



SUMMARIZATION OF THE UNIFORM TRUST CODE, SECTION BY SECTION

Article 1

General Provisions and Definitions

Section	Analysis
101	<i>Short title.</i> “Uniform Trust Code”
102	<i>Scope.</i> Applies to express trusts and is directed primarily toward trusts in an estate planning or donative context.
103	<i>Definitions.</i> Defines 20 terms used in the Uniform Trust Code (“UTC”).
104	<i>Knowledge.</i> Specifies when a person is deemed to know a fact.
105	<i>Default and Mandatory Rules.</i> The UTC mainly provides default rules that a settlor may freely override in the terms of a trust, subject to several exceptions listed here.
106	<i>Common Law of Trusts; Principles of Equity.</i> The UTC codifies some provisions of the common law, but this section clarifies that other common law provisions supplement the statutory law.
107	<i>Governing Law.</i> Provides rules to determine the law governing the trust.
108	<i>Principal Place of Administration.</i> Sets rules relating to the place of administration, which usually determines the jurisdiction governing the trust, and provides rules for transferring a trust’s place of administration.
109	<i>Methods and Waiver of Notice.</i> Describes the notice requirements.
110	<i>Others Treated as Qualified Beneficiaries.</i> Describes when other parties have the rights of a Qualified Beneficiary (defined in Section 103(13)).
111	<i>Nonjudicial Settlement Agreements.</i> This section facilitates out-of-court settlements by giving them the same effect as if court approved. However, these agreements cannot be used to produce a result not authorized by law.
112	<i>[Rules of Construction].</i> Optional section providing that the rules of construction interpreting the disposition of property by will are also appropriate to interpret the terms of the trust instrument and the disposition of trust property.
113	<i>[Insurable Interest of Trustee].</i> Optional section clarifying that the trustee has an insurable interest in the life of certain individuals. Added in 2010 in response to a Virginia federal district court decision.

Article 2

Judicial Proceedings

Section	Analysis
201	<i>Role of Court in Administration of Trust.</i> A court may intervene in the administration of a trust upon petition by an interested person or as permitted by other law. A dispute is not required.

202	<i>Jurisdiction Over Trustee and Beneficiary.</i> A court has jurisdiction over any trust with its principal place of jurisdiction in the state. Beneficiaries of such a trust are subject to jurisdiction for trust matters, and personally if they accept a distribution. Other means of obtaining jurisdiction are not precluded.
203	[<i>Subject-Matter Jurisdiction</i>]. Optional section providing a way to distinguish a court having primary jurisdiction from other courts that occasionally have jurisdiction to resolve trust disputes.
204	[<i>Venue</i>]. Optional section providing venue rules for jurisdictions that do not address the subject adequately in their local rules of civil procedure.

Article 3
Representation

Section	Analysis
301	<i>Representation: Basic Effect.</i> Provides the scope of this Article, validates substitute notice upon the representative, and states that a representative's consent is binding on the represented person unless that person timely objects.
302	<i>Representation by Holder of General Testamentary Power of Appointment.</i> Grants a powerholder authority to receive notice for, represent, and bind persons whose interest is subject to the power unless there is a conflict of interest.
303	<i>Representation by Fiduciaries and Parents.</i> Allows for the representation of minors and unborn children by parents and of other persons by all types of fiduciaries unless there is a conflict of interest.
304	<i>Representation by Persons Having Substantially Identical Interest.</i> Allows a person with a substantially identical interest to represent and bind an unrepresented minor, incapacitated or unborn individual, or person whose location is unknown, to the extent there is no conflict of interest.
305	<i>Appointment of Representative.</i> Allows a court to appoint a representative when an interest is not adequately represented, and provides rules for the representation.

Article 4
Creation, Validity, Modification, and Termination of Trust

Section	Analysis
401	<i>Methods of Creating Trust.</i> Provides three ways to create a trust: by transfer of property either during the settlor's life or at the settlor's death, by declaration of the owner, or by exercise of a power of appointment.
402	<i>Requirements for Creation.</i> Provides five requirements for creating a trust and additional clarifying rules.
403	<i>Trusts Created in Other Jurisdictions.</i> Addresses the validity, in the enacting jurisdiction, of trusts created in other jurisdictions.
404	<i>Trust Purposes.</i> Forbids creation of trusts that are created for illegal, improper, or impossible purposes; requires that a trust must be for the benefit of its beneficiaries.

