written instrument or
410 by the burning, cancellation, tearing or obliteration of the revocable
411 trust by the settlor or by a person in the settlor's presence and at the
412 settlor's direction.

413 (d) Upon revocation of a revocable trust, the trustee shall deliver the
414 trust property as the settlor directs.

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

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419 Sec. 32. (NEW) (Effective January 1, 2007) (a) While a trust is
420 revocable and the settlor is alive, rights of the beneficiaries are subject
421 to the control of, and the duties of the trustee are owed exclusively to,
422 the settlor.

423 (b) If a revocable trust has more than one settlor, the duties of the
424 trustee are owed to all of the settlors having capacity to revoke the
425 trust.

426 (c) During the period a power of withdrawal may be exercised, the
427 holder of the power of withdrawal has the rights of a settlor of a
428 revocable trust under this section to the extent of the property subject
429 to the power.

430 Sec. 33. (NEW) (Effective January 1, 2007) (a) A person designated as
431 trustee accepts the trusteeship: (1) By substantially complying with a
432 method of acceptance provided in the terms of the trust; (2) if the terms
433 of the trust do not provide a method or the method provided in the
434 terms is not expressly made exclusive, by accepting delivery of the
435 trust property, exercising powers or performing duties as trustee, or
436 otherwise indicating acceptance of the trusteeship; or (3) in the case of
437 a testamentary trust, filing an acceptance of trust in the court with
438 jurisdiction over the trust.

439 (b) A person designated as trustee who has not yet accepted the
440 trusteeship may reject the trusteeship. A designated trustee who does
441 not accept the trusteeship within a reasonable time after knowing of
442 the designation is deemed to have rejected the trusteeship.

443 (c) A testamentary trustee that is a foreign corporation shall also
444 comply with section 45a-206 of the general statutes.

445 Sec. 34. (NEW) (Effective January 1, 2007) (a) A trustee shall give
446 bond to secure performance of the trustee's duties only if the court
447 finds that a bond is needed to protect the interests of the beneficiaries
448 or is required by the terms of the trust and the court has not dispensed
449 with the requirement.

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

453 Sec. 35. (NEW) (*Effective January 1, 2007*) (a) Cotrustees who are
454 unable to reach a unanimous decision may act by majority decision.

455 (b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees
456 may act for the trust.

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

462 (d) If a cotrustee is unavailable to perform duties because of
463 absence, illness, disqualification under other law or other temporary
464 incapacity, and prompt action is necessary to achieve the purposes of
465 the trust or to avoid injury to the trust property, the remaining
466 cotrustee or a majority of the remaining cotrustees may act for the
467 trust.

468 (e) A trustee may delegate to a cotrustee the performance of any
469 function other than a function that the terms of the trust expressly
470 require to be performed by the trustees jointly. Unless a delegation
471 was irrevocable, a delegating trustee may revoke a delegation
472 previously made.

473 (f) Except as otherwise provided in subsection (g) of this section, a
474 trustee who does not join in an action of another trustee is not liable for
475 the action.

476 (g) Each trustee shall exercise reasonable care to: (1) Prevent a
477 cotrustee from committing a serious breach of trust; and (2) compel a
478 cotrustee to redress a serious breach of trust.

479 (h) A dissenting trustee who joins in an action at the direction of the

480 majority of the trustees and who notified any cotrustee of the dissent at
481 or before the time of the action is not liable for the action unless the
482 action is a serious breach of trust.

483 Sec. 36. (NEW) (*Effective January 1, 2007*) (a) A vacancy in a
484 trusteeship occurs if: (1) A person designated as trustee rejects the
485 trusteeship; (2) a person designated as trustee cannot be identified or
486 does not exist; (3) a trustee resigns; (4) a trustee is disqualified or
487 removed; (5) a trustee dies; or (6) a conservator is appointed for an
488 individual serving as trustee.

489 (b) If one or more cotrustees remain in office, a vacancy in a
490 trusteeship need not be filled, unless otherwise required by the terms
491 of the trust. A vacancy in a trusteeship shall be filled if the trust has no
492 remaining trustee.

493 Sec. 37. (NEW) (*Effective January 1, 2007*) (a) Unless a cotrustee
494 remains in office or the court otherwise orders, and until the trust
495 property is delivered to a successor trustee or other person entitled to
496 it, a trustee who has resigned or been removed has the duties of a
497 trustee and the powers necessary to protect the trust property.

498 (b) A trustee who has resigned or been removed shall proceed
499 expeditiously to deliver the trust property within the trustee's
500 possession to the cotrustee, successor trustee or other person entitled
501 to it.

502 Sec. 38. (NEW) (*Effective January 1, 2007*) (a) If the terms of a trust do
503 not specify the trustee's compensation, a trustee is entitled to
504 compensation that is reasonable under the circumstances.

505 (b) If the terms of a trust specify the trustee's compensation, the
506 trustee is entitled to be compensated as specified, but the court may
507 allow more or less compensation if: (1) The duties of the trustee are
508 substantially different from those contemplated when the trust was
509 created; or (2) the compensation specified by the terms of the trust
510 would be unreasonably low or high.

511 Sec. 39. (NEW) (*Effective January 1, 2007*) (a) A trustee is entitled to
512 be reimbursed out of the trust property, with interest as appropriate,
513 for: (1) Expenses that were properly incurred in the defense or
514 administration of the trust, unless the trustee is determined to have
515 committed a breach of trust; and (2) to the extent necessary to prevent
516 unjust enrichment of the trust, expenses that were not properly
517 incurred in the administration of the trust.

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

521 Sec. 40. (NEW) (*Effective January 1, 2007*) Upon acceptance of a
522 trusteeship, the trustee shall administer the trust in good faith, in
523 accordance with its terms and purposes, the intentions of the settlor
524 and the interests of the beneficiaries, and in accordance with sections 1
525 to 58, inclusive, of this act.

526 Sec. 41. (NEW) (*Effective January 1, 2007*) A trustee shall administer
527 the trust as a prudent person would, by considering the purposes,
528 terms, distributional requirements and other circumstances of the
529 trust. In satisfying this standard, the trustee shall exercise reasonable
530 care, skill and caution.

531 Sec. 42. (NEW) (*Effective January 1, 2007*) (a) While a trust is
532 revocable, the trustee may follow a direction of the settlor that is
533 contrary to the terms of the trust.

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

541 (c) The terms of a trust may confer upon a trustee or other person a

542 power to direct the modification or termination of the trust.

543 Sec. 43. (NEW) (*Effective January 1, 2007*) A trustee shall take
544 reasonable steps to take control of and protect the trust property.

545 Sec. 44. (NEW) (*Effective January 1, 2007*) (a) A trustee shall keep
546 adequate records of the administration of the trust.

547 (b) A trustee shall keep trust property separate from the trustee's
548 own property.

549 (c) Except as otherwise provided in subsection (d) of this section, a
550 trustee shall cause the trust property to be designated so that the
551 interest of the trust, to the extent feasible, appears in records
552 maintained by a party other than a trustee or beneficiary.

553 (d) If the trustee maintains records clearly indicating the respective
554 interests, a trustee may invest as a whole the property of two or more
555 separate trusts.

556 Sec. 45. (NEW) (*Effective January 1, 2007*) A trustee shall take
557 reasonable steps to enforce claims of the trust and to defend claims
558 against the trust.

559 Sec. 46. (NEW) (*Effective January 1, 2007*) A trustee shall take
560 reasonable steps to compel a former trustee or other person to deliver
561 trust property to the trustee, and to redress a breach of trust known to
562 the trustee to have been committed by a former trustee.

563 Sec. 47. (NEW) (*Effective January 1, 2007*) (a) Notwithstanding the
564 breadth of discretion granted to a trustee in the terms of the trust,
565 including the use of such terms as "absolute", "sole" or "uncontrolled",
566 the trustee shall exercise a discretionary power in good faith and in
567 accordance with the terms and purposes of the trust, the intentions of
568 the settlor and the interests of the beneficiaries.