405	<i>Charitable Purposes; Enforcement.</i> States the permissible purposes for charitable trusts and allows a settlor, among others, to enforce its terms.
406	<i>Creation of Trust Induced by Fraud, Duress, or Undue Influence.</i> A trust is void if created under improper circumstances.
407	<i>Evidence of Oral Trust.</i> Oral trusts, unless prohibited by other law, require clear and convincing evidence of their establishment.
408	<i>Trust for Care of Animal.</i> Specifies the requirements for the creation and enforcement of a trust for the care of an animal.
409	<i>Noncharitable Trust Without Ascertainable Beneficiary.</i> Allows for two types of trusts without ascertainable beneficiaries as long as the purpose is not capricious. That type of trust is enforceable for a maximum of 21 years.
410	<i>Modification or Termination of Trust; Proceedings for Approval or Disapproval.</i> Provides general rules for trust termination and lists the parties that may initiate a proceeding for trust modification.
411	<i>Modification or Termination of Noncharitable Irrevocable Trust by Consent.</i> Describes how beneficiaries may compel the termination or modification of certain trusts, both with and without the consent of the settlor.
412	<i>Modification or Termination Because of Unanticipated Circumstances or Inability to Administer Trust Effectively.</i> This section broadens a court's ability to apply the doctrine of equitable deviation to terminate or modify a trust in response to new circumstances.
413	<i>Cy Pres.</i> This section codifies a court's traditional authority to apply <i>cy pres</i> , and goes further by presuming that the settlor had a general charitable intent when a particular charitable purpose becomes impossible or impracticable, except in certain cases.
414	<i>Modification or Termination of Uneconomic Trust.</i> Allows a trustee to unilaterally terminate a trust, after notice to the beneficiaries, when the value is insufficient to justify the cost of administration. Codifies the court's authority to terminate or modify a trust for the same reason
415	<i>Reformation to Correct Mistakes.</i> If a mistake is proven by clear and convincing evidence, a court may reform the terms of a trust to conform with the settlor's intention.
416	<i>Modification to Achieve Settlor's Tax Objectives.</i> Allows retroactive modification of a trust's terms to meet the settlor's tax objective in a manner that is consistent with the settlor's probable intent.
417	<i>Combination and Division of Trusts.</i> This section permits a trustee to unilaterally combine and divide trusts, after notice to the beneficiaries, if the result does not impair a beneficiary's interest or adversely affect the achievement of the trust's purpose.

Article 5
Creditor's Claims: Spendthrift and Discretionary Trusts

Section	Analysis
501	<i>Rights of Beneficiary's Creditor or Assignee.</i> This section provides that a creditor may reach a beneficiary's interest in trust assets unless those assets are shielded by a valid spendthrift provision. Other state laws may limit the creditor's right to a percentage of any distribution.
502	<i>Spendthrift Provision.</i> Provides that a settlor has the ability to restrain the transfer of a beneficiary's interest, and that a beneficiary may not transfer an interest in violation of a valid spendthrift provision.
503	<i>Exceptions to Spendthrift Provision.</i> Lists the claims that are not subject to a spendthrift clause: child support or spousal maintenance, claims from a creditor who provided services to protect the beneficiary's interest in the trust, and governmental claims authorized by state or federal law.
504	<i>Discretionary Trusts; Effect of Standard.</i> A creditor may not compel a trustee to make a discretionary distribution; but a beneficiary's child or former spouse may assert a claim that the trustee did not comply with a standard or abused a discretion. Eliminates the distinction between discretionary and support trusts.
505	<i>Creditor's Claim Against Settlor.</i> Assets of a revocable trust are subject to claims of the settlor's creditors while the settlor lives. A settlor who is also a beneficiary of an irrevocable trust may not use the trust as a shield. Rejects the approach of states that allow self-settled asset protection trusts.
506	<i>Overdue Distribution.</i> Provides that a trustee may not shield a beneficiary from creditor's claims by refusing to make required distributions.
507	<i>Personal Obligations of Trustee.</i> Trust property is not subject to the personal obligations of the trustee, even if the trustee becomes insolvent.

Article 6
Revocable Trusts

Section	Analysis
601	<i>Capacity of Settlor of Revocable Trusts.</i> Recognizing that most revocable trusts are will substitutes, the capacity standard is the same as for wills.
602	<i>Revocation or Amendment of Revocable Trusts.</i> States that trusts are revocable by default; and provides procedural rules for revocation and amendment.
603	<i>Settlor's Powers; Powers of Withdrawal.</i> While the trust is revocable, the settlor has the rights of a beneficiary; while the power is exercisable, the holder of a power of withdrawal has the same rights as a settlor of a revocable trust.
604	<i>Limitation on Action Contesting Validity of Revocable Trusts; Distribution of Trust Property.</i> Describes the statute of limitations to contest revocable trusts. Provides that a trustee is not liable for distributions of trust property according to the terms of the trust at the settlor's death if there is no known objection, but beneficiaries are liable for invalid distributions received.

Article 7
Office of Trustee

Section	Analysis
701	<i>Accepting or Declining Trusteeship.</i> Provides rules for a designated trustee to accept or decline a trusteeship.
702	<i>Trustee's Bond.</i> Specifies that a surety bond is required only if the terms of the trust require it or if a court finds that a bond is necessary to protect the interests of beneficiaries.
703	<i>Cotrustees.</i> Permits cotrustees to act by majority decision, specifies the extent to which one trustee may delegate duties to another, addresses the absence of a cotrustee, and provides liability rules for dissenting cotrustees.
704	<i>Vacancy in Trusteeship; Appointment of Successor.</i> Defines a vacant trusteeship and provides rules for filling the vacancy.
705	<i>Resignation of Trustee.</i> Provides the rules governing trustee resignation.
706	<i>Removal of Trustee.</i> Allows a court to remove a trustee under appropriate circumstances.
707	<i>Delivery of Property by Former Trustee.</i> Provides rules for transitioning to a new trustee.
708	<i>Compensation of Trustee.</i> If a trustee's compensation is not set out in the terms of the trust, the trustee is entitled to compensation reasonable in relation to the trustee's duties. A court may modify the compensation when appropriate.
709	<i>Reimbursement of Expenses.</i> States that a trustee is entitled to reimbursement from the trust for incurring reasonable expenses within the trustee's authority.

Article 8
Duties and Powers of Trustee

Section	Analysis
801	<i>Duty to Administer Trust.</i> The trustee has a duty to follow the terms and purposes of the trust and, when the trust is silent, the law.
802	<i>Duty of Loyalty.</i> Imposes a duty of loyalty to the beneficiaries on the trustee and addresses the circumstances under which a trustee could breach that duty.
803	<i>Impartiality.</i> Unless the trust states otherwise, a trustee must act equitably toward all beneficiaries in light of the terms and purposes of the trust.
804	<i>Prudent Administration.</i> A trustee has a duty to administer a trust prudently, taking the terms and purposes of the trust into account.
805	<i>Cost of Administration.</i> A trustee may incur only reasonable costs.
806	<i>Trustee's Skills.</i> A trustee with special skills or expertise must use those skills in administration of the trust.
807	<i>Delegation by a Trustee.</i> Permits a trustee to delegate various aspects of trust administration to agents, subject to certain standards.

808	<i>Powers to Direct.</i> A trustee may follow directions from a trust protector, advisor, or the settlor of a revocable trust. The holder of a power to direct is a fiduciary by default.
809	<i>Control and Protection of Trust Property.</i> A trustee has a duty to take reasonable steps to take control and safeguard trust property.
810	<i>Recordkeeping and Identification of Trust Property.</i> A trustee has a duty to keep adequate records regarding administration of the trust and to keep trust property separate from the trustee’s own property. When possible, trust property should be titled in the name of the trust, rather than the trustee.
811	<i>Enforcement and Defense of Claims.</i> A trustee has a duty to enforce claims of the trust and defend claims against the trust.
812	<i>Collecting Trust Property.</i> A trustee has a duty to try to collect trust property from a former trustee and to redress a former trustee’s known breach of trust.
813	<i>Duty to Inform and Report.</i> A trustee has a duty to keep qualified beneficiaries reasonably informed regarding the administration of the trust, and to send accountings annually at minimum.
814	<i>Discretionary Powers; Tax Savings.</i> A trustee in exercising discretionary power must do so in good faith and consistent with the terms and purpose of the trust. The provisions of this section automatically limit the power to make discretionary distributions to a beneficiary/trustee by the requisite ascertainable standard necessary to avoid inclusion of the trust in the trustee’s gross estate, unless the trust expressly states otherwise.
815	<i>General Powers of Trustee.</i> Addresses the intention of the Code to grant the broadest possible powers to be exercised in accordance with the duties of the trustee and any limitations stated in the terms of the trust.
816	<i>Specific Powers of Trustee.</i> Enumerates specific powers commonly included in trust instruments and trust legislation. All powers listed are subject to limitation or alteration in the terms of the trust.
817	<i>Distribution upon Termination.</i> Provides procedures to govern the distribution of assets upon termination or partial termination of the trust. Invalidates a release by a beneficiary of a trustee from liability when justice so requires.