569 (b) Subject to subsection (d) of this section, and unless the terms of
570 the trust expressly indicate that a rule in this subsection does not

571 apply: (1) A person, other than a settlor, who is a beneficiary and
572 trustee of a trust that confers on the trustee a power to make
573 discretionary distributions to or for the trustee's personal benefit may
574 exercise the power only in accordance with an ascertainable standard
575 relating to the trustee's individual health, education, support or
576 maintenance within the meaning of Section 2041(b)(1)(A) or 2514(c)(1)
577 of the Internal Revenue Code of 1986, or any subsequent
578 corresponding internal revenue code of the United States, as from time
579 to time amended; and (2) a trustee may not exercise a power to make
580 discretionary distributions to satisfy a legal obligation of support that
581 the trustee personally owes another person.

582 (c) A power to make discretionary distributions, the exercise of
583 which is limited or prohibited by subsection (b) of this section, may be
584 exercised by a majority of the remaining trustees whose exercise of
585 such power is not so limited or prohibited. If the exercise of such
586 power by all trustees is so limited or prohibited, the court may appoint
587 a special fiduciary with authority to exercise such power.

588 (d) Subsection (b) of this section, does not apply to: (1) A power
589 held by the settlor's spouse who is the trustee of a trust for which a
590 marital deduction, as defined in Section 2056(b)(5) or 2523(e) of the
591 Internal Revenue Code of 1986, or any subsequent corresponding
592 internal revenue code of the United States, as from time to time
593 amended, was previously allowed; (2) any trust during any period that
594 the trust may be revoked or amended by its settlor; or (3) a trust, if
595 contributions to the trust qualify for the annual exclusion under
596 Section 2503(c) of the Internal Revenue Code of 1986, or any
597 subsequent corresponding internal revenue code of the United States,
598 as from time to time amended.

599 Sec. 48. (NEW) (*Effective January 1, 2007*) Without limiting the
600 authority conferred by section 47 of this act, a trustee may:

601 (1) Collect trust property and accept or reject additions to the trust
602 property from a settlor or any other person;

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603 (2) Acquire or sell property, for cash or on credit, at public or
604 private sale;

605 (3) Exchange, partition or otherwise change the character of trust
606 property;

607 (4) Deposit trust money in an account in a regulated financial
608 service institution;

609 (5) Borrow money, with or without security, and mortgage or
610 pledge trust property for a period within or extending beyond the
611 duration of the trust;

612 (6) With respect to an interest in a proprietorship, partnership,
613 limited liability company, business trust, corporation or other form of
614 business or enterprise, continue the business or other enterprise and
615 take any action that may be taken by shareholders, members or
616 property owners, including merging, dissolving or otherwise changing
617 the form of business organization or contributing additional capital;

618 (7) With respect to stocks or other securities, exercise the rights of an
619 absolute owner, including the right to (A) vote or give proxies to vote,
620 with or without power of substitution, or enter into or continue a
621 voting trust agreement, (B) hold a security in the name of a nominee or
622 in other form without disclosure of the trust so that title may pass by
623 delivery, (C) pay calls, assessments and other sums chargeable or
624 accruing against the securities, and sell or exercise stock subscription
625 or conversion rights, and (D) deposit the securities with a depository
626 or other regulated financial service institution;

627 (8) With respect to an interest in real property, construct or make
628 ordinary or extraordinary repairs to, alterations to or improvements in
629 buildings or other structures, demolish improvements, raze existing or
630 erect new party walls or buildings, subdivide or develop land,
631 dedicate land to public use or grant public or private easements, and
632 make or vacate plats and adjust boundaries;

633 (9) Enter into a lease for any purpose as lessor or lessee, including a

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634 lease or other arrangement for exploration and removal of natural
635 resources, with or without the option to purchase or renew, for a
636 period within or extending beyond the duration of the trust;

637 (10) Grant an option involving a sale, lease or other disposition of
638 trust property or acquire an option for the acquisition of property,
639 including an option exercisable beyond the duration of the trust, and
640 exercise an option so acquired;

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

644 (12) Abandon or decline to administer property of no value or of
645 insufficient value to justify its collection or continued administration;

646 (13) With respect to possible liability for violation of environmental
647 law, (A) inspect or investigate property the trustee holds or has been
648 asked to hold, or property owned or operated by an organization in
649 which the trustee holds or has been asked to hold an interest, for the
650 purpose of determining the application of environmental law with
651 respect to the property, (B) take action to prevent, abate or otherwise
652 remedy any actual or potential violation of any environmental law
653 affecting property held directly or indirectly by the trustee, whether
654 taken before or after the assertion of a claim or the initiation of
655 governmental enforcement, (C) decline to accept property into trust or
656 disclaim any power with respect to property that is or may be
657 burdened with liability for violation of environmental law, (D)
658 compromise claims against the trust which may be asserted for an
659 alleged violation of environmental law, and (E) pay the expense of any
660 inspection, review, abatement or remedial action to comply with
661 environmental law;

662 (14) Pay or contest any claim, settle a claim by or against the trust,
663 and release, in whole or in part, a claim belonging to the trust;

664 (15) Pay taxes, assessments, compensation of the trustee and of

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665 employees and agents of the trust, and other expenses incurred in the
666 administration of the trust;

667 (16) Exercise elections with respect to federal, state and local taxes;

668 (17) Select a mode of payment under any employee benefit or
669 retirement plan, annuity or life insurance payable to the trustee,
670 exercise rights thereunder, including exercise of the right to
671 indemnification for expenses and against liabilities, and take
672 appropriate action to collect the proceeds;

673 (18) Make loans out of trust property, including loans to a
674 beneficiary on terms and conditions the trustee considers to be fair and
675 reasonable under the circumstances, with the trustee having a lien on
676 future distributions for repayment of such loans;

677 (19) Pledge trust property to guarantee loans made by others to the
678 beneficiary;

679 (20) Appoint a trustee to act in another jurisdiction with respect to
680 trust property located in the other jurisdiction, confer upon the
681 appointed trustee all of the powers and duties of the appointing
682 trustee, require that the appointed trustee furnish security, and remove
683 any trustee so appointed;

684 (21) Pay an amount distributable to a beneficiary who is under a
685 legal disability or who the trustee reasonably believes is incapacitated,
686 by: (A) Paying it directly to the beneficiary or applying it for the
687 beneficiary's benefit; (B) paying it to the beneficiary's conservator; (C)
688 paying it to the beneficiary's custodian under the Uniform Transfers to
689 Minors Act or to the beneficiary's custodial trustee under the Uniform
690 Custodial Trust Act, and, for such purpose, creating a custodianship or
691 custodial trust; (D) if the trustee does not know of a conservator,
692 custodian or custodial trustee, paying it to an adult relative or other
693 person having legal or physical care or custody of the beneficiary, to be
694 expended on the beneficiary's behalf; or (E) managing it as a separate
695 fund on the beneficiary's behalf, subject to the beneficiary's continuing

696 right to withdraw the distribution;

697 (22) On distribution of trust property or the division or termination
698 of a trust, make distributions in divided or undivided interests,
699 allocate particular assets in proportionate or disproportionate shares,
700 value the trust property for such purposes and adjust for resulting
701 differences in valuation;

702 (23) Resolve a dispute concerning the interpretation of the trust or
703 its administration by mediation, arbitration or other procedure for
704 alternative dispute resolution;

705 (24) Prosecute or defend an action, claim or judicial proceeding in
706 any jurisdiction to protect trust property and the trustee in the
707 performance of the trustee's duties;

708 (25) Sign and deliver contracts and other instruments that are useful
709 to achieve or facilitate the exercise of the trustee's powers; and

710 (26) On termination of the trust, exercise the powers appropriate to
711 wind up the administration of the trust and distribute the trust
712 property to the persons entitled to it.

713 Sec. 49. (NEW) (*Effective January 1, 2007*) A violation by a trustee of a
714 duty the trustee owes to a beneficiary is a breach of trust.

715 Sec. 50. (NEW) (*Effective January 1, 2007*) Absent a breach of trust, a
716 trustee is not liable to a beneficiary for a loss or depreciation in the
717 value of trust property or for not having made a profit.

718 Sec. 51. (NEW) (*Effective January 1, 2007*) A report adequately
719 discloses the existence of a potential claim for breach of trust if it
720 provides sufficient information so that the beneficiary or
721 representative knows of the potential claim or should have inquired
722 into its existence.

723 Sec. 52. (NEW) (*Effective January 1, 2007*) A trustee who acts in
724 reasonable reliance on the terms of the trust as expressed in the trust

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725 instrument is not liable to a beneficiary for a breach of trust to the
726 extent the breach resulted from the reliance.

727 Sec. 53. (NEW) (*Effective January 1, 2007*) If the happening of an
728 event, including marriage, divorce, performance of educational
729 requirements or death, affects the administration or distribution of a
730 trust, a trustee who has exercised reasonable care to ascertain the
731 happening of the event is not liable for a loss resulting from the
732 trustee's lack of knowledge.

733 Sec. 54. (NEW) (*Effective January 1, 2007*) A trustee is not liable to a
734 beneficiary for breach of trust if the beneficiary consented to the
735 conduct constituting the breach, released the trustee from liability for
736 the breach, or ratified the transaction constituting the breach, unless:
737 (1) The consent, release or ratification of the beneficiary was induced
738 by improper conduct of the trustee; or (2) at the time of the consent,
739 release or ratification, the beneficiary did not know of the beneficiary's
740 rights or of the material facts relating to the breach.

741 Sec. 55. (NEW) (*Effective January 1, 2007*) (a) Except as otherwise
742 provided in the contract, a trustee is not personally liable on a contract
743 properly entered into in the trustee's fiduciary capacity in the course of
744 administering the trust if the trustee in the contract disclosed the
745 fiduciary capacity.

746 (b) A claim based on (1) a contract entered into by a trustee in the
747 trustee's fiduciary capacity, (2) an obligation arising from ownership or
748 control of trust property, or (3) a tort committed in the course of
749 administering a trust, may be asserted in a judicial proceeding against
750 the trustee in the trustee's fiduciary capacity, whether or not the
751 trustee is personally liable for the claim.

752 Sec. 56. (NEW) (*Effective January 1, 2007*) (a) Except as otherwise
753 provided in subsection (c) of this section, or unless personal liability is
754 imposed in the contract, a trustee who holds an interest as a general
755 partner in a general or limited partnership is not personally liable on a
756 contract entered into by the partnership after the trust's acquisition of

757 the interest if the fiduciary capacity was disclosed in the contract or in
758 a statement previously filed pursuant to the Uniform Partnership Act,
759 sections 34-300 to 34-399, inclusive, of the general statutes, or the
760 Uniform Limited Partnership Act, sections 34-9 to 34-38u, inclusive, of
761 the general statutes.

762 (b) Except as otherwise provided in subsection (c) of this section, a
763 trustee who holds an interest as a general partner is not personally
764 liable for torts committed by the partnership or for obligations arising
765 from ownership or control of the interest unless the trustee is
766 personally at fault.

767 (c) The immunity provided by this section does not apply if an
768 interest in the partnership is held by the trustee in a capacity other
769 than that of trustee or is held by the trustee's spouse or one or more of
770 the trustee's descendants, siblings or parents or the spouse of any of
771 them.

772 (d) If the trustee of a revocable trust holds an interest as a general
773 partner, the settlor is personally liable for contracts and other
774 obligations of the partnership as if the settlor were a general partner.

775 Sec. 57. (NEW) (*Effective January 1, 2007*) (a) A person other than a
776 beneficiary who in good faith assists a trustee, or who in good faith
777 and for value deals with a trustee, without knowledge that the trustee
778 is exceeding or improperly exercising the trustee's powers, is protected
779 from liability as if the trustee properly exercised the power.

780 (b) A person other than a beneficiary who in good faith deals with a
781 trustee is not required to inquire into the extent of the trustee's powers
782 or the propriety of their exercise.

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

785 (d) A person other than a beneficiary who in good faith assists a
786 former trustee, or who in good faith and for value deals with a former
787 trustee, without knowledge that the trustee has terminated, is

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788 protected from liability as if the former trustee were still a trustee.

789 (e) Comparable protective provisions of other laws relating to
790 commercial transactions or transfer of securities by fiduciaries prevail
791 over the protection provided by this section.

792 Sec. 58. (NEW) (*Effective January 1, 2007*) (a) Instead of furnishing a
793 copy of the trust instrument to a person other than a beneficiary, the
794 trustee may furnish to the person a certification of trust containing the
795 following information: (1) That the trust exists and the date the trust
796 instrument was executed; (2) the identity of the settlor; (3) the identity
797 and address of the currently acting trustee; (4) the powers of the
798 trustee; (5) the revocability or irrevocability of the trust and the
799 identity of any person holding a power to revoke the trust; (6) the
800 authority of cotrustees to sign or otherwise authenticate, and whether
801 all or less than all are required in order to exercise powers of the
802 trustee; (7) the trust's taxpayer identification number; and (8) the
803 manner of taking title to trust property.

804 (b) A certification of trust may be signed or otherwise authenticated
805 by any trustee.

806 (c) A certification of trust shall state that the trust has not been
807 revoked, modified or amended in any manner that would cause the
808 representations contained in the certification of trust to be incorrect.

809 (d) A certification of trust need not contain the dispositive terms of a
810 trust.

811 (e) A recipient of a certification of trust may require the trustee to
812 furnish copies of those excerpts from the original trust instrument and
813 later amendments which designate the trustee and confer upon the
814 trustee the power to act in the pending transaction.

815 (f) A person who acts in reliance upon a certification of trust
816 without knowledge that the representations contained therein are
817 incorrect is not liable to any person for so acting and may assume
818 without inquiry the existence of the facts contained in the certification.

819 (g) A person who in good faith enters into a transaction in reliance
 820 upon a certification of trust may enforce the transaction against the
 821 trust property as if the representations contained in the certification
 822 were correct.

823 (h) A person making a demand for the trust instrument in addition
 824 to a certification of trust or excerpts is liable for damages if the court
 825 determines that the person did not act in good faith in demanding the
 826 trust instrument.

827 (i) This section does not limit the right of a person to obtain a copy
 828 of the trust instrument in a judicial proceeding concerning the trust.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2007	New section
Sec. 2	January 1, 2007	New section
Sec. 3	January 1, 2007	New section
Sec. 4	January 1, 2007	New section
Sec. 5	January 1, 2007	New section
Sec. 6	January 1, 2007	New section
Sec. 7	January 1, 2007	New section
Sec. 8	January 1, 2007	New section
Sec. 9	January 1, 2007	New section
Sec. 10	January 1, 2007	New section
Sec. 11	January 1, 2007	New section
Sec. 12	January 1, 2007	New section
Sec. 13	January 1, 2007	New section
Sec. 14	January 1, 2007	New section
Sec. 15	January 1, 2007	New section
Sec. 16	January 1, 2007	New section
Sec. 17	January 1, 2007	New section
Sec. 18	January 1, 2007	New section
Sec. 19	January 1, 2007	New section
Sec. 20	January 1, 2007	New section
Sec. 21	January 1, 2007	New section
Sec. 22	January 1, 2007	New section
Sec. 23	January 1, 2007	New section
Sec. 24	January 1, 2007	New section

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Sec. 25	January 1, 2007	New section
Sec. 26	January 1, 2007	New section
Sec. 27	January 1, 2007	New section
Sec. 28	January 1, 2007	New section
Sec. 29	January 1, 2007	New section
Sec. 30	January 1, 2007	New section
Sec. 31	January 1, 2007	New section
Sec. 32	January 1, 2007	New section
Sec. 33	January 1, 2007	New section
Sec. 34	January 1, 2007	New section
Sec. 35	January 1, 2007	New section
Sec. 36	January 1, 2007	New section
Sec. 37	January 1, 2007	New section
Sec. 38	January 1, 2007	New section
Sec. 39	January 1, 2007	New section
Sec. 40	January 1, 2007	New section
Sec. 41	January 1, 2007	New section
Sec. 42	January 1, 2007	New section
Sec. 43	January 1, 2007	New section
Sec. 44	January 1, 2007	New section
Sec. 45	January 1, 2007	New section
Sec. 46	January 1, 2007	New section
Sec. 47	January 1, 2007	New section
Sec. 48	January 1, 2007	New section
Sec. 49	January 1, 2007	New section
Sec. 50	January 1, 2007	New section
Sec. 51	January 1, 2007	New section
Sec. 52	January 1, 2007	New section
Sec. 53	January 1, 2007	New section
Sec. 54	January 1, 2007	New section
Sec. 55	January 1, 2007	New section
Sec. 56	January 1, 2007	New section
Sec. 57	January 1, 2007	New section
Sec. 58	January 1, 2007	New section

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill establishes a number of rules governing trusts which have no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

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OLR Bill Analysis

sSB 429

AN ACT ADOPTING THE CONNECTICUT UNIFORM TRUST CODE.