Article 9
Uniform Prudent Investor Act (“UPIA”)

No effort has been made to disassemble and integrate the UPIA into the UTC. However, states adopting the UTC that have previously enacted the UPIA are encouraged to reenact their version of the UPIA as Article 9 of the UTC.

Due to the overlap between Article 8 and the UPIA, where the UPIA and UTC are duplicative, enacting jurisdictions are encouraged to enact the UPIA in this article but *without* the provisions already addressed in Article 8 of the UTC.

Article 10
Liability of Trustees and Rights of Persons Dealing with Trustees

Section	Analysis
1001	<i>Remedies for Breach of Trust.</i> Lists the remedies available for a breach of trust.
1002	<i>Damages for Breach of Trust.</i> Provides rules for determining monetary damages and for allocating damages among cotrustees.
1003	<i>Damages in Absence of Breach.</i> Provides that the trustee is accountable for profits made from that trust even in the absence of a breach of trust, but not liable for loss or depreciation in the absence of a breach.
1004	<i>Attorney's Fees and Costs.</i> Reaffirms the court's power in equity to award costs and attorney's fees as justice requires.
1005	<i>Limitation of Action Against Trustee.</i> Provides the statute of limitation for actions against the trustee, which depends on whether the beneficiary knew or should have inquired about the potential claim.
1006	<i>Reliance on Trust Instrument.</i> Protects from liability a trustee who acts in reasonable reliance on the terms of a written trust instrument.
1007	<i>Event Affecting Administration or Distribution.</i> Protects from liability a trustee who has exercised reasonable care to ascertain the occurrence of events that might affect administration or distribution.
1008	<i>Exculpation of Trustee.</i> Describes the effect and limits on the use of an exculpatory clause. Even if the terms of the trust attempt to completely exculpate a trustee for the trustee's acts, the trustee must always act in good faith with regard to the purposes of the trust and interests of the beneficiaries.
1009	<i>Beneficiary's Consent, Release, or Ratification.</i> Addresses the standards for recognizing a beneficiary's approval of trustee's acts that might otherwise constitute a breach of trust. Release from liability requires an affirmative act by the beneficiary; a failure to object is insufficient.
1010	<i>Limitations on Personal Liability of Trustee.</i> Negates personal liability on contracts entered into by the trustee if the fiduciary capacity was properly disclosed. The trustee is also relieved from liability for torts committed in the course of administration unless the trustee was personally at fault.
1011	<i>[Interest as General Partner].</i> Negates personal liability for contracts entered into by partnerships, where the trustee is a general partner, as long as the fiduciary capacity was disclosed in the contract or partnership certificate. This section should be modified if required to conform to a state's partnership law.
1012	<i>Protection of Person Dealing with Trustee.</i> Protects persons, other than beneficiaries, who deal with a trustee in good faith and without knowledge that the trustee is exceeding or improperly exercising a power.
1013	<i>Certification of Trust.</i> Permits a third party to rely on a certification of trust to verify a trustee's authority, thereby reducing the need to reveal the private terms of a trust.

Article 11
Miscellaneous Provisions

Section	Analysis
1101	<i>Uniformity of Application and Construction.</i> Provides that uniformity of law among the states must be considered when interpreting UTC provisions.
1102	<i>Electronic Records and Signatures.</i> Provides that this act conforms to the requirements of the federal Electronic Signatures in Global and National Commerce Act and preempts the federal law as permitted by that statute. The effect of this section is to leave to state law the procedures for obtaining and validating an electronic signature.
1103	<i>Severability Clause.</i> Invalidity of any provision of the UTC does not affect other provisions or applications which can be given effect.
1104	<i>Effective Date.</i> The date the UTC takes effect in a particular state.
1105	<i>Repeals.</i> Repeals several obsolete uniform acts.
1106	<i>Application to Existing Relationships.</i> Subject to the scope provisions in Section 102, the UTC applies to all trusts whenever created, to judicial proceedings concerning trusts commenced on or after its effective date, and unless the court otherwise orders, to judicial proceedings in progress on the effective date.

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