SUMMARY:

This bill establishes numerous rules regarding creating, modifying, terminating, and enforcing trusts. A trust, generally speaking, is an arrangement in which one person, called the trustee, holds money or other property for the benefit of another person, called the beneficiary, to whom the trustee owes certain duties with regard to safeguarding, managing, and disposing of the trust property and income according to the terms of the trust. The person who creates the trust is called the settlor.

The bill recognizes oral trusts. But it requires that the creation and terms of an oral trust be established by clear and convincing evidence.

The bill authorizes trusts for the care of animals, by allowing the settlor or court to appoint a person to enforce the trust. The trust may benefit only animals alive at the settlor's death. Under current law, trusts for animals are simply honorary ones, because animal beneficiaries cannot enforce them.

It specifies the rights of creditors in connection with spendthrift and discretionary trusts. For example, under the bill, whether or not the trust contains a spendthrift provision, the property of a revocable trust is subject to claims of the settlor's creditors during the settlor's lifetime.

It establishes several rules regarding revocable trusts, including the mental capacity a person needs to establish one, and the right to revoke or amend one.

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The bill establishes numerous rules concerning the position of trustee. These include such areas as how to accept or decline a trusteeship, co-trustees; appointment of a successor trustee, and compensation and reimbursement.

The bill contains numerous rules concerning the duties and powers of trustees. These include the duty to take reasonable steps to take control of and protect the trust property, keep adequate records, enforce trust claims and defend claims against the trust, and exercise discretionary powers in good faith and in accordance with the trust's terms and purposes.

The bill establishes various rules regarding the liability of trustees and the rights of people dealing with a trustee. For example, as long as he did not commit a breach, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit; a trustee is not liable to a beneficiary for a breach of trust for acting in reasonable reliance on the terms of the trust as expressed in the trust instrument; and a trustee who has exercised reasonable care to ascertain the happening of an event that affects the administration or distribution of a trust is not liable for a loss resulting from his lack of knowledge.

EFFECTIVE DATE: January 1, 2007

GENERAL PROVISIONS

§ 2-3 - Scope

This bill applies to express trusts, whether testamentary or inter vivos, charitable or noncharitable, and trusts created by a statute, judgment, or decree that requires the trust to be administered as an express trust. A "testamentary trust" means a trust created under a will and any other trust created, authorized or approved by order of a probate court. An "inter vivos trust" means any trust that is not a testamentary trust. A "charitable trust" means a trust, or portion of a trust, created for a charitable purpose.

§ 4 - Knowledge

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Under the bill, a person has knowledge of a fact if he has: (1) actual knowledge of it, (2) received a notice or notification of it, or (3) reason to know it from all the facts and circumstances he knows at the time in question.

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

§ 5 - Common Law of Trusts; Principles of Equity

The bill specifies that the common law (judge-made law) of trusts and principles of equity supplement it, except to the extent the bill or a statute modify the common law or equity principles.

§ 6 - Governing Law

The bill provides rules to determine the law that will govern the meaning and effect of the terms of a trust.

It requires that the meaning and effect of the terms of an inter vivos trust be determined by (1) the law of the jurisdiction the trust designates unless the designation is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter at issue or (2) in the absence of a controlling designation in the trust, the law of the jurisdiction having the most significant relationship to the matter at issue.

The bill requires Connecticut law to determine the meaning and effect of the terms of a testamentary trust.

§ 7 - Methods and Waiver of Notice

The bill requires that notice to someone, or sending a document to someone, must be accomplished in a manner reasonably suitable under the circumstances and likely to result in its receipt. The bill specifies that permissible methods of notice or sending a document include first-class mail; personal delivery; delivery to the person's last-known place of residence or place of business; or a properly directed electronic message, if the person has consented in advance to receive notice by electronic message.

The bill also specifies that a notice or document the bill requires to be sent does not have to be provided to someone whose identity or location is unknown to, and not reasonably ascertainable by, the trustee.

The bill allows the person to be notified or sent a document to waive his right but notice of a judicial proceeding must be given as provided in any applicable court rules.

§ 8 - JURISDICTION OVER TRUSTEE AND BENEFICIARY

Under the bill, the trustee submits personally to the jurisdiction of Connecticut's courts regarding any matter involving the trust by (1) accepting the trusteeship of a trust having its principal place of administration in this state or (2) moving the principal place of administration to this state.

The bill specifies that beneficiaries of a trust having its principal place of administration in Connecticut are subject to the jurisdiction of Connecticut's courts regarding any trust matter. By accepting a distribution from such a trust, the recipient submits personally to the court's jurisdiction regarding any trust matter.

The bill specifies that it does not prevent other methods of obtaining jurisdiction over a trustee, beneficiary, or other person receiving property from the trust.

CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF TRUST

§ 14 - Methods of Creating a Trust

The bill specifies that a trust is created by:

1. transfer of property to someone else during the settlor's lifetime, or by will or other disposition that takes effect upon the settlor's death;
2. declaration by the property owner that he holds identifiable property as trustee; or
3. exercise of a power of appointment in favor of a trustee.

A power of appointment is the authority a property owner grants to someone (donee) to designate the person or people who are to receive the property when the owner or the donee dies or when some other interest in the property terminates.

§ 15 - Requirements for Creating a Trust

Under the bill, a trust is created only if:

1. the settlor has capacity to create it;
2. the settlor indicates an intention to create it;
3. the trustee has duties to perform; and
4. the trust has a definite beneficiary or is a charitable trust or trust for the care of an animal as the bill provides.

§ 16 - Trusts Created in Other Jurisdictions

Under the bill, an inter vivos trust is validly created if its creation complies with either the law of the jurisdiction in which it was executed, or the law of the jurisdiction in which, at the time the trust was created:

1. the settlor was domiciled, had a dwelling place, or was a national;

2. a trustee was domiciled or had a business place; or
3. any trust property was located.

Domicile is where a person has his permanent and primary residence or where a corporation or some other business entity has its headquarters or principal place of business.

§ 17 - Trust Purposes

The bill allows a trust to be created only to the extent its purposes are lawful, not contrary to public policy, and possible to achieve.

§ 18 - Charitable Purposes; Enforcement

The bill authorizes a charitable trust to be created for the relief of poverty; the advancement of education or religion; the promotion of health, governmental, or municipal purposes; or other purposes that benefit the community.

The bill gives the settler of a charitable trust the right to enforce it in court.

§ 19 - Creation of Trust Induced by Fraud, Duress, or Undue influence

The bill makes a trust void to the extent its creation was induced by fraud, duress, or undue influence.

§ 20 - Evidence of Oral Trust

The bill specifies that unless another statute requires otherwise, a trust does not have to be evidenced by a trust instrument. Thus, the bill contemplates the possibility of oral trusts. But it requires that the creation of an oral trust and its terms may be established only by clear and convincing evidence.

§ 21 - Trust for Care of Animal

The bill allows a trust to be created to provide for the care of an animal alive during the settlor's lifetime. The trust must terminate when the animal dies. If the trust was created to provide for the care

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of more than one animal, it terminates when the last surviving animal dies.

A person appointed in the trust may enforce it. The bill allows a court to appoint someone if the trust does not. It allows a person having an interest in the animal's welfare to ask the court to appoint a person to enforce the trust or to remove a person appointed.

The bill specifies that trust property authorized to care for an animal may be applied only for its intended use, except to the extent the court determines that the trust's value exceeds the amount required for the intended use. Except as otherwise provided in the trust, property not required for the intended use must be distributed to the settlor, if living. Otherwise, it must be distributed to the settlor's successors in interest.

§ 22 - Modification to Achieve Settlor's Tax Objectives

The bill authorizes a court to modify the terms of a trust to achieve the settlor's tax objectives in a manner that is not contrary to the settlor's probable intention. The court may provide that the modification has retroactive effect.

CREDITOR'S CLAIMS; SPENDTHRIFT AND DISCRETIONARY TRUSTS

§ 23 - Rights of Beneficiary's Creditor or Assignee

A spendthrift trust is a trust created to provide some income to a beneficiary while preventing both the beneficiary and his creditors from having access to the trust money or property except to the extent the trustee pays it out to the beneficiary.

If a beneficiary's interest is not protected by a spendthrift provision, the bill empowers the court to authorize a beneficiary's creditor or assignee to reach the beneficiary's interest by attaching present or future distributions to, or for the benefit of, the beneficiary or by other means. The court may limit the extent to which a beneficiary or creditor may do so as appropriate under the circumstances.

CONNECTICUT
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LEGISLATIVE REFERENCE
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§ 24 - Spendthrift Provision

The bill specifies that a spendthrift provision is valid only if it restrains both voluntary and involuntary transfers of a beneficiary's interest.

It also specifies that a term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust," or words of similar meaning, is sufficient to restrain both a voluntary and an involuntary transfer of the beneficiary's interest.

The bill prohibits a beneficiary from transferring an interest in a trust in violation of a valid spendthrift provision. It also prohibits, except as otherwise provided in the bill, a beneficiary's creditor or assignee from reaching the interest or a distribution by the trustee before the beneficiary receives it.

§ 25 - Exceptions to Spendthrift Provision

Even if a trust contains a spendthrift provision, the bill allows the following people to obtain a court order attaching present and future distributions: (1) a beneficiary's child, spouse, or former spouse who has a judgment or court order for support or maintenance or (2) a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust. The term "child" includes any person for whom an order or judgment for child support has been entered in this or another state. The bill also makes a spendthrift provision unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.

§ 26 - Discretionary Trusts; Effect of Standard

Under the bill, whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if (1) the discretion is expressed in the form of a standard of distribution or (2) the trustee has abused the discretion.

But if a trustee has not complied with a distribution standard or has abused a discretion:

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1. the court may order a distribution to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child, spouse, or former spouse; and
2. the court must direct the trustee to pay to the child, spouse, or former spouse an amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.

The bill also specifies that it does not limit a beneficiary's right to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

§ 27 - Creditor's Claim Against Settlor

Under the bill, whether or not the trust contains a spendthrift provision, the property of a revocable trust is subject to claims of the settlor's creditors during the settlor's lifetime.

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

After the settlor's death, and subject to his right to direct the source from which liabilities will be paid, except as otherwise provided by law (see CGS § 45a-472), the property of a trust that was revocable at the settlor's death is subject to claims of his creditors, costs of administering his estate, the expenses of his funeral and disposal of remains, and the family allowance to a surviving spouse and children as provided by law (see CGS § 45a-320), to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowance.

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With respect to claims, expenses, and taxes regarding the settlement of a trust that was revocable at the settlor's death, any creditor's claim, which would be barred against the fiduciary of a decedent's estate, the estate of the decedent, or any creditor or beneficiary of the decedent's estate, is barred against the trustee, the trust property, and the trust's creditors and beneficiaries.

The bill authorizes a trustee to use the optional notice procedures (CGS § 45a-357) for creditors in connection with decedent's estates. Generally, the optional procedures allow a fiduciary at any time to give notice to anyone he has reason to believe may have a claim. The notice gives such creditors 90 days from the date he receives notice from the fiduciary to make a claim. Upon the trustee's compliance with these procedures, any person so notified is barred from asserting or recovering on any claim from the trustee, the trust property, or any creditor or beneficiary of the trust.

The bill establishes the same preference and order of payment of claims, expenses, and taxes for a revocable trust as apply to a decedent's estate (see CGS § 45a-365).

If any claim is not presented in writing to the fiduciary of the settlor's estate or the trustee (1) within 150 days from the date of the appointment of the first fiduciary of the settlor's estate or (2) if no fiduciary is appointed within 150 days from the settlor's date of death, then within 150 days from the settlor's death, no trustee may be chargeable for any assets that a trustee may have paid or distributed in good faith in satisfaction of any lawful claims, expenses, or taxes or to any beneficiary before the claim was presented. A payment or distribution of assets by a trustee is deemed to have been made in good faith unless the creditor can prove that the trustee knew about the claims when making the payment or distribution. The 150-day period may not be interrupted or affected by a trustee's death, resignation, or removal. But the time during which there is no fiduciary in office may not be counted as part of the period.

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During the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property that is subject to the power.

Upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in the federal tax code (see §§ 2041(b)(2), 2514(e), 2503(b) of the Internal Revenue Code).

§ 28 - Overdue Distribution

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

§ 29 - Personal Obligations of Trustee

The bill specifies that trust property is not subject to the trustee's personal obligations, even if the trustee becomes insolvent or bankrupt.

REVOCABLE TRUSTS

§ 30 - Capacity of Settlor of Revocable Trust

The bill specifies that the capacity a person needs to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as the capacity to make a will. To make a will, a person must be of sound mind. (Apparently, under current law, a person must have the capacity to make a contract in order to create a revocable trust.)

§ 31 - Revocation or Amendment of Revocable Trust

The bill gives the settlor the right to revoke or amend a trust unless the trust expressly provides that the trust is irrevocable. But this right

LEGISLATIVE REFERENCE SECTION

does not apply to a trust created under an instrument executed before January 1, 2007. If more than one settlor creates or funds a revocable trust:

1. to the extent the trust consists of community property, either spouse may revoke the trust but they may amend it only by joint action; and
2. to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to that settlor's contribution.

The bill allows a settlor to revoke or amend a revocable trust by substantial compliance with a method the trust provides. If the terms of the trust do not provide a method, or the method provided is not expressly made exclusive, a settlor may revoke or amend it by (1) a later will or codicil that has been admitted to probate and that expressly refers to the trust or expressly devises specifically identified items of real or personal property that would otherwise have passed according to the terms of the trust or (2) any other method showing clear and convincing evidence of the settlor's intent.

But, a written revocable trust may only be amended by a later written instrument. It may only be revoked by a later written instrument or by the settlor or some person in his presence and at his direction burning, canceling, tearing, or obliterating the revocable trust instrument. When a revocable trust is revoked, the trustee must deliver the trust property as the settlor directs.

A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or his successors for distributions he makes and other actions he takes on the assumption that the trust had not been amended or revoked.

§ 32 - Settlor's Powers; Powers of Withdrawal

Under the bill, while a trust is revocable and the settlor is alive, the

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beneficiaries' rights are subject to the settlor's control, and the duties of the trustee are owed exclusively to the settlor. If a revocable trust has more than one settlor, the trustee's duties are owed to all of the settlors having capacity to revoke the trust.

During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust with respect to the property subject to the power. A power of withdrawal is a general power of appointment that can be exercised without the consent of the trustee or someone who holds an adverse interest. A power of appointment is the authority granted by a property owner to designate the person or people who are to receive the property when an event occurs.

OFFICE OF TRUSTEE

§ 33 - Accepting or Declining Trusteeship

Under the bill, a person designated as trustee accepts the trusteeship of a non-testamentary trust by substantially complying with a method of acceptance provided in the trust. If the trust does not provide a method, or the method provided is not expressly made exclusive, he does so by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship. A person accepts the trusteeship of a testamentary trust by filing an acceptance of trust in the court with jurisdiction over it.

The bill allows a person designated as trustee who has not yet accepted the trusteeship to reject it. Under the bill, a designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have rejected it.

Testamentary trustees that are foreign corporations must also comply with the law requiring them to appoint an agent for service of process (see CGS § 45a-206).

§ 34 - Trustee's Bond

The bill requires the trustee to give a bond to secure performance of

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his duties only if the court finds that a bond is needed to protect the beneficiaries' interests or the trust requires it and the court has not dispensed with the requirement.

The bill authorizes the court to specify the amount of a bond, its liabilities, and whether sureties are necessary. It also allows the court to modify or terminate a bond at any time.

§ 35 - Co-Trustees

The bill allows co-trustees to act by majority decision. It allows the remaining co-trustees to act for the trust if a vacancy occurs in a co-trusteeship.

It requires a co-trustee to participate in the performance of a trustee's function unless he is unavailable to perform because of absence, illness, disqualification under other law, other temporary incapacity, or proper delegation of the function to another trustee.

Under the bill, if a co-trustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the trust's purposes or to avoid injury to trust property, the remaining co-trustee, or a majority of the remaining co-trustees, may act for the trust.

The bill authorizes a trustee to delegate to a co-trustee the performance of any function other than a function that the trust expressly requires to be performed by the trustees jointly. A trustee may revoke a delegation unless the delegation was irrevocable.

A trustee who does not join in an action of another trustee is not liable for the action. But the bill requires each trustee to exercise reasonable care to (1) prevent a co-trustee from committing a serious breach of trust and (2) compel a co-trustee to redress a serious breach of trust.

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Under the bill, a dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any co-trustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

§ 36 - Vacancy in Trusteeship; Appointment of Successor

Under the bill, a vacancy in a trusteeship occurs if a person designated as trustee (1) rejects the trusteeship, (2) cannot be identified or does not exist, (3) resigns, (4) is disqualified or removed, (5) dies, or (6) has a conservator appointed.

Unless the trust requires it, if one or more co-trustees remain in office, a vacancy in a trusteeship need not be filled. But a vacancy in a trusteeship must be filled if the trust has no remaining trustee.

§ 37 - Delivery of Property by former Trustee

The bill specifies that a trustee who has resigned or been removed still has the duties of a trustee and the powers necessary to protect the trust property unless a co-trustee remains in office or the court orders otherwise. He has these powers and duties until the trust property is delivered to a successor trustee or other person entitled to it.

The bill requires a trustee who has resigned or been removed to proceed expeditiously to deliver the trust property within his possession to the co-trustee, successor trustee, or other person entitled to it.

§ 38 - Compensation of Trustee

The bill gives a trustee the right to compensation that is reasonable under the circumstances if the trust does not specify the compensation.

Under the bill, if a trust specifies the trustee's compensation, the trustee is entitled to that compensation. But the bill empowers the court to allow more or less compensation if:

1. the trustee's duties are substantially different from those

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contemplated when the trust was created or

2. the compensation specified by the trust would be unreasonably low or high.

§ 39 - Reimbursement of Expenses

The bill gives a trustee the right to be reimbursed out of the trust property, with interest, for expenses that were:

1. properly incurred in the defense or administration of the trust, unless the trustee is determined to have committed a breach of trust, and
2. not properly incurred in the administration of the trust, to the extent necessary to prevent unjust enrichment of the trust.

Under the bill, an advance by the trustee of money to protect the trust creates a lien against the trust property to secure reimbursement with reasonable interest.

DUTIES AND POWERS OF TRUSTEE

§ 40 - Duty to Administer Trust

The bill requires the trustee, once he accepts a trusteeship, to administer it in good faith, according to its terms and purposes, the intentions of the settlor and the interests of the beneficiaries and in accordance with the bill.

§ 41 - Prudent Administration

The bill requires the trustee to administer the trust as a prudent person would, by considering the trust's purposes, terms, distribution requirements, and other circumstances. In satisfying this standard, the trustee must exercise reasonable care, skill, and caution.

§ 42 - Powers to Direct

While a trust is revocable, the bill authorizes a trustee to follow the settlor's directions that are contrary to the terms of the trust.

If the terms of a revocable trust give a person other than the settlor

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a power to direct certain actions of the trustee, the trustee must act in accordance with an exercise of the power unless (1) the attempted exercise is manifestly contrary to the terms of the trust or (2) the trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that the person holding the power owes to the trust's beneficiaries.

The bill allows the terms of a trust to confer upon a trustee or other person a power to direct the modification or termination of the trust.

§ 43 - Control and Protection of Trust Property

The bill requires a trustee to take reasonable steps to take control of and protect the trust property.

§ 44 - Record Keeping and Identification of Trust Property

The bill requires the trustee to (1) keep adequate records of the administration of the trust, (2) keep trust property separate from the trustee's own property, and (3) cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by someone other than a trustee or beneficiary.

The bill authorizes a trustee to invest as a whole the property of two or more separate trusts, if he maintains records clearly indicating the respective interests.

§ 45 - Enforcement and Defense of Claims

The bill requires a trustee to take reasonable steps to enforce trust claims and to defend claims against the trust.

§ 46 - Collecting Trust Property

The bill requires a trustee to take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee, and to redress a breach of trust he knows a former trustee has committed.

§ 47 - Discretionary Powers; Tax Savings

The bill requires the trustee to exercise a discretionary power in good faith and in accordance with the trust's terms and purposes, the settlor's intentions, and the beneficiaries' interests. The bill specifies that this requirement applies regardless of the breadth of discretion the trust grants the trustee in the terms of the trust, including the use of such terms as "absolute," "sole," or "uncontrolled."

Unless the terms of the trust expressly provides otherwise:

1. a person, other than a settlor, who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to the trustee, or for the trustee's personal benefit, may exercise the power only in accordance with an ascertainable standard relating to the trustee's health, education, support, or maintenance within the meaning established in the federal estate and gift tax rules; and
2. a trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

A power whose exercise is limited or prohibited as described above, may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

These limitations and prohibitions do not apply to:

1. a power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in the federal estate and gift tax rules (see §§ 2056(b)(5) or 2523(e) of the Internal Revenue Code) was previously allowed;
2. any trust during any period that the settler may revoke or amend it; or

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3. a trust if contributions to the trust qualify for the annual exclusion under the federal tax code.

Internal Revenue Service Position. The Internal Revenue Service's (IRS) position is that unless a will or trust expressly precludes a trustee-beneficiary from exercising discretionary powers to distribute trust income or principal to himself, he may be considered to have a "general power of appointment" (GPOA) for estate tax purposes. A GPOA is the authority to select who will receive an estate or income from an estate or fund, including the appointer himself or his estate.

When someone has this power, the entire portion of the trust from which he may distribute funds to himself may be included in his estate for federal estate and gift tax purposes even if he did not receive any funds. The IRS considers a person to have a GPOA if he has the discretion to use trust funds for his own comfort, welfare, or happiness. But if the trust limits his power to what IRS regulations describe as an "ascertainable standard relating to his health, education, support, or maintenance," the IRS does not consider him to have a GPOA.

The IRS has ruled that if a state enacts prospective legislation that declares that a trustee-beneficiary does not have the discretion to distribute trust funds to himself unless conditions such as those specified in this bill are met, he does not have a GPOA merely because he is a trustee-beneficiary.

Marital Deduction. A marital deduction is a deduction allowed under the federal gift tax for property transfers made from one spouse to another during their lifetimes, and under the federal estate tax for spouse-to-spouse transfers made under a will.

§ 48 - Specific Powers of Trustee

Without limiting the general authority the bill grants to trustees, it authorizes a trustee to:

1. collect trust property and accept or reject additions to it from a

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- settler or any other person;
2. acquire or sell property, for cash or on credit, at public or private sale;
 3. exchange, partition, or otherwise change the character of trust property;
 4. deposit trust money in an account in a regulated financial-service institution;
 5. borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the trust's duration;
 6. with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;
 7. with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement, hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery, pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights, and deposit the securities with a depository or other regulated financial-service institution;
 8. with respect to an interest in real property, construct or make ordinary or extraordinary repairs or alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or

buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;

- 9. enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;
- 10. grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;
- 11. insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;
- 12. abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;
- 13. with respect to possible liability for violation of environmental laws inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, to determine the application of environmental laws with respect to the property, take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement, decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental laws, compromise claims against the trust which may be asserted for an alleged violation of environmental

- laws, and pay the expense of any inspection, review, abatement, or remedial action to comply with environmental laws;
14. pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;
 15. pay taxes, assessments, compensation of the trustee and employees and agents of the trust, and other expenses incurred in the administration of the trust;
 16. exercise elections with respect to federal, state, and local taxes;
 17. select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights under them, including exercise of the right to indemnification for expenses and liabilities, and take appropriate action to collect the proceeds;
 18. make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;
 19. pledge trust property to guarantee loans made by others to the beneficiary;
 20. appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;
 21. pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, paying it to beneficiary's conservator or by paying it to the beneficiary's custodian under the Uniform Transfers to Minors Act or custodial trustee under

the Uniform Custodial Trust Act, and, for that purpose, creating a custodianship or custodial trust, if the trustee does not know of a conservator, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf, or managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;

- 22. with respect to distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;
- 23. resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other alternative dispute resolution;
- 24. prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;
- 25. sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers; and
- 26. with respect to termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the people entitled to it.

§ 49 - Breach of Trust

The bill makes a trustee's violation of a duty he owes to a beneficiary a breach of trust.

LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH TRUSTEE

§ 50 - Damages in Absence of Breach

Under the bill, as long as he did not commit a breach, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit.

§ 51 - Limitation on Action Against Trustee

Under the bill, a report adequately discloses the existence of a potential claim for a breach of trust if it provides sufficient information so that the beneficiary, or his representative, knows of the potential claim or should have inquired into its existence.

§ 52 - Reliance on Trust Instrument

Under the bill, a trustee is not liable to a beneficiary for a breach of trust for acting in reasonable reliance on the terms of the trust as expressed in the trust instrument.

§ 53 - Event Affecting Administration or Distribution

The bill specifies that a trustee who has exercised reasonable care to ascertain the happening of an event that affects the administration or distribution of a trust is not liable for a loss resulting from his lack of knowledge. These events include marriage, divorce, performance of educational requirements, or death.

§ 54 - Beneficiary's Consent, Release, Or Ratification

Under the bill, a trustee is not liable to a beneficiary for breach of trust if the beneficiary consented to the conduct, released the trustee from liability for it, or ratified the transaction constituting it, unless (1) the consent, release, or ratification was induced by the trustee's improper conduct or (2) at the time of the consent, release, or ratification, the beneficiary did not know of his rights or of the material facts relating to the breach.

§ 55 - Limitation on Personal Liability of Trustee

Under the bill, unless the contract provides otherwise, a trustee is not personally liable on a contract properly entered into in his fiduciary capacity in the course of administering the trust if he disclosed the fiduciary capacity in the contract.

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

§ 56 - Interest as General Partner

Unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust acquires the interest if he disclosed his capacity in the contract, or in a statement previously filed pursuant to the Uniform Partnership Act or Uniform Limited Partnership Act. Under the bill, a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

But this immunity does not apply if the trustee holds a partnership interest in a capacity other than as trustee, or if the interest is held by the trustee's spouse or by one or more of his descendants, siblings, or parents, or the spouse of any of them.

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

§ 57 - Protection of Person Dealing with Trustee

Under the bill, someone other than a beneficiary is protected from liability if he in good faith assists a trustee, or in good faith and for value, deals with a trustee without knowing that the trustee is exceeding or improperly exercising his powers.

Someone other than a beneficiary who in good faith deals with a trustee is not required to inquire into the extent of the trustee's powers or whether they were exercised properly. Someone who in good faith delivers assets to a trustee does not have the duty to

ensure the trustee uses them properly.

Someone other than a beneficiary who in good faith assists a former trustee or who in good faith, and for value, deals with a former trustee, without knowing that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee.

The bill specifies that comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection this bill provides.

§ 58 - Certification of Trust

Instead of furnishing a copy of the trust instrument to someone other than a beneficiary, the bill allows the trustee to furnish a certification of trust containing the following information:

1. that the trust exists and the date the trust instrument was executed;
2. the settlor's identity;
3. the current trustee's identity and address;
4. the trustee's powers;
5. the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;
6. the authority of co-trustees to sign or otherwise authenticate and whether all, or fewer than all, are required in order to exercise powers of the trustee;
7. the trust's taxpayer identification number; and
8. the manner of taking title to trust property.

The bill allows a certification of trust to be signed or authenticated by any trustee. It must state that the trust has not been revoked, modified, or amended in any manner that would cause the

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representations contained in the certification to be incorrect. It does not have to contain the trust's dispositive terms. But someone who receives a certification may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.

Someone who acts in reliance upon a certification of trust without knowing that the representations contained in it are incorrect is not liable for doing so, and may assume the existence of the facts contained in the certification.

Someone who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in it were correct.

Someone making a demand for the trust instrument, in addition to a certification or excerpts, is liable for damages if the court determines that he did not act in good faith in demanding it.

The bill specifies that it does not limit anyone's right to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (03/27/2006)

REPORT ON BILLS FAVORABLY REPORTED BY COMMITTEE

COMMITTEE: Judiciary Committee

File No.:

Bill No.: SB-429

PH Date: 3/14/2006

Action/Date: JFS 3/27/06

Reference Change:

TITLE OF BILL:

AN ACT ADOPTING THE CONNECTICUT UNIFORM TRUST CODE.

SPONSORS OF BILL:

Neal Ossen; Connecticut Bar
Association

REASONS FOR BILL:

To adopt the Connecticut Uniform Trust Code (UTC) in order to alleviate confusion of what law applies to trust by reducing the reliance on common law and establishing certainty in what law exists

Substitute Language: Deleted several definitions, section 5 which governs the duties and powers of a trustee, relations among trustees and the rights and interests of a beneficiary, and sections regarding Probate Court jurisdiction, venue, revocability of trusts, authorization to contest the validity of a trust, method of acceptance of a trust, vacancy of a trusteeship, resigning as a trustee for an inter vivos trust, removal of a trustee, trustee responsibilities, liability of a trustee in breach if trust, accountability of a trustee, relieving a trustee of liability, power of courts of probate, and other procedural matters. Changes to sections include trustee compensation, reimbursement out of the trust property,

RESPONSE FROM ADMINISTRATION/AGENCY:

Nothing submitted

NATURE AND SOURCES OF SUPPORT:

Connecticut Bar Association (CBA) – Trusts have become an increasingly useful and important estate planning tool. Unfortunately, in Connecticut it is very difficult to determine

what law applies to trusts, because Connecticut trust law consists largely of common-law rules set forth in Appellate Court decisions arising from fact-specific adjudications. Our statutory law of trusts is quite limited and there are large gaps in its coverage. Unlike a restatement, which is most often used by courts asked to decide issues in the absence of clear statutory law, a uniform act can be relied upon and accessed by all of a state's citizens, whether or not they are in front of the courts. It also codifies fiduciary law, duties and principals in one central place, benefiting not only trustees and beneficiaries, but also attorneys and Judges.

Connecticut residents will benefit from the enactment of the UTC in many important ways. New residents of Connecticut who create a trust in a UTC state will be able to transfer its administration to Connecticut knowing that the trust will have the same legal effect. Connecticut lawyers and judges will be able to turn to appellate decisions in other jurisdictions interpreting the UTC for answers to questions, greatly reducing the time and expense that would have been required to address the issues anew. Multi-state corporate fiduciaries (such as national banks) will reduce the time spent determining and complying with individual state trust laws. Treaties and articles have already been written on the UTC, providing guidance to courts, practitioners, and laypersons. Law schools in most states now include the UTC as part of their trusts and estates curricula, and it is routinely mentioned in legal education courses on trusts.

The UTC provides many benefits to both trustees and beneficiaries, including:

- **Basic default rules.** The UTC is primarily default law that settlors can draft around. Where a trust instrument is silent, however, the UTC often provides answers to difficult issues.
- **Modification and termination provisions.** The UTC liberalizes the ability to modify or terminate a trust without disregarding the key principal of honoring the settlor's intent.
- **Spendthrift provision.** A spendthrift provision, which provides asset protection for beneficiaries, may create by general reference to "spendthrift trust" in the trust instrument.
- **Charitable trusts.** The UTC provides a statutory structure of charitable trusts, codifying trust purpose and the common law doctrine of cy pres.
- **Revocable trusts.** The UTC recognizes revocable trusts and devotes an article to the subject.
- **Trustee's duties and powers.** The UTC specifies trustee powers and duties, in detail, and provides numerous procedural rules on a trust's administration.
- **Trustee's Liability.** The UTC remedies the unfair and for most, unexpected, imposition of personal liability on a trustee for contractual obligations.

- **Remedies.** The UTC identifies the remedies for breach of trust, describes how money damages are to be determined, and specifies potential defenses.
- **Animal trusts.** The bill recognizes a trust created for the care of an animal as a lawful one.

Attorney Tony Ludovico, Estate and Probate Section, CBA – Believes it is in the best interest of the people of our state to adopt the version of the Uniform Trust Code despite personally having to go back and re-learn all of trust law. The Estates and Probate section believes it is vitally important that we enact the trust code as well. During the past twenty years, trusts have become an increasingly useful and important estate-planning tool. Unfortunately, it is very difficult to determine what law applies to trust in Connecticut, because we do so heavily rely upon common law.

NATURE AND SOURCES OF OPPOSITION:

Attorney Barry D. Horowitz, Connecticut Trust Association– Thinks the proposed code would be beneficial because it allows clients to create a trust the way they want to, and still provides laws in the areas they might not have covered. However, they are concerned about section 5 of the Code because it imposes mandatory rules on trust clients that are not to their benefit.

In subsection 10 of section 5 of the code, it places the rights of the beneficiaries ahead of the rights of trust clients. It interferes with their rights of the trust clients. It interferes with their rights of privacy. To remove the right of people to protect their privacy by placing these provisions in the mandatory section of the code is the wrong approach. If we take that approach, there will be an uproar of the many clients, constituents, who have living trusts, or have contemplated living trusts, and want their privacy protected.

There are two other aspects of the bill I would just like to touch on that are of concern. The first one concerns the expansion of judicial power that the bill has. The bill creates additional powers for judges, such as imposing penalties, punitive damages. I really think we first need to address the issue of probate court reform before we start expanding judicial power. The other provision is one considering beneficiary surrogates, which is a rather novel approach that we put into the bill this year, is an approach that was adopted by one jurisdiction, the District of Columbia. They've really just adopted it. I really don't think any of us know at this point how it's going to work out, and I really don't see any reason for Connecticut to be a test case in this area.

Tom Couvares, Insurance and Financial Advisor–It's been my experience that in many cases the contingent beneficiaries are often intimately involved in the estate planning of typically their parents. It seems to me that when there is a desire to have the contingent beneficiaries be fully aware of the estate planning, they simply allow them to do so.

If the correct modifications are made to section 5, the same situation would remain. Namely that those establishing trust could protect the private privacy and the confidentiality of the information they wish to protect for the period of time in which they wish to protect it.

Attorney Christiana N. Gianopoulos, Connecticut Bankers Association -Connecticut's trust law is based on more than 200 years of common law and continues to work well for trust settlors and the fiduciaries who administer their trust. Banks in Connecticut act as corporate trustees and manage billions of dollars in trust assets. The banking industry's goal is to keep Connecticut a desirable place for citizens to establish and keep trust for existing and future generations of family members. The uncertainty created by this major revision of Connecticut law will have a far greater impact on those corporate trustees who oversee the vast majority of Connecticut's trust business. We have and still have serious concerns that this proposed legislation will discourage Connecticut residents from creating in-state trusts, particularly when they can easily and readily send that business to other states.

- This legislation is premature because it grants significant additional powers to the probate courts before the necessary reforms to the court system are in place.
- These additional powers include the ability to award monetary damages (currently a state Superior Court power) and to modify and terminate trusts of any size (currently limited to \$100,000).
- While the proponents of the bill have included some seemingly positive changes in this year's legislation, new terms and new roles have been introduced that warrant additional study. These new terms include a "beneficiary surrogate," whose role in receiving notice on behalf of a beneficiary is a new concept in Connecticut trust law. Some states studying similar provisions have questioned the legal duty of the "beneficiary surrogate" and how a trustee should interface with him or her. This certainly requires further study rather than enacting a concept which would no doubt result in copious litigation to clarify it.
- This bill continues to include a default provision that would enable a remote, contingent remainder beneficiary to obtain a copy of a private trust agreement and statements of the trust's assets.
- The Bankers presented the Bill's proponents with a proposal to enact a "short form" version of the CTUTC during the 2005 session. While the "short form" version removed many controversial provisions, including the additional powers granted to the probate courts, it left many of the CTUTC's valuable features in place.

Tom Renison, Financial Planner– Against passing a provision that allows children to have full disclosure of the surviving parent's assets because it would cause extra pain in an already difficult situation. The surviving spouse has always expressed that they would like the option of privacy from his or her children, especially after the loss of a spouse. Passing this provision would not be a service to the general public and this lack of privacy would be a huge disservice to people.

James McCarthy

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[SB429, '06]

Sarah Kolb

4/6/06

Reported by

Date

**JUDICIARY COMMITTEE
VOTE TALLY SHEET**

Bill No.: SB-429

Amendment Letter:

AN ACT ADOPTING THE CONNECTICUT UNIFORM TRUST CODE.

Chair: MCDONALD, A.

Motion: DYSON, W.

Second: MCMAHON, F.

Action: Joint Favorable Substitute

Language Proposed Substitute
Change:

TOTALS	Voting 38	Yea 38	Nay 0	Abstain 0	Absent and Not Voting 3	Voice Vote
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	yea	nay	abstain	absent
Sen. McDonald, A. S27	X			
Rep. Lawlor, M. 099	X			
Sen. Handley, M. S04	X			
Rep. Spallone, J. 036	X			
Sen. Kissel, J. S07	X			
Rep. Farr, R. 019	X			
Rep. Barry, R. 012	X			
Rep. Berger, J. 073	X			
Rep. Cafero, L. 142	X			
Rep. Candelaria, J. 095	X			
Sen. Cappiello, D. S24	X			
Sen. Coleman, E. S02	X			
Rep. Dillon, P. 092	X			
Rep. Doyle, P. 028	X			
Rep. Dyson, W. 094	X			
Rep. Fox, G. 146	X			
Rep. Fritz, M. 090				X
Rep. Geragosian, J. 025	X			
Rep. Giegler, J. 138	X			
Rep. Godfrey, B. 110	X			
Sen. Gomes, E. S23	X			
Rep. Gonzalez, M. 003				X
Rep. Green, K. 001				X
Rep. Hamm, G. 034	X			
Rep. Hamzy, W. 078	X			
Rep. Hovey, D. 112	X			
Rep. Klarides, T. 114	X			
Rep. Labriola, D. 131	X			

	yea	nay	abstain	absent
Rep. McMahon, F. 015	X			
Sen. Meyer, E. S12	X			
Rep. Michele, R. 077	X			
Rep. Olson, M. 046	X			
Rep. O'Neill, A. 069	X			
Rep. Powers, C. 151	X			
Sen. Roraback, A. S30	X			
Rep. Rowe, T. 123	X			
Rep. Serra, J. 033	X			
Rep. Staples, C. 096	X			
Rep. Stone, C. 009	X			
Rep. Walker, T. 093	X			
Rep. Winkler, L. 041	X			

Vote date: 3/27/2006 4:30:00 PM

Correction date:

