

SENATE SUBSTITUTE

FOR

HOUSE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1511

AN ACT

To repeal sections 301.681, 306.458, 306.461, 362.600,  
 456.010, 456.015, 456.016, 456.020, 456.030, 456.040,  
 456.050, 456.055, 456.060, 456.070, 456.072, 456.075,  
 456.080, 456.090, 456.100, 456.110, 456.120, 456.130,  
 456.140, 456.150, 456.160, 456.170, 456.180, 456.183,  
 456.185, 456.187, 456.190, 456.195, 456.200, 456.210,  
 456.220, 456.225, 456.230, 456.232, 456.233, 456.234,  
 456.235, 456.236, 456.240, 456.250, 456.260, 456.270,  
 456.280, 456.290, 456.300, 456.310, 456.320, 456.330,  
 456.340, 456.350, 456.400, 456.410, 456.420, 456.430,  
 456.440, 456.450, 456.460, 456.470, 456.480, 456.490,  
 456.500, 456.510, 456.520, 456.524, 456.530, 456.535,  
 456.540, 456.550, 456.560, 456.570, 456.580, 456.610,  
 456.620, 456.630, 456.640, 456.650, 456.660, 456.670,  
 456.900, 456.901, 456.902, 456.903, 456.904, 456.905,  
 456.906, 456.907, 456.908, 456.909, 456.910, 456.911,  
 456.912, 456.913, 461.300, 469.401, 469.409, 469.411,  
 469.419, 469.423, 469.435, 469.449 and 469.453, RSMo,  
 and to enact in lieu thereof one hundred fifty-six new  
 sections relating to trust and estate administration.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
 AS FOLLOWS:

1           Section A. Sections 301.681, 306.458, 306.461, 362.600,  
 2   456.010, 456.015, 456.016, 456.020, 456.030, 456.040, 456.050,  
 3   456.055, 456.060, 456.070, 456.072, 456.075, 456.080, 456.090,  
 4   456.100, 456.110, 456.120, 456.130, 456.140, 456.150, 456.160,  
 5   456.170, 456.180, 456.183, 456.185, 456.187, 456.190, 456.195,  
 6   456.200, 456.210, 456.220, 456.225, 456.230, 456.232, 456.233,

1 456.234, 456.235, 456.236, 456.240, 456.250, 456.260, 456.270,  
2 456.280, 456.290, 456.300, 456.310, 456.320, 456.330, 456.340,  
3 456.350, 456.400, 456.410, 456.420, 456.430, 456.440, 456.450,  
4 456.460, 456.470, 456.480, 456.490, 456.500, 456.510, 456.520,  
5 456.524, 456.530, 456.535, 456.540, 456.550, 456.560, 456.570,  
6 456.580, 456.610, 456.620, 456.630, 456.640, 456.650, 456.660,  
7 456.670, 456.900, 456.901, 456.902, 456.903, 456.904, 456.905,  
8 456.906, 456.907, 456.908, 456.909, 456.910, 456.911, 456.912,  
9 456.913, 461.300, 469.401, 469.409, 469.411, 469.419, 469.423,  
10 469.435, 469.449 and 469.453, are repealed and one hundred fifty-  
11 six new sections enacted in lieu thereof, to be known as sections  
12 301.681, 306.458, 306.461, 362.600, 456.1-101, 456.1-102, 456.1-  
13 103, 456.1-104, 456.1-105, 456.1-106, 456.1-107, 456.1-108,  
14 456.1-109, 456.1-110, 456.1-111, 456.1-112, 456.2-201, 456.2-202,  
15 456.2-204, 456.3-301, 456.3-302, 456.3-303, 456.3-304, 456.3-305,  
16 456.4-401, 456.4-402, 456.4-403, 456.4-404, 456.4-405, 456.4-406,  
17 456.4-407, 456.4-408, 456.4-409, 456.4-410, 456.4-411A, 456.4-  
18 411B, 456.4-412, 456.4-413, 456.4-414, 456.4-415, 456.4-416,  
19 456.4-417, 456.5-501, 456.5-502, 456.5-503, 456.5-504, 456.5-505,  
20 456.5-506, 456.5-507, 456.6-601, 456.6-602, 456.6-603, 456.6-604,  
21 456.7-701, 456.7-702, 456.7-703, 456.7-704, 456.7-705, 456.7-706,  
22 456.7-707, 456.7-708, 456.7-709, 456.8-801, 456.8-802, 456.8-803,  
23 456.8-804, 456.8-805, 456.8-806, 456.8-807, 456.8-808, 456.8-809,  
24 456.8-810, 456.8-811, 456.8-812, 456.8-813, 456.8-814, 456.8-815,  
25 456.8-816, 456.8-817, 456.10-1001, 456.10-1002, 456.10-1003,  
26 456.10-1004, 456.10-1005, 456.10-1006, 456.10-1007, 456.10-1008,  
27 456.10-1009, 456.10-1010, 456.10-1011, 456.10-1012, 456.10-1013,  
28 456.11-1101, 456.11-1102, 456.11-1103, 456.11-1104, 456.11-1106,

1 456.001, 456.003, 456.005, 456.007, 456.009, 456.011, 456.013,  
2 456.015, 456.017, 456.019, 456.021, 456.023, 456.025, 456.027,  
3 456.029, 456.031, 456.033, 456.035, 456.037, 456.039, 456.041,  
4 461.300, 469.240, 469.250, 469.260, 469.270, 469.280, 469.290,  
5 469.300, 469.310, 469.320, 469.330, 469.340, 469.350, 469.401,  
6 469.402, 469.409, 469.411, 469.419, 469.423, 469.435, 469.449,  
7 469.453, 469.900, 469.901, 469.902, 469.903, 469.904, 469.905,  
8 469.906, 469.907, 469.908, 469.909, 469.910, 469.911, 469.912,  
9 469.913, 700.630, and 1, to read as follows:

10 301.681. 1. A sole owner of a motor vehicle or trailer,  
11 and multiple owners of a motor vehicle or trailer who hold their  
12 interest as joint tenants with right of survivorship or as  
13 tenants by the entirety, on application and payment of the fee  
14 required for an original certificate of ownership, may request  
15 the director of revenue to issue a certificate of ownership for  
16 the motor vehicle or trailer in beneficiary form which includes a  
17 directive to the director of revenue to transfer the certificate  
18 of ownership on death of the sole owner or on death of all  
19 multiple owners to one beneficiary or to two or more  
20 beneficiaries as joint tenants with right of survivorship or as  
21 tenants by the entirety named on the face of the certificate.  
22 The directive to the director of revenue also shall permit the  
23 beneficiary or beneficiaries to make one reassignment of the  
24 original certificate of ownership upon the death of the owner to  
25 another owner without transferring the certificate to the  
26 beneficiary or beneficiaries name.

27 2. A certificate of ownership in beneficiary form may not  
28 be issued to persons who hold their interest in a motor vehicle

1 or trailer as tenants in common.

2 3. A certificate of ownership issued in beneficiary form  
3 shall include after the name of the owner, or after the names of  
4 multiple owners, the words "transfer on death to" or the  
5 abbreviation "TOD" followed by the name of the beneficiary or  
6 beneficiaries.

7 4. (1) During the lifetime of a sole owner [and during the  
8 lifetime of all multiple owners] or prior to the death of the  
9 last surviving multiple owner, the signature or consent of the  
10 beneficiary or beneficiaries shall not be required for any  
11 transaction relating to the motor vehicle or trailer for which a  
12 certificate of ownership in beneficiary form has been issued.

13 (2) A certificate of ownership in beneficiary form may be  
14 revoked or the beneficiary or beneficiaries changed at any time  
15 before the death of a sole owner or the last surviving multiple  
16 owner only by the following methods:

17 (a) By a sale of the motor vehicle or trailer with proper  
18 assignment and delivery of the certificate of ownership to  
19 another person; or

20 (b) By filing an application to reissue the certificate of  
21 ownership with no designation of a beneficiary or with the  
22 designation of a different beneficiary or beneficiaries with the  
23 director of revenue in proper form and accompanied by the payment  
24 of the fee for an original certificate of ownership.

25 (3) The beneficiary's or beneficiaries' interest in the  
26 motor vehicle or trailer at death of the owner or surviving owner  
27 shall be subject to any contract of sale, assignment of ownership  
28 or security interest to which the owner or owners of the motor

1 vehicle or trailer were subject during their lifetime.

2 (4) The designation of a beneficiary or beneficiaries in a  
3 certificate of ownership issued in beneficiary form may not be  
4 changed or revoked by a will, any other instrument, or a change  
5 in circumstances, or otherwise be changed or revoked except as  
6 provided by subdivision (2) of this subsection.

7 5. (1) On proof of death of one of the owners of two or  
8 more multiple owners, or of a sole owner, surrender of the  
9 outstanding certificate of ownership, and on application and  
10 payment of the fee for an original certificate of ownership, the  
11 director of revenue shall issue a new certificate of ownership  
12 for the motor vehicle or trailer to the surviving owner or owners  
13 or, if none, to the surviving beneficiary or beneficiaries,  
14 subject to any outstanding security interest; and the current  
15 valid certificate of number shall be so transferred. If the  
16 surviving beneficiary or beneficiaries makes a request of the  
17 director of revenue, the director may allow the beneficiary or  
18 beneficiaries to make one assignment of title.

19 (2) The director of revenue may rely on a death certificate  
20 or record or report that constitutes prima facie proof or  
21 evidence of death under subdivisions (1) and (2) of section  
22 472.290, RSMo.

23 (3) The transfer of a motor vehicle or trailer at death  
24 pursuant to this section is effective by reason of sections  
25 301.675 to 301.682 and sections 306.455 to 306.465, RSMo, and is  
26 not to be considered as testamentary, or to be subject to the  
27 requirements of section 473.087, RSMo, or section 474.320, RSMo.

28 306.458. 1. A certificate of title for an outboard motor

1 or vessel issued in the names of two or more persons that does  
2 not show on the face of the certificate that the persons hold  
3 their interest in the outboard motor or vessel as tenants in  
4 common, on death of one of the named persons, may be transferred  
5 to the surviving owner or owners. On proof of death of one of  
6 the persons in whose names the certificate was issued, surrender  
7 of the outstanding certificate of title, and on application and  
8 payment of the fee for an original certificate of title, the  
9 director of revenue shall issue a new certificate for the  
10 outboard motor or vessel to the surviving owner or owners; and  
11 the current valid certificate of number shall be so transferred.  
12 The directive to the director of revenue also shall permit the  
13 beneficiary or beneficiaries to make one reassignment of the  
14 original certificate of ownership upon the death of the owner to  
15 another owner without transferring the certificate to the  
16 beneficiary or beneficiaries name.

17 2. A certificate of title for an outboard motor or vessel,  
18 issued in the names of two or more persons that shows on its face  
19 that the persons hold their interest in the outboard motor or  
20 vessel as tenants in common, on death of one of the named  
21 persons, may be transferred by the director of revenue on  
22 application by the surviving owners and the personal  
23 representative or successors of the deceased owner. Upon being  
24 presented proof of death of one of the persons in whose names the  
25 certificate of title was issued; surrender of the outstanding  
26 certificate of title, and on application and payment of the fee  
27 for an original certificate of title, the director of revenue  
28 shall issue a new certificate of title for the outboard motor or

1 vessel to the surviving owners and personal representative or  
2 successors of the deceased owner; and the current valid  
3 certificate of number shall be transferred.

4 306.461. 1. A sole owner of an outboard motor or vessel,  
5 and multiple owners of an outboard motor or vessel who hold their  
6 interest as joint tenants with right of survivorship or as  
7 tenants by the entirety, on application and payment of the fee  
8 required for an original certificate of title, may request the  
9 director of revenue to issue a certificate of title for the  
10 outboard motor or vessel in beneficiary form which includes a  
11 directive to the director of revenue to transfer the certificate  
12 of title on death of the sole owner or on death of all multiple  
13 owners to one beneficiary or to two or more beneficiaries as  
14 joint tenants with right of survivorship or as tenants by the  
15 entirety named on the face of the certificate.

16 2. A certificate of title in beneficiary form may not be  
17 issued to persons who hold their interest in an outboard motor or  
18 vessel as tenants in common.

19 3. A certificate of title issued in beneficiary form shall  
20 include after the name of the owner, or after the names of  
21 multiple owners, the words "transfer on death to" or the  
22 abbreviation "TOD" followed by the name of the beneficiary or  
23 beneficiaries.

24 4. (1) During the lifetime of a sole owner [and during the  
25 lifetime of all multiple owners] or prior to the death of the  
26 last surviving multiple owner, the signature or consent of the  
27 beneficiary or beneficiaries shall not be required for any  
28 transaction relating to the outboard motor or vessel for which a

1 certificate of title in beneficiary form has been issued.

2 (2) A certificate of title in beneficiary form may be  
3 revoked or the beneficiary or beneficiaries changed at any time  
4 before the death of the sole owner or the last surviving multiple  
5 owner only by the following methods:

6 (a) By a sale of the outboard motor or vessel with proper  
7 assignment and delivery of the certificate of title to another  
8 person; or

9 (b) By surrender of the outstanding certificate of title  
10 and filing an application to reissue the certificate of title  
11 with no designation of a beneficiary or with the designation of a  
12 different beneficiary or beneficiaries with the director of  
13 revenue in proper form and accompanied by the payment of the fee  
14 for an original certificate of title.

15 (3) The beneficiary's or beneficiaries' interest in the  
16 outboard motor or vessel at death of the owner or surviving owner  
17 shall be subject to any contract of sale, assignment of ownership  
18 or security interest to which the owner or owners of the outboard  
19 motor or vessel were subject during their lifetime.

20 (4) The designation of a beneficiary or beneficiaries in a  
21 certificate of title issued in beneficiary form may not be  
22 changed or revoked by a will, any other instrument, or a change  
23 in circumstances, or otherwise be changed or revoked except as  
24 provided by subdivision (2) of this subsection.

25 5. (1) On proof of death of one of the owners of two or  
26 more multiple owners, or of a sole owner, surrender of the  
27 outstanding certificate of title, and on application and payment  
28 of the fee for an original certificate of title, the director of

1 revenue shall issue a new certificate of title for the outboard  
2 motor or vessel to the surviving owner or owners or, if none, to  
3 the surviving beneficiary or beneficiaries, subject to any  
4 outstanding security interest; and the current valid certificate  
5 of number shall be so transferred. If the surviving beneficiary  
6 or beneficiaries request of the director of revenue, the director  
7 may allow the beneficiary or beneficiaries to make one assignment  
8 of title.

9 (2) The director of revenue may rely on a death certificate  
10 or record or report that constitutes prima facie proof or  
11 evidence of death under subdivisions (1) and (2) of section  
12 472.290, RSMo.

13 (3) The transfer of an outboard motor or vessel at death  
14 pursuant to this section is effective by reason of sections  
15 301.675 to 301.682, RSMo, and sections 306.455 to 306.465, and is  
16 not to be considered testamentary, or to be subject to the  
17 requirements of section 473.087, RSMo, or section 474.320, RSMo.

18 362.600. 1. The term "foreign corporation", as used in  
19 this section, shall mean:

20 (1) Any bank or other corporation now or hereafter  
21 organized under the laws of any state of the United States other  
22 than Missouri; and

23 (2) Any national banking association having its principal  
24 place of business in any state of the United States other than  
25 Missouri.

26 2. Except as provided in subsection 5 of this section, any  
27 foreign corporation may act in this state as trustee, executor,  
28 administrator, guardian, or in any other like fiduciary capacity,

1 without the necessity of complying with any law of this state  
2 relating to the licensing of foreign banking corporations by the  
3 director of finance or relating to the qualifications of foreign  
4 corporations to do business in this state, and notwithstanding  
5 any prohibition, limitation or restriction contained in any other  
6 law of this state, provided only that:

7 (1) The foreign corporation is authorized to act in this  
8 fiduciary capacity or capacities in the state in which it is  
9 incorporated, or, if the foreign corporation be a national  
10 banking association, in which it has its principal place of  
11 business; and

12 (2) Any bank or other corporation organized under the laws  
13 of this state or a national banking association having its  
14 principal place of business in this state may act in these  
15 fiduciary capacities in that state without further showing or  
16 qualification, other than that it is authorized to act in these  
17 fiduciary capacities in this state and compliance with any law of  
18 that state concerning service of process:

19 (a) Which may require the appointment of an official or  
20 other person for the receipt of process; or

21 (b) Which contains provisions to the effect that any bank  
22 or other corporation, which is not incorporated under the laws of  
23 that state, or if a national bank then which does not have its  
24 principal place of business in that state, acting in that state  
25 in a fiduciary capacity pursuant to provisions of law making it  
26 eligible to do so, shall be deemed to have appointed an official  
27 of that state to be its true and lawful attorney upon whom may be  
28 served all legal process in any action or proceeding against it

1 relating to or growing out of any trust, estate or matter in  
2 respect of which the corporation has acted or is acting in that  
3 state in this fiduciary capacity, and that the acceptance of or  
4 engagement in that state in any acts in this fiduciary capacity  
5 shall be signification of its agreement that the process against  
6 it, which is so served, shall be of the same legal force and  
7 validity as though served upon it personally, or which contains  
8 any substantially similar provisions.

9  
10 Any foreign corporation eligible to act in any fiduciary capacity  
11 in this state pursuant to the provisions of this section may so  
12 act whether or not a resident of this state be acting with it in  
13 this capacity, may use its corporate name in connection with such  
14 activity in this state, and may be appointed to act in this  
15 fiduciary capacity by any court having jurisdiction in the  
16 premises, all notwithstanding any provision of law to the  
17 contrary. Nothing in this section contained shall be construed  
18 to prohibit or make unlawful any activity in this state by a bank  
19 or other corporation which is not incorporated under the laws of  
20 this state, or if a national bank then which does not have its  
21 principal place of business in this state, which would be lawful  
22 in the absence of this section.

23 3. Except as provided in subsection 5 of this section,  
24 prior to the time when any foreign corporation acts pursuant to  
25 the authority of this section in any fiduciary capacity or  
26 capacities in this state, the foreign corporation shall file with  
27 the director of finance a written application for a certificate  
28 of reciprocity and the director of finance shall issue the

1 certificate to the foreign corporation. The application shall  
2 state:

3 (1) The correct corporate name of the foreign corporation;

4 (2) The name of the state under the laws of which it is  
5 incorporated, or if the foreign corporation is a national banking  
6 association shall state that fact;

7 (3) The address of its principal business office;

8 (4) In what fiduciary capacity or capacities it desires to  
9 act, in the state of Missouri;

10 (5) That it is authorized to act in a similar fiduciary  
11 capacity or capacities in the state in which it is incorporated,  
12 or, if it is a national banking association, in which it has its  
13 principal place of business;

14 (6) That the application shall constitute the irrevocable  
15 appointment of the director of finance of Missouri as its true  
16 and lawful attorney to receive service of all legal process in  
17 any action or proceeding against it relating to or growing out of  
18 any trust, estate or matter in respect of which the foreign  
19 corporation may act in this state in the fiduciary capacity  
20 pursuant to the certificate of reciprocity applied for;

21 (7) Unless the applicant is subject to the jurisdiction of  
22 the Office of Thrift Supervision, that the applicant has provided  
23 with the application a fiduciary bond in the amount of one  
24 million dollars for the benefit of the director of the division  
25 of finance in a format approved by the director of the division  
26 of finance.

27  
28 The application shall be verified by an officer of the foreign

1 corporation, and there shall be filed with it such certificates  
2 of public officials and copies of documents certified by public  
3 officials as may be necessary to show that the foreign  
4 corporation is authorized to act in a fiduciary capacity or  
5 capacities similar to those in which it desires to act in the  
6 state of Missouri, in the state in which it is incorporated, or,  
7 if it is a national banking association in which it has its  
8 principal place of business. The director of finance shall,  
9 thereupon, if the foreign corporation is one which may act in the  
10 fiduciary capacity or capacities as provided in subsection 2 of  
11 this section, issue to the corporation a certificate of  
12 reciprocity, retaining a duplicate thereof together with the  
13 application and accompanying documents in his or her office. The  
14 certificate of reciprocity shall recite and certify that the  
15 foreign corporation is eligible to act in this state pursuant to  
16 this section and shall recite the fiduciary capacity or  
17 capacities in which the foreign corporation is eligible so to  
18 act.

19 4. A certificate of reciprocity issued to any foreign  
20 corporation shall remain in effect until the foreign corporation  
21 shall cease to be entitled under subsection 2 of this section to  
22 act in this state in the fiduciary capacity or capacities covered  
23 by the certificate, and thereafter until revoked by the director  
24 of finance. If at any time the foreign corporation shall cease  
25 to be entitled under subsection 2 of this section to act in this  
26 state in the fiduciary capacity or capacities covered by the  
27 certificate, the director of finance shall revoke the certificate  
28 and give written notice of the revocation to the foreign

1 corporation. No revocation of any certificate of reciprocity  
2 shall affect the right of the foreign corporation to continue to  
3 act in this state in a fiduciary capacity in estates or matters  
4 in which it has theretofore begun to act in a fiduciary capacity  
5 pursuant to the certificate.

6 5. A foreign corporation shall not establish or maintain in  
7 this state a place of business, branch office or agency for the  
8 conduct in this state of business as a fiduciary unless:

9 (1) The foreign corporation is under the control of a  
10 Missouri bank or a Missouri bank holding company, as these terms  
11 are defined in section 362.925, and the foreign corporation has  
12 complied with the requirements relating to the qualifications of  
13 foreign corporations to do business in this state;

14 (2) The foreign corporation is a bank, trust company or  
15 national banking association in good standing that possesses  
16 fiduciary powers from its chartering authority and is the  
17 surviving corporation to a merger or consolidation with a  
18 national banking association located in Missouri or a Missouri  
19 bank or trust company. The provisions of this subdivision are  
20 enacted to implement subsection 2 of this section and section  
21 362.610, and the provisions of Title 12, U.S.C. 36(f)(2) of the  
22 National Bank Act; or

23 (3) The foreign corporation is a state-chartered bank,  
24 savings and loan association, trust company or national banking  
25 association in good standing that possesses fiduciary powers and  
26 has received a certificate of reciprocity, in which case it may  
27 only open a trust representative office in Missouri which is not  
28 otherwise a branch of such foreign corporation, provided a bank,

1 savings and loan association or trust company chartered under the  
2 laws of Missouri and a national bank with its principal location  
3 in Missouri, all with fiduciary powers, are permitted to open and  
4 operate a trust representative office under the same or less  
5 restrictive conditions in the state in which the foreign  
6 corporation is organized or has its principal office.

7 6. A foreign corporation, insofar as it acts in a fiduciary  
8 capacity in this state pursuant to the provisions of this  
9 section, shall not be deemed to be transacting business in this  
10 state, if the foreign corporation does not establish or maintain  
11 in this state a place of business, branch office, or agency for  
12 the conduct in this state of business as a fiduciary.

13 7. Every foreign corporation to which a certificate of  
14 reciprocity shall have been issued shall be deemed to have  
15 appointed the director of finance to be its true and lawful  
16 attorney upon whom may be served all legal process in any action  
17 or proceeding against it relating to or growing out of any trust,  
18 estate or matter in respect of which the foreign corporation acts  
19 in this state in any fiduciary capacity pursuant to the  
20 certificate of reciprocity. Service of the process shall be made  
21 by delivering a copy of the summons or other process, with a copy  
22 of the petition when service of the copy is required by law,  
23 together with a remittance of one dollar (to be taxed as costs in  
24 the action or proceeding), to the director of finance or to any  
25 person in his or her office authorized by him to receive the  
26 service. The director of finance shall immediately forward the  
27 process, together with the copy of the petition, if any, to the  
28 foreign corporation, by registered mail, addressed to it at the

1 address on file with the director, or if there be none on file  
2 then at its last known address. The director of finance shall  
3 keep a permanent record in his or her office showing for all  
4 process served, the style of the action or proceeding, the court  
5 in which it was brought, the name and title of the officer  
6 serving the process, the day and hour of service, and the day of  
7 mailing by registered mail to the foreign corporation and the  
8 address to which mailed. In case the process is issued by an  
9 associate circuit judge, the same may be directed to and served  
10 by any officer authorized to serve process in the city or county  
11 where the director of finance shall have his or her office, at  
12 least fifteen days before the return thereof.

13 456.1-101. Sections 456.1-101 to 456.11-1106 shall be known  
14 and may be cited as the "Missouri Uniform Trust Code".

15 456.1-102. Sections 456.1-101 to 456.11-1106 apply to  
16 express trusts, charitable or noncharitable, testamentary or  
17 inter vivos, and trusts created pursuant to a statute, judgment,  
18 or decree that requires the trust to be administered in the  
19 manner of an express trust. Sections 456.1-101 to 456.11-1106 do  
20 not apply to any trust created by the inherent power of the court  
21 pursuant to chapter 460, RSMo.

22 456.1-103. In sections 456.1-101 to 456.11-1106:

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

25 (2) "Beneficiary" means a person that:

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

28 (b) in a capacity other than that of trustee, holds a power

1 of appointment over trust property.

2 (3) "Charitable trust" means a trust, or portion of a  
3 trust, created for a charitable purpose described in subsection 1  
4 of section 456.4-405.

5 (4) "Conservator" means a person described in subdivision  
6 (3) of section 475.010, RSMo. This term does not include a  
7 conservator ad litem.

8 (5) "Conservator ad litem" means a person appointed by the  
9 court pursuant to the provisions of section 475.097, RSMo.

10 (6) "Environmental law" means a federal, state, or local  
11 law, rule, regulation, or ordinance relating to protection of the  
12 environment.

13 (7) "Financial institution" means a non-foreign bank,  
14 savings and loan or trust company chartered, regulated and  
15 supervised by the Missouri division of finance, the office of the  
16 comptroller of the currency, the office of thrift supervision,  
17 the National Credit Union Administration, or the Missouri  
18 division of credit union supervision. The term "non-foreign  
19 bank" shall mean a bank that is not a foreign bank within the  
20 meaning of subdivision (1) of section 361.005, RSMo.

21 (8) "Guardian" means a person described in subdivision (6)  
22 of section 475.010, RSMo. The term does not include a guardian  
23 ad litem.

24 (9) "Interested persons" include beneficiaries and any  
25 others having a property right in or claim against a trust estate  
26 which may be affected by a judicial proceeding. It also includes  
27 fiduciaries and other persons representing interested persons.  
28 The meaning as it relates to particular persons may vary from

1 time to time and must be determined according to the particular  
2 purposes of, and matter involved in, any proceeding.

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

5 (11) "Internal Revenue Code" means the United States  
6 Internal Revenue Code of 1986, as in effect on January 1, 2005 or  
7 as later amended.

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

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

15 (14) "Permissible distributee" means a beneficiary who is  
16 currently eligible to receive distributions of trust income or  
17 principal, whether mandatory or discretionary.

18 (15) "Power of withdrawal" means a presently exercisable  
19 general power of appointment other than a power exercisable only  
20 upon consent of the trustee or a person holding an adverse  
21 interest.

22 (16) "Principal place of administration" of a trust is the  
23 trustee's usual place of business where the records pertaining to  
24 the trust are kept, or the trustee's residence if the trustee has  
25 no such place of business, unless otherwise designated by the  
26 terms of the trust as provided in section 456.1-108. In the case  
27 of cotrustees, the principal place of administration is, in the  
28 following order of priority:

1 (a) The usual place of business of the corporate trustee if  
2 there is but one corporate cotrustee;

3 (b) The usual place of business or residence of the trustee  
4 who is a professional fiduciary if there is but one such trustee  
5 and no corporate cotrustee; or

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

8 (17) "Professional fiduciary" means an individual who  
9 represents himself or herself to the public as having specialized  
10 training, experience or skills in the administration of trusts.

11 (18) "Property" means anything that may be the subject of  
12 ownership, whether real or personal, legal or equitable, or any  
13 interest therein.

14 (19) "Qualified beneficiary" means a beneficiary who, on  
15 the date the beneficiary's qualification is determined:

16 (a) is a permissible distributee;

17 (b) would be a permissible distributee if the interests of  
18 the permissible distributees described in paragraph (a) of this  
19 subdivision terminated on that date; or

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

22 (20) "Record" means information that is inscribed on a  
23 tangible medium or that is stored in an electronic or other  
24 medium and is retrievable in perceivable form.

25 (21) "Revocable," as applied to a trust, means revocable by  
26 the settlor without the consent of the trustee or a person  
27 holding an adverse interest.

28 (22) "Settlor" means a person, including a testator, who

1 creates, or contributes property to, a trust. If more than one  
2 person creates or contributes property to a trust, each person is  
3 a settlor of the portion of the trust property attributable to  
4 that person's contribution except to the extent another person  
5 has the power to revoke or withdraw that portion pursuant to the  
6 terms of the trust.

7 (23) "Sign" means, with present intent to authenticate or  
8 adopt a record:

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

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

12 (24) "Spendthrift provision" means a term of a trust which  
13 restrains either the voluntary or involuntary transfer or both  
14 the voluntary and involuntary transfer of a beneficiary's  
15 interest.

16 (25) "State" means a State of the United States, the  
17 District of Columbia, Puerto Rico, the United States Virgin  
18 Islands, or any territory or insular possession subject to the  
19 jurisdiction of the United States. The term includes an Indian  
20 tribe or band recognized by federal law or formally acknowledged  
21 by a State.

22 (26) "Terms of a trust" means the manifestation of the  
23 settlor's intent regarding a trust's provisions as expressed in  
24 the trust instrument or as may be established by other evidence  
25 that would be admissible in a judicial proceeding.

26 (27) "Trust instrument" means an instrument executed by the  
27 settlor that contains terms of the trust, including any  
28 amendments thereto.

1 (28) "Trustee" includes an original, additional, and  
2 successor trustee, and a cotrustee.

3 456.1-104. 1. Subject to subsection 2 of this section, a  
4 person has knowledge of a fact if the person:

5 (1) has actual knowledge of it;

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

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

9 2. An organization that conducts activities through  
10 employees has notice or knowledge of a fact involving a trust  
11 only from the time the information was received by an employee  
12 having responsibility to act for the trust, or would have been  
13 brought to the employee's attention if the organization had  
14 exercised reasonable diligence. An organization exercises  
15 reasonable diligence if it maintains reasonable routines for  
16 communicating significant information to the employee having  
17 responsibility to act for the trust and there is reasonable  
18 compliance with the routines. Reasonable diligence does not  
19 require an employee of the organization to communicate  
20 information unless the communication is part of the individual's  
21 regular duties or the individual knows a matter involving the  
22 trust would be materially affected by the information.

23 456.1-105. 1. Except as otherwise provided in the terms of  
24 the trust, sections 456.1-101 to 456.11-1106 governs the duties  
25 and powers of a trustee, relations among trustees, and the rights  
26 and interests of a beneficiary.

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

- 1 (1) the requirements for creating a trust;
- 2 (2) the duty of a trustee to act in good faith and in  
3 accordance with the purposes of the trust;
- 4 (3) the requirement that a trust and its terms be for the  
5 benefit of its beneficiaries;
- 6 (4) the power of the court to modify or terminate a trust  
7 under section 456.4-410, subsection 3 of section 456.4-411B, and  
8 sections 456.4-412 to 456.4-416;
- 9 (5) the effect of a spendthrift provision and the rights of  
10 certain creditors and assignees to reach a trust as provided in  
11 sections 456.5-501 to 456.5-507;
- 12 (6) the power of the court under section 456.7-702 to  
13 require, dispense with, or modify or terminate a bond;
- 14 (7) the power of the court under subsection 2 of section  
15 456.7-708 to adjust a trustee's compensation specified in the  
16 terms of the trust which is unreasonably low or high;
- 17 (8) the duty to notify the permissible distributees of an  
18 irrevocable trust who have attained twenty-one years of age of  
19 the existence of the trust and of their rights to request  
20 trustee's reports and other information reasonably related to the  
21 administration of the trust;
- 22 (9) the duty to respond to the request of a qualified  
23 beneficiary of an irrevocable trust for trustee's reports and  
24 other information reasonably related to the administration of a  
25 trust;
- 26 (10) the effect of an exculpatory term under section  
27 456.10-1008;
- 28 (11) the rights under sections 456.10-1010 to 456.10-1013

1 of a person other than a trustee or beneficiary;

2 (12) periods of limitation for commencing a judicial  
3 proceeding;

4 (13) the power of the court to take such action and  
5 exercise such jurisdiction as may be necessary in the interests  
6 of justice; and

7 (14) the venue for a judicial proceeding as provided in  
8 section 456.2-204.

9 456.1-106. The common law of trusts and principles of  
10 equity supplement sections 456.1-101 to 456.11-1106, except to  
11 the extent modified by sections 456.1-101 to 456.11-1106 or  
12 another statute of this state.

13 456.1-107. The meaning and effect of the terms of a trust  
14 are determined by:

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

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

22 456.1-108. 1. Without precluding other means for  
23 establishing a sufficient connection with the designated  
24 jurisdiction, terms of a trust designating the principal place of  
25 administration are valid and controlling if:

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

28 (2) all or part of the administration occurs in the

1 designated jurisdiction.

2 2. Without precluding the right of the court to order,  
3 approve, or disapprove a transfer, the trustee may transfer the  
4 trust's principal place of administration to another State or to  
5 a jurisdiction outside of the United States that is appropriate  
6 to the trust's purposes, its administration, and the interests of  
7 the beneficiaries.

8 3. The trustee shall notify the qualified beneficiaries of  
9 a proposed transfer of a trust's principal place of  
10 administration not less than sixty days before initiating the  
11 transfer. The notice of proposed transfer must include:

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

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

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

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

20 (5) the date, not less than sixty days after the giving of  
21 the notice, by which the qualified beneficiary must notify the  
22 trustee of an objection to the proposed transfer.

23 4. The authority of a trustee under this section to  
24 transfer a trust's principal place of administration without an  
25 order of a court terminates if a qualified beneficiary notifies  
26 the trustee of an objection to the proposed transfer on or before  
27 the date specified in the notice.

28 5. In connection with a transfer of the trust's principal

1 place of administration, the trustee may transfer some or all of  
2 the trust property to a successor trustee designated in the terms  
3 of the trust or appointed pursuant to section 456.7-704.

4 456.1-109. 1. Notice to a person under sections 456.1-101  
5 to 456.11-1106 or the sending of a document to a person under  
6 sections 456.1-101 to 456.11-1106 must be accomplished in a  
7 manner reasonably suitable under the circumstances and likely to  
8 result in receipt of the notice or document. Permissible methods  
9 of notice or for sending a document include first-class mail,  
10 personal delivery, delivery to the person's last known place of  
11 residence or place of business, or a properly directed electronic  
12 message.

13 2. Notice otherwise required under sections 456.1-101 to  
14 456.11-1106 or a document otherwise required to be sent under  
15 sections 456.1-101 to 456.11-1106 need not be provided to a  
16 person whose identity or location is unknown to and not  
17 reasonably ascertainable by the trustee.

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

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

23 456.1-110. 1. A specified charitable organization or a  
24 person appointed to enforce a trust created for the care of an  
25 animal or another noncharitable purpose as provided in sections  
26 456.4-408 or 456.4-409 has the rights of a qualified beneficiary  
27 under sections 456.1-101 to 456.11-1106.

28 2. Except with respect to section 456.4-411B, the attorney

1 general of this state has the rights of a qualified beneficiary  
2 with respect to an interest in a charitable trust having its  
3 principal place of administration in this state if:

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

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

9 3. In this section a "specified charitable organization"  
10 means an identifiable charitable entity that, on the date that  
11 entity's qualification is determined:

12 (a) is a permissible distributee;

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

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

17 4. No provision of this section shall limit the authority  
18 of the attorney general of this state to supervise and control  
19 charitable organizations.

20 456.1-111. 1. In this section, "interested persons" means  
21 persons whose consent would be required in order to achieve a  
22 binding settlement were the settlement to be approved by the  
23 court.

24 2. Except as otherwise provided in subsection 3 and 6 of  
25 this section, interested persons may enter into a binding  
26 nonjudicial settlement agreement with respect to any matter  
27 involving a trust.

28 3. A nonjudicial settlement agreement is valid only to the

1 extent it does not violate a material purpose of the trust and  
2 includes terms and conditions that could be properly approved by  
3 the court under sections 456.1-101 to 456.11-1106 or other  
4 applicable law.

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

7 (1) the interpretation or construction of the terms of the  
8 trust;

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

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

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

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

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

19 5. Any interested person may request the court to approve a  
20 nonjudicial settlement agreement, to determine whether the  
21 representation as provided in sections 456.3-301 to 456.3-305 was  
22 adequate, and to determine whether the agreement contains terms  
23 and conditions the court could have properly approved.

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

28 456.1-112. 1. If a settlor's marriage is dissolved or

1 annulled, any beneficial terms of a trust in favor of the  
2 settlor's former spouse or any fiduciary appointment of the  
3 settlor's former spouse is revoked on the date the marriage is  
4 dissolved or annulled, whether or not the terms of the trust  
5 refer to marital status. The terms of the trust shall be given  
6 effect as if the former spouse had died immediately before the  
7 date the dissolution or annulment became final. This subsection  
8 shall also apply to any beneficial interest or fiduciary  
9 appointment in favor of a relative of the settlor's former spouse  
10 as if such relative were the former spouse.

11 2. Subsection 1 of this section does not apply to the terms  
12 of a trust that provide any beneficial interest or fiduciary  
13 appointment for a former spouse or a relative of a former spouse  
14 that was created after the marriage was dissolved or annulled, or  
15 that expressly states that marriage dissolution or annulment  
16 shall not affect the designation of a former spouse or relative  
17 of a former spouse as a beneficiary or a fiduciary of the trust.

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

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

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

1 adoption or affinity.

2 456.2-201. 1. The court may intervene in the  
3 administration of a trust to the extent its jurisdiction is  
4 invoked by an interested person or as provided by law.

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

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

10 456.2-202. 1. By accepting the trusteeship of a trust  
11 having its principal place of administration in this state or by  
12 moving the principal place of administration to this state, the  
13 trustee submits personally to the jurisdiction of the courts of  
14 this State regarding the administration of the trust during any  
15 period that the principal place of administration is located in  
16 this state.

17 2. With respect to their interests in the trust, the  
18 beneficiaries of a trust having its principal place of  
19 administration in this state are subject to the jurisdiction of  
20 the courts of this state regarding any proceeding involving the  
21 administration of the trust. By accepting a distribution from  
22 such a trust, the recipient submits personally to the  
23 jurisdiction of the courts of this state regarding any proceeding  
24 involving the administration of the trust.

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

28 (1) request instructions or declare rights;

- 1 (2) approve a nonjudicial settlement;
- 2 (3) interpret or construe the terms of the trust;
- 3 (4) determine the validity of a trust or of any of its  
4 terms;
- 5 (5) approve a trustee's report or accounting or compel a  
6 trustee to report or account;
- 7 (6) direct a trustee to refrain from performing a  
8 particular act or grant to a trustee any necessary or desirable  
9 power;
- 10 (7) review the actions of a trustee, including the exercise  
11 of a discretionary power;
- 12 (8) accept the resignation of a trustee;
- 13 (9) appoint or remove a trustee;
- 14 (10) determine a trustee's compensation;
- 15 (11) determine the liability of a trustee for an action  
16 relating to the trust and compel redress of a breach of trust by  
17 any available remedy;
- 18 (12) modify or terminate a trust;
- 19 (13) combine trusts or divide a trust;
- 20 (14) determine liability of a trust for debts of a  
21 beneficiary and living settlor;
- 22 (15) approve employment and compensation of agents;
- 23 (16) determine the propriety of investments or of principal  
24 and income allocations;
- 25 (17) ascertain the identity of trust beneficiaries or the  
26 respective beneficial interests of trust beneficiaries;
- 27 (18) release of trust registration or change of the trust's  
28 principal place of administration;

1 (19) determine the timing and quantity of distributions and  
2 dispositions of assets;

3 (20) determine the validity and effect of alienations by  
4 beneficiaries, by exercise of powers of appointment or otherwise;  
5 or

6 (21) appoint a representative for a beneficiary.

7 4. This section does not preclude other methods of  
8 obtaining jurisdiction over a trustee, beneficiary, or other  
9 person receiving property from the trust.

10 456.2-204. 1. Venue for judicial proceedings involving the  
11 internal affairs of a trust shall be:

12 (1) For a trust then registered in this State, in the  
13 probate division of the circuit court where the trust is  
14 registered; or

15 (2) For a trust not then registered in this State, in the  
16 probate division of the circuit court where the trust could  
17 properly be registered; or

18 (3) For a trust not then registered in this State and which  
19 cannot properly be registered in this State, in accordance with  
20 the rules of civil procedure.

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

25 3. If proceedings concerning the same trust are commenced  
26 in more than one court of this State, the court in which the  
27 proceeding was first commenced shall continue to hear the matter,  
28 and the other courts shall hold the matter in abeyance until the

1 question of venue is decided, and if the court in which the  
2 proceeding was first commenced determines that venue is properly  
3 in another court, it shall transfer the proceeding to the other  
4 court.

5 4. If a court finds that in the interest of justice a  
6 proceeding or a file should be located in another court of this  
7 State, the court making the finding may transfer the proceeding  
8 or file to the other court.

9 456.3-301. 1. Notice to a person who may represent and  
10 bind another person under sections 456.3-301 to 456.3-305 has the  
11 same effect as if notice were given directly to the other person.

12 2. The consent of a person who may represent and bind  
13 another person under sections 456.3-301 to 456.3-305 is binding  
14 on the person represented unless the person represented objects  
15 to the representation before the consent would otherwise have  
16 become effective.

17 3. Except as otherwise provided in sections 456.4-411A and  
18 456.6-602, a person who under sections 456.3-301 to 456.3-305 may  
19 represent a settlor who lacks capacity may receive notice and  
20 give a binding consent on the settlor's behalf.

21 456.3-302. The holder of a testamentary power of  
22 appointment may represent and bind persons whose interests, as  
23 permissible appointees, takers in default, or otherwise, are  
24 subject to the power.

25  
26 In this section "testamentary power of appointment" means a  
27 testamentary power of appointment exercisable without the consent  
28 of the creator of the power or person holding an adverse interest

1 in favor of:

2 (1) a class of appointees that includes the holder, the  
3 holder's estate, the holder's creditors, or the creditors of the  
4 holder's estate; or

5 (2) all persons other than the holder, the holder's estate,  
6 the holder's creditor's, or the creditors of the holder's estate.

7 456.3-303. To the extent there is no conflict of interest  
8 between the representative and the person represented or among  
9 those being represented with respect to a particular question or  
10 dispute:

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

13 (2) a conservator ad litem may represent and bind the ward  
14 with respect to a particular question or dispute over which a  
15 conservator does not have authority;

16 (3) a guardian may represent and bind the ward with respect  
17 to a particular question or dispute if a conservator or  
18 conservator ad litem is not authorized to act with respect to  
19 that particular question or dispute;

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

23 (5) an agent having authority to act with respect to the  
24 particular question or dispute may represent and bind the  
25 principal;

26 (6) a trustee may represent and bind the beneficiaries of  
27 the trust; and

28 (7) a personal representative of a decedent's estate may

1 represent and bind persons interested in the estate.

2 456.3-304. Unless otherwise represented, a minor,  
3 incapacitated, or unborn individual, or a person whose identity  
4 or location is unknown and not reasonably ascertainable, may be  
5 represented by and bound by another having a substantially  
6 identical interest with respect to the particular question or  
7 dispute, but only to the extent there is no conflict of interest  
8 between the representative and the person represented.

9 456.3-305. 1. If the court determines that an interest is  
10 not represented under sections 456.3-301 to 456.3-305 or that the  
11 otherwise available representation might be inadequate, the court  
12 may appoint a representative to receive notice, give consent, and  
13 otherwise represent, bind, and act on behalf of a minor,  
14 incapacitated, or unborn individual, or a person whose identity  
15 or location is unknown. A representative may be appointed to  
16 represent several persons or interests.

17 2. A representative may act on behalf of the individual  
18 represented with respect to any matter arising under sections  
19 456.1-101 to 456.11-1106, whether or not a judicial proceeding  
20 concerning the trust is pending.

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

24 456.4-401. A trust may be created by:

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

28 (2) declaration by the owner of property that the owner

1 holds identifiable property as trustee;

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

4 (4) a court under section 475.092, 475.093, or 511.030,  
5 RSMo.

6 456.4-402. 1. Other than for a trust created by section  
7 475.092, 475.093, or 511.030, RSMo, a trust is created only if:

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

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

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

11 (a) a charitable trust;

12 (b) a trust for the care of an animal, as provided in  
13 section 456.4-408; or

14 (c) a trust for a noncharitable purpose, as provided in  
15 section 456.4-409;

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

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

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

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

27 456.4-403. A trust not created by will is validly created  
28 if its creation complies with the law of the jurisdiction in

1 which the trust instrument was executed, or the law of the  
2 jurisdiction in which, at the time of creation:

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

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

6 (3) any trust property was located.

7 456.4-404. A trust may be created only to the extent its  
8 purposes are lawful, not contrary to public policy, and possible  
9 to achieve. A trust and its terms must be for the benefit of its  
10 beneficiaries.

11 456.4-405. 1. A charitable trust may be created for the  
12 relief of poverty, the advancement of education or religion, the  
13 promotion of health, governmental or municipal purposes, or other  
14 purposes the achievement of which is beneficial to the community.

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

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

22 456.4-406. A trust is void to the extent its creation was  
23 induced by fraud, duress, or undue influence.

24 456.4-407. 1. Except as provided in subsection 2 of this  
25 section, a trust need not be evidenced by a trust instrument, but  
26 the creation of an oral trust and its terms may be established  
27 only by clear and convincing evidence.

28 2. Other than for a conveyance by which a trust may arise

1 or result by the implication or construction of law, all  
2 declarations or creations of trust of any lands, tenements or  
3 hereditaments shall be manifested and proved by some writing  
4 signed by the party who is, or shall be, by law, enabled to  
5 declare such trusts, or by the party's last will, in writing, or  
6 else they shall be void.

7 456.4-408. 1. A trust may be created to provide for the  
8 care of an animal alive during the settlor's lifetime. The trust  
9 terminates upon the death of the animal or, if the trust was  
10 created to provide for the care of more than one animal alive  
11 during the settlor's lifetime, upon the death of the last  
12 surviving animal.

13 2. A trust authorized by this section may be enforced by a  
14 person appointed in the terms of the trust or, if no person is so  
15 appointed, by a person appointed by the court. A person having  
16 an interest in the welfare of the animal may request the court to  
17 appoint a person to enforce the trust or to remove a person  
18 appointed.

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

26 456.4-409. Except as otherwise provided in section 456.4-  
27 408 or by another statute, the following rules apply:

28 (1) A trust may be created for a noncharitable purpose

1 without a definite or definitely ascertainable beneficiary or for  
2 a noncharitable but otherwise valid purpose to be selected by the  
3 trustee. The trust may not be enforced for more than twenty-one  
4 years.

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

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

15 456.4-410. 1. In addition to the methods of termination  
16 prescribed by sections 456.4-411A to 456.4-414, a trust  
17 terminates to the extent the trust is revoked or expires pursuant  
18 to its terms, no purpose of the trust remains to be achieved, or  
19 the purposes of the trust have become unlawful, contrary to  
20 public policy, or impossible to achieve.

21 2. A proceeding to approve or disapprove a proposed  
22 modification or termination under sections 456.4-411A to 456.4-  
23 416, or trust combination or division under section 456.4-417,  
24 may be commenced by a trustee or beneficiary, and a proceeding to  
25 approve or disapprove a proposed modification or termination  
26 under section 456.4-411A may be commenced by the settlor. The  
27 settlor of a charitable trust may maintain a proceeding to modify  
28 the trust under section 456.4-413.

1 456.4-411A. 1. A noncharitable irrevocable trust may be  
2 modified or terminated upon consent of the settlor and all  
3 beneficiaries, without court approval, even if the modification  
4 or termination is inconsistent with a material purpose of the  
5 trust. A settlor's power to consent to a trust's termination or  
6 modification may be exercised by an agent under a power of  
7 attorney only to the extent expressly authorized by the power of  
8 attorney or the terms of the trust; by the settlor's conservator  
9 with the approval of the court supervising the conservatorship if  
10 an agent is not so authorized; or by the settlor's conservator ad  
11 litem with the approval of the court if an agent is not so  
12 authorized and a conservator has not been appointed.

13 2. Upon termination of a trust under subsection 1 of this  
14 section, the trustee shall distribute the trust property as  
15 agreed by the beneficiaries.

16 3. If not all of the beneficiaries consent to a proposed  
17 modification or termination of the trust under subsection 1 of  
18 this section, the modification or termination may be approved by  
19 the court if the court is satisfied that:

20 (1) if all of the beneficiaries had consented, the trust  
21 could have been modified or terminated under subsection 1 of this  
22 section; and

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

25 456.4-411B. 1. When all of the adult beneficiaries having  
26 the capacity to contract consent, the court may, upon finding  
27 that the interest of any nonconsenting beneficiary will be  
28 adequately protected, modify the terms of a noncharitable

1 irrevocable trust so as to reduce or eliminate the interests of  
2 some beneficiaries and increase those of others, change the times  
3 or amounts of payments and distributions to beneficiaries, or  
4 provide for termination of the trust at a time earlier or later  
5 than that specified by its terms. The court may at any time upon  
6 its own motion appoint a representative pursuant to section  
7 456.3-305 to represent a nonconsenting beneficiary. The court  
8 shall appoint such a representative upon the motion of any party,  
9 unless the court determines such an appointment is not  
10 appropriate under the circumstances.

11 2. Upon termination of a trust under subsection 1 of this  
12 section, the trustee shall distribute the trust property as  
13 directed by the court.

14 3. If a trust cannot be terminated or modified under  
15 subsection 1 of this section because not all adult beneficiaries  
16 having capacity to contract consent or the terms of the trust  
17 prevent such modification or termination, the modification or  
18 termination may be approved by the court if the court is  
19 satisfied that the interests of a beneficiary, other than the  
20 settlor, who does not consent will be adequately protected,  
21 modification or termination will benefit a living settlor who is  
22 also a beneficiary, and:

23 (1) in the case of a termination, the party seeking  
24 termination establishes that continuance of the trust is not  
25 necessary to achieve any material purpose of the trust; or

26 (2) in the case of a modification, the party seeking  
27 modification establishes that the modification is not  
28 inconsistent with a material purpose of the trust, and the

1 modification is not specifically prohibited by the terms of the  
2 trust.

3 4. This section shall apply to trusts created on or after  
4 January 1, 2005. The provisions of section 456.590 shall apply  
5 to all trusts created prior to January 1, 2005.

6 456.4-412. 1. The court may modify the dispositive terms  
7 of a trust or terminate the trust if, because of circumstances  
8 not anticipated by the settlor, modification or termination will  
9 further the purposes of the trust. To the extent practicable,  
10 the modification must be made in accordance with the settlor's  
11 probable intention.

12 2. The court may modify the management or administrative  
13 terms of a trust if modification will further the purposes of the  
14 trust.

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

18 456.4-413. 1. Except as otherwise provided in subsection 2  
19 of this section, if a particular charitable purpose becomes  
20 unlawful, impracticable, impossible to achieve, or wasteful:

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

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

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

28 2. A provision in the terms of a charitable trust that

1 would result in distribution of the trust property to a  
2 noncharitable beneficiary prevails over the power of the court  
3 under subsection 1 of this section to apply cy pres to modify or  
4 terminate the trust only if, when the provision takes effect:

5 \_\_\_\_\_ (1) the trust property is to revert to the settlor and the  
6 settlor is still living; or

7 \_\_\_\_\_ (2) fewer than twenty-one years have elapsed since the date  
8 of the trust's creation.

9 456.4-414. 1. After notice to the qualified beneficiaries,  
10 the trustee of a trust consisting of trust property having a  
11 total value less than one hundred thousand dollars may terminate  
12 the trust if the trustee concludes that the value of the trust  
13 property is insufficient to justify the cost of administration.

14 \_\_\_\_\_ 2. The court may modify or terminate a trust or remove the  
15 trustee and appoint a different trustee if it determines that the  
16 value of the trust property is insufficient to justify the cost  
17 of administration.

18 \_\_\_\_\_ 3. Upon termination of a trust under this section, the  
19 trustee shall distribute the trust property in a manner  
20 consistent with the purposes of the trust.

21 \_\_\_\_\_ 4. This section does not apply to an easement for  
22 conservation or preservation.

23 456.4-415. The court may reform the terms of a trust, even  
24 if unambiguous, to conform the terms to the settlor's intention  
25 if it is proved by clear and convincing evidence that both the  
26 settlor's intent and the terms of the trust were affected by a  
27 mistake of fact or law, whether in expression or inducement.

28 456.4-416. To achieve the settlor's tax objectives, the

1 court may modify the terms of a trust in a manner that is not  
2 contrary to the settlor's probable intention. The court may  
3 provide that the modification has retroactive effect.

4 456.4-417. After notice to the qualified beneficiaries, a  
5 trustee may combine two or more trusts into a single trust or  
6 divide a trust into two or more separate trusts, if the result  
7 does not impair rights of any beneficiary or adversely affect  
8 achievement of the purposes of the trust. The terms of each new  
9 trust created by a division under this section do not have to be  
10 identical if the interest of each beneficiary is substantially  
11 the same under the terms of the trust prior to its division and  
12 the combined terms of all trusts after the division. Two or more  
13 trusts may be combined into a single trust if the interests of  
14 each beneficiary in the trust resulting from the combination are  
15 substantially the same as the combined interests of the  
16 beneficiary in the trusts prior to the combination. The trustee  
17 shall determine the terms controlling any trust after its  
18 combination as authorized by this section.

19 456.5-501. To the extent a beneficiary's interest is not  
20 protected by a spendthrift provision, an assignee or a judgment  
21 creditor of the beneficiary may, without court order, reach the  
22 beneficiary's interest by attachment of present or future  
23 distributions to or for the benefit of the beneficiary or other  
24 means. The court may limit the award to such relief as is  
25 appropriate under the circumstances.

26 456.5-502. 1. A spendthrift provision is valid if it  
27 restrains either the voluntary or involuntary transfer or both  
28 the voluntary and involuntary transfer of a beneficiary's

1 interest.

2 2. A term of a trust providing that the interest of a  
3 beneficiary is held subject to a "spendthrift trust," or words of  
4 similar import, is sufficient to restrain both voluntary and  
5 involuntary transfers of the beneficiary's interest.

6 3. A beneficiary may not transfer an interest in a trust in  
7 violation of a valid spendthrift provision and, except as  
8 otherwise provided in sections 456.5-501 to 456.5-507, a creditor  
9 or assignee of the beneficiary may not reach the interest or a  
10 distribution by the trustee before its receipt by the  
11 beneficiary.

12 456.5-503. 1. In this section,

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

16 (2) "Judgment" means a judgment which may be executed in  
17 this State.

18 2. Even if a trust contains a spendthrift provision, a  
19 beneficiary's child, spouse, or former spouse who has a judgment  
20 against the beneficiary for support or maintenance, or a judgment  
21 creditor who has provided services for the protection of a  
22 beneficiary's interest in the trust, may obtain from a court an  
23 order attaching present or future trust income. If there is more  
24 than one permissible distributee, the court may grant relief as  
25 is equitable under the circumstances.

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

1 456.5-504. 1. Except as otherwise provided in section  
2 456.5-503, whether or not a trust contains a spendthrift  
3 provision, a creditor of a beneficiary may not compel a  
4 distribution that is subject to the trustee's discretion, even  
5 if:

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

8 (2) the trustee has abused the discretion.

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

13 456.5-505. 1. Whether or not the terms of a trust contain  
14 a spendthrift provision, during the lifetime of the settlor, the  
15 property of a revocable trust is subject to claims of the  
16 settlor's creditors.

17 2. With respect to an irrevocable trust without a  
18 spendthrift provision, a creditor or assignee of the settlor may  
19 reach the maximum amount that can be distributed to or for the  
20 settlor's benefit. If a trust has more than one settlor, the  
21 amount the creditor or assignee of a particular settlor may reach  
22 may not exceed the settlor's interest in the portion of the trust  
23 attributable to that settlor's contribution.

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

27 (1) Where the conveyance of assets to the trust was  
28 fraudulent as to creditors pursuant to the provisions of Chapter

1 428, RSMo; or

2 (2) To the extent of the settlor's beneficial interest in  
3 the trust assets, if at the time the trust became irrevocable:

4 (a) The settlor was the sole beneficiary of either the  
5 income or principal of the trust or retained the power to amend  
6 the trust; or

7 (b) The settlor was one of a class of beneficiaries and  
8 retained a right to receive a specific portion of the income or  
9 principal of the trust that was determinable solely from the  
10 provisions of the trust instrument.

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

15 To all persons interested in the estate of \_\_\_\_\_,  
16 decedent. The undersigned \_\_\_\_\_ is acting as  
17 Trustee under a trust the terms of which provide that the debts  
18 of the decedent may be paid by the Trustee(s) upon receipt of  
19 proper proof thereof. The address of the Trustee  
20 is \_\_\_\_\_.

21  
22 All creditors of the decedent are noticed to present their claims  
23 to the undersigned within six (6) months from the date of the  
24 first publication of this notice or be forever barred.

25 \_\_\_\_\_  
26 Trustee

27  
28 (1) If such publication is duly made by the trustee, any

1 debts not presented to the trustee within six months from the  
2 date of the first publication of the preceding notice shall be  
3 forever barred as against the trustee and the trust property.

4 (2) A trustee shall not be liable to account to the  
5 decedent's personal representative under the provisions of  
6 section 461.300, RSMo, by reason of any debt barred under the  
7 provisions of this subsection.

8 5. For purposes of this section:

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

13 (2) upon the lapse, release, or waiver of the power, the  
14 holder is treated as the settlor of the trust only to the extent  
15 the value of the property affected by the lapse, release, or  
16 waiver exceeds the greater of the amount specified in sections  
17 2041(b)(2), 2514(e) or 2503(b) of the Internal Revenue Code.

18 6. This section shall not apply to a spendthrift trust  
19 described, defined, or established in section 456.018.

20 456.5-506. Whether or not a trust contains a spendthrift  
21 provision, a creditor or assignee of a beneficiary may reach a  
22 mandatory distribution of income or principal, including a  
23 distribution upon termination of the trust, if the trustee has  
24 not made the distribution to the beneficiary within a reasonable  
25 time after the required distribution date.

26 456.5-507. Trust property is not subject to personal  
27 obligations of the trustee, even if the trustee becomes insolvent  
28 or bankrupt.

1 456.6-601. The capacity required to create, amend, revoke,  
2 or add property to a revocable trust, or to direct the actions of  
3 the trustee of a revocable trust, is the same as that required to  
4 make a will.

5 456.6-602. 1. Unless the terms of a trust expressly  
6 provide that the trust is irrevocable, the settlor may revoke or  
7 amend the trust. This subsection does not apply to a trust  
8 created under an instrument executed before January 1, 2005.

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

11 (1) to the extent the trust consists of community property,  
12 the trust may be revoked by either spouse acting alone but may be  
13 amended only by joint action of both spouses; and

14 (2) to the extent the trust consists of property other than  
15 community property, each settlor may revoke or amend the trust  
16 with regard to the portion of the trust property attributable to  
17 that settlor's contribution.

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

19 (1) if the terms of the trust provide a method of amendment  
20 or revocation, by substantially complying with any method  
21 provided in the terms of the trust; or

22 (2) if the terms of the trust do not provide a method, by  
23 any other method manifesting clear and convincing evidence of the  
24 settlor's intent, including the terms of a later duly probated  
25 will or codicil that identify the trust being revoked or the  
26 trust terms being amended.

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

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

5 6. A conservator of the settlor or, if no conservator has  
6 been appointed, a conservator ad litem of the settlor may  
7 exercise a settlor's powers with respect to revocation,  
8 amendment, or distribution of trust property only with the  
9 approval of the court supervising the conservator or the  
10 conservator ad litem.

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

16 456.6-603. 1. While a trust is revocable and the settlor  
17 has capacity to revoke the trust, rights of the beneficiaries are  
18 subject to the control of, and the duties of the trustee are owed  
19 exclusively to, the settlor.

20 2. A settlor is presumed to have capacity for the purposes  
21 of subsection 1 of this section until either the settlor is  
22 adjudicated totally incapacitated or disabled or the trustee has  
23 received an affidavit of incapacity.

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

27 4. During the period the power may be exercised, the holder  
28 of a power of withdrawal has the rights of a settlor of a

1 revocable trust under this section to the extent of the property  
2 subject to the power.

3 5. In this section, an "affidavit of incapacity" means a  
4 written certificate furnished by at least one licensed medical  
5 doctor that states that the settlor lacks capacity to revoke the  
6 trust.

7 456.6-604. 1. A person may commence a judicial proceeding  
8 to contest the validity of a trust that was revocable at the  
9 settlor's death within the earliest of:

10 (1) two years after the settlor's death;

11 (2) six months after the trustee sent the person a copy of  
12 the trust instrument and a notice informing the person of the  
13 trust's existence, of the trustee's name and address, and of the  
14 time allowed for commencing a proceeding; or

15 (3) in the case of a trust that was revocable at the  
16 settlor's death that is entitled to a distribution under the  
17 settlor's will, on the date that any contest of that will is  
18 barred under the provisions of section 473.083, RSMo, provided  
19 that a copy of the trust instrument was filed with the probate  
20 division within ninety days of the first publication of notice of  
21 granting of letters on the estate of the decedent under section  
22 473.033, RSMo.

23 2. For purposes of subdivision (2) of subsection 1 of this  
24 section, the trustee may provide the documentation and  
25 information set forth in that subsection to:

26 (1) all persons who would be entitled to notice of granting  
27 of letters on the estate of the decedent under section 473.033,  
28 RSMo; and

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

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

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

10 (2) a potential contestant has notified the trustee of a  
11 possible judicial proceeding to contest the trust and a judicial  
12 proceeding is commenced within sixty days after the contestant  
13 sent the notification.

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

16 456.7-701. 1. Except as otherwise provided in subsection 3  
17 of this section, a person designated as trustee accepts the  
18 trusteeship:

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

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

26 2. A person designated as trustee who has not yet accepted  
27 the trusteeship may decline the trusteeship. A designated  
28 trustee who does not accept the trusteeship within a reasonable

1 time after knowing of the designation is deemed to have declined  
2 the trusteeship.

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

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

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

12 456.7-702. 1. A trustee shall give bond to secure  
13 performance of the trustee's duties only if the court finds that  
14 a bond is needed to protect the interests of the beneficiaries or  
15 is required by the terms of the trust and the court has not  
16 dispensed with the requirement.

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

20 456.7-703. 1. Cotrustees shall act by majority decision.

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

23 3. A cotrustee must participate in the performance of a  
24 trustee's function unless the cotrustee is unavailable to perform  
25 the function because of absence, illness, disqualification under  
26 other law, or other temporary incapacity or the cotrustee has  
27 properly delegated the performance of the function to another  
28 trustee.

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

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

11 6. Except as otherwise provided in subsection 7 of this  
12 section, a trustee who does not join in an action of another  
13 trustee is not liable for the action.

14 7. Each trustee shall exercise reasonable care to:

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

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

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

24 456.7-704. 1. A vacancy in a trusteeship occurs if:

25 (1) a person designated as trustee declines the  
26 trusteeship;

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

1 (3) a trustee resigns;  
2 (4) a trustee is disqualified or removed;  
3 (5) a trustee dies; or  
4 (6) a guardian or conservator is appointed for an  
5 individual serving as trustee.

6 2. If one or more cotrustees remain in office, a vacancy in  
7 a trusteeship need not be filled. A vacancy in a trusteeship  
8 must be filled if the trust has no remaining trustee.

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

11 (1) by a person designated in or pursuant to the terms of  
12 the trust to act as successor trustee;

13 (2) by a person appointed by a majority in number of the  
14 qualified beneficiaries; or

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

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

20 456.7-705. 1. A trustee may resign:

21 (1) upon at least 30 days' notice to the qualified  
22 beneficiaries, the settlor, if living, and all cotrustees; or

23 (2) with the approval of the court.

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

27 3. Any liability of a resigning trustee or of any sureties  
28 on the trustee's bond for acts or omissions of the trustee is not

1 discharged or affected by the trustee's resignation.

2 456.7-706. 1. The settlor, a cotrustee, or a qualified  
3 beneficiary may request the court to remove a trustee, or a  
4 trustee may be removed by the court on its own initiative.

5 2. The court may remove a trustee if:

6 (1) the trustee has committed a serious breach of trust;

7 (2) lack of cooperation among cotrustees substantially  
8 impairs the administration of the trust;

9 (3) because of unfitness, unwillingness, or persistent  
10 failure of the trustee to administer the trust effectively, the  
11 court determines that removal of the trustee best serves the  
12 interests of the beneficiaries; or

13 (4) the trustee has substantially and materially reduced  
14 the level of services provided to that trust and has failed to  
15 reinstate a substantially equivalent level of services within  
16 ninety days after receipt of notice by the settlor, a cotrustee,  
17 or a qualified beneficiary or removal is requested by all of the  
18 qualified beneficiaries and in either such case the party seeking  
19 removal establishes to the court that:

20 (a) removal of the trustee best serves the interests of all  
21 of the beneficiaries;

22 (b) removal of the trustee is not inconsistent with a  
23 material purpose of the trust; and

24 (c) a suitable cotrustee or successor trustee is available  
25 and willing to serve.

26 3. In an action to remove a trustee under subdivision (4)  
27 of subsection 2 of this section, the following apply:

28 (1) In the event that a corporation is the trustee being

1 removed, a suitable replacement cotrustee or successor trustee  
2 shall be another corporation qualified to conduct trust business  
3 in this state.

4 (2) In the event that a successor trustee is not appointed  
5 under the provisions of section 456.7-704 or the court finds that  
6 all potential successor trustees are not suitable, then the court  
7 may appoint such trustee or trustees as the court finds suitable  
8 under the circumstances.

9 (3) With respect to a trust created under an instrument  
10 executed before January 1, 2005, the provisions of subdivision  
11 (4) of subsection 2 of this section shall not apply if the  
12 instrument contains any procedures concerning removal of any  
13 trustee.

14 4. Pending a final decision on a request to remove a  
15 trustee, or in lieu of or in addition to removing a trustee, the  
16 court may order such appropriate relief under subsection 2 of  
17 section 456.10-1001 as may be necessary to protect the trust  
18 property or the interests of the beneficiaries.

19 456.7-707. 1. Unless a cotrustee remains in office or the  
20 court otherwise orders, and until the trust property is delivered  
21 to a successor trustee or other person entitled to it, a trustee  
22 who has resigned or been removed has the duties of a trustee and  
23 the powers necessary to protect the trust property.

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

28 456.7-708. 1. If the terms of a trust do not specify the

1 trustee's compensation, a trustee is entitled to compensation  
2 that is reasonable under the circumstances.

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

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

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

10 3. For purposes of this section, reasonable compensation  
11 may include fees that take into account the administration of  
12 both income and principal whether or not the will or trust  
13 instrument contains provisions relating to compensation of the  
14 trustee.

15 456.7-709. 1. A trustee is entitled to be reimbursed out  
16 of the trust property, with interest as appropriate, for:

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

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

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

25 456.8-801. Upon acceptance of a trusteeship, the trustee  
26 shall administer the trust in good faith, in accordance with its  
27 terms and purposes and the interests of the beneficiaries, and in  
28 accordance with sections 456.1-101 to 456.11-1106.

1 456.8-802. 1. A trustee shall administer the trust solely  
2 in the interests of the beneficiaries.

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

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

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

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

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

18 (5) the transaction involves a contract entered into or  
19 claim acquired by the trustee before the person became or  
20 contemplated becoming trustee.

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

25 (1) the trustee's spouse;

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

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

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

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

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

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

20 (1) An investment by a trustee in securities of an  
21 investment company or investment trust to which the trustee, or  
22 its affiliate, provides services in a capacity other than as  
23 trustee.

24 (2) the placing of securities transactions by a trustee  
25 through a securities broker that is a part of the same company as  
26 the trustee, is owned by the trustee, or is affiliated with the  
27 trustee.

28 (3) In addition to the trustee's fees charged to the trust,

1 the trustee, its affiliate, or associated entity may be  
2 compensated for any transaction or provision of services  
3 described in this subsection 6 or in subdivisions (4), (5), or  
4 (6) of subsection 8 of this section; provided, however, that with  
5 respect to any investment in securities of an investment company  
6 or investment trust to which the trustee or its affiliate  
7 provides investment advisory or investment management services or  
8 any services described in subdivision (5) of subsection 8 of this  
9 section, the trustee shall at least annually notify the persons  
10 entitled under section 456.8-813 to receive a copy of the  
11 trustee's annual report of the rate or method by which the  
12 compensation was determined.

13 7. In voting shares of stock or in exercising powers of  
14 control over similar interests in other forms of enterprise, the  
15 trustee shall act in the best interests of the beneficiaries. If  
16 the trust is the sole owner of a corporation or other form of  
17 enterprise, the trustee shall elect or appoint directors or other  
18 managers who will manage the corporation or enterprise in the  
19 best interests of the beneficiaries.

20 8. The following transactions, if fair to the  
21 beneficiaries, are not presumed to be affected by a conflict  
22 between personal and fiduciary interests and are not precluded by  
23 this section:

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

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

27 (3) a transaction between a trust and another trust,  
28 decedent's estate, or conservatorship of which the trustee is a

1 fiduciary or in which a beneficiary has an interest;

2 (4) a deposit of trust money in a financial institution  
3 operated by the trustee or an affiliate;

4 (5) a delegation and any transaction made pursuant to the  
5 delegation from a trustee to an agent that is affiliated or  
6 associated with the trustee, provided that notice of any  
7 compensation paid pursuant to the delegation is given as provided  
8 in subdivision (3) of subsection 6 of this section; or

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

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

13 456.8-803. If a trust has two or more beneficiaries, the  
14 trustee shall act impartially in investing, managing, and  
15 distributing the trust property, giving due regard to the  
16 beneficiaries' respective interests.

17 456.8-804. A trustee shall administer the trust as a  
18 prudent person would, by considering the purposes, terms,  
19 distributional requirements, and other circumstances of the  
20 trust. In satisfying this standard, the trustee shall exercise  
21 reasonable care, skill, and caution.

22 456.8-805. In administering a trust, the trustee may incur  
23 only costs that are reasonable in relation to the trust property,  
24 the purposes of the trust, and the skills of the trustee.

25 456.8-806. A trustee who has special skills or expertise,  
26 or is named trustee in reliance upon the trustee's representation  
27 that the trustee has special skills or expertise, shall use those  
28 special skills or expertise.

1 456.8-807. 1. A trustee may delegate to an agent duties  
2 and powers that a prudent trustee of comparable skills could  
3 properly delegate under the circumstances. The trustee shall  
4 exercise reasonable care, skill, and caution in:

5 (1) selecting an agent;

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

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

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

14 3. A trustee who complies with subsection 1 of this section  
15 is not liable to the beneficiaries or to the trust for an action  
16 of the agent to whom the function was delegated.

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

20 456.8-808. 1. While a trust is revocable, the trustee may  
21 follow a direction of the settlor that is contrary to the terms  
22 of the trust.

23 2. If the terms of a trust confer upon a person other than  
24 the settlor of a revocable trust power to direct certain actions  
25 of the trustee, the trustee shall act in accordance with an  
26 exercise of the power unless the attempted exercise is contrary  
27 to the terms of the trust or the trustee knows the attempted  
28 exercise would constitute a serious breach of a fiduciary duty

1 that the person holding the power owes to the beneficiaries of  
2 the trust.

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

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

12 456.8-809. A trustee shall take reasonable steps to take  
13 control of and protect the trust property, except that this duty  
14 does not apply to, and the trustee is not responsible for, items  
15 of tangible personal property that are property of a trust  
16 revocable by the settlor and that are not in the possession or  
17 control of the trustee.

18 456.8-810. 1. A trustee shall keep adequate records of the  
19 administration of the trust.

20 2. A trustee shall keep trust property separate from the  
21 trustee's own property.

22 3. Except as otherwise provided in subsection 4 of this  
23 section, a trustee shall cause the trust property to be  
24 designated so that the interest of the trust, to the extent  
25 feasible, appears in records maintained by a party other than a  
26 trustee or beneficiary.

27 4. If the trustee maintains records clearly indicating the  
28 respective interests, a trustee may invest as a whole the

1 property of two or more separate trusts.

2 456.8-811. A trustee shall take reasonable steps to enforce  
3 claims of the trust and to defend claims against the trust.

4 456.8-812. A trustee shall take reasonable steps to compel  
5 a former trustee or other person to deliver trust property to the  
6 trustee, and to redress a breach of trust known to the trustee to  
7 have been committed by a former trustee.

8 456.8-813. 1. A trustee shall keep the qualified  
9 beneficiaries of the trust reasonably informed about the  
10 administration of the trust and of the material facts necessary  
11 for them to protect their interests. Unless unreasonable under  
12 the circumstances, a trustee shall promptly respond to a  
13 beneficiary's request for information related to the  
14 administration of the trust.

15 2. A trustee:

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

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

21 (3) within sixty days after the date the trustee acquires  
22 knowledge of the creation of an irrevocable trust, or the date  
23 the trustee acquires knowledge that a formerly revocable trust  
24 has become irrevocable, whether by the death of the settlor or  
25 otherwise, shall notify the qualified beneficiaries of the  
26 trust's existence, of the identity of the settlor or settlors, of  
27 the right to request a copy of the trust instrument, and of the  
28 right to a trustee's report as provided in subsection 3 of this

1 section; and

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

4 Subdivisions (2) and (3) of this subsection do not apply to a  
5 trust that became irrevocable before January 1, 2005.

6 3. A trustee shall send to the permissible distributees of  
7 trust income or principal, and to other beneficiaries who request  
8 it, at least annually and at the termination of the trust, a  
9 report of the trust property, liabilities, receipts, and  
10 disbursements, including the source and amount of the trustee's  
11 compensation, a listing of the trust assets and, if feasible,  
12 their respective market values. Upon a vacancy in a trusteeship,  
13 unless a cotrustee remains in office, a report must be sent to  
14 the qualified beneficiaries by the former trustee. A personal  
15 representative, conservator, or guardian may send the qualified  
16 beneficiaries a report on behalf of a deceased or incapacitated  
17 trustee.

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

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

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

28 7. If the trustee is bound by any confidentiality

1 restrictions with respect to an asset of a trust, any beneficiary  
2 who is eligible to receive information pursuant to this section  
3 about such asset shall agree to be bound by the confidentiality  
4 restrictions that bind the trustee before receiving such  
5 information from the trustee.

6 456.8-814. 1. Notwithstanding the breadth of discretion  
7 granted to a trustee in the terms of the trust, including the use  
8 of such terms as "absolute," "sole," or "uncontrolled," the  
9 trustee shall exercise a discretionary power in good faith and in  
10 accordance with the terms and purposes of the trust and the  
11 interests of the beneficiaries.

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

15 (1) a person other than a settlor who is a beneficiary and  
16 trustee of a trust that confers on the trustee a power to make  
17 discretionary distributions to or for the trustee's personal  
18 benefit may exercise the power only in accordance with an  
19 ascertainable standard relating to the trustee's individual  
20 health, education, support, or maintenance within the meaning of  
21 section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code;

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

25 (3) for purposes of this subsection 2 of this section, the  
26 term "trustee" shall include a person who is deemed to have any  
27 power of a trustee, whether because such person has the right to  
28 remove or replace any trustee, because a reciprocal trust or

1 power doctrine applies, or for any other reason.

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

8 4. Subsection 2 of this section does not apply to:

9 (1) a power held by the settlor's spouse who is the trustee  
10 of a trust for which a marital deduction, as defined in section  
11 2056(b)(5) or 2523(b)(5) of the Internal Revenue Code was  
12 previously allowed;

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

15 (3) a trust if contributions to the trust qualify for the  
16 annual exclusion under section 2503(c) of the Internal Revenue  
17 Code.

18 456.8-815. 1. A trustee, without authorization by the  
19 court, may exercise:

20 (1) powers conferred by the terms of the trust; and

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

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

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

27 (c) any other powers conferred by sections 456.1-101 to  
28 456.11-1106.

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

3 456.8-816. Without limiting the authority conferred by  
4 section 456.8-815, a trustee may:

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

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

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

11 (4) deposit trust money in an account in a financial  
12 institution;

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

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

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

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

27 (b) hold a security in the name of a nominee or in other  
28 form without disclosure of the trust so that title may pass by

1 delivery;  
2 (c) pay calls, assessments, and other sums chargeable or  
3 accruing against the securities, and sell or exercise stock  
4 subscription or conversion rights; and  
5 (d) deposit the securities with a depository or other  
6 financial institution;  
7 (8) with respect to an interest in real property,  
8 construct, or make ordinary or extraordinary repairs to,  
9 alterations to, or improvements in, buildings or other  
10 structures, demolish improvements, raze existing or erect new  
11 party walls or buildings, subdivide or develop land, dedicate  
12 land to public use or grant public or private easements, and make  
13 or vacate plats and adjust boundaries;  
14 (9) enter into a lease for any purpose as lessor or lessee,  
15 including a lease or other arrangement for exploration and  
16 removal of natural resources, with or without the option to  
17 purchase or renew, for a period within or extending beyond the  
18 duration of the trust;  
19 (10) grant an option involving a sale, lease, or other  
20 disposition of trust property or acquire an option for the  
21 acquisition of property, including an option exercisable beyond  
22 the duration of the trust, and exercise an option so acquired;  
23 (11) insure the property of the trust against damage or loss  
24 and insure the trustee, the trustee's agents, and beneficiaries  
25 against liability arising from the administration of the trust;  
26 (12) abandon or decline to administer property of no value  
27 or of insufficient value to justify its collection or continued  
28 administration;

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

3 (a) inspect or investigate property the trustee holds or  
4 has been asked to hold, or property owned or operated by an  
5 organization in which the trustee holds or has been asked to hold  
6 an interest, for the purpose of determining the application of  
7 environmental law with respect to the property;

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

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

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

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

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

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

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

28 (17) select a mode of payment under any employee benefit or

1 retirement plan, annuity, or life insurance payable to the  
2 trustee, exercise rights thereunder, including exercise of the  
3 right to indemnification for expenses and against liabilities,  
4 and take appropriate action to collect the proceeds;

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

9 (19) pledge trust property to guarantee or secure loans  
10 made by others to a beneficiary;

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

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

20 (a) paying it to the beneficiary's conservator or, if the  
21 beneficiary does not have a conservator, the beneficiary's  
22 guardian;

23 (b) paying it to the beneficiary's custodian under the  
24 Missouri Transfers to Minors Law under sections 404.005 to  
25 404.094, RSMo, or a personal custodian under sections 404.400 to  
26 404.650, RSMo, and, for that purpose, creating a custodianship or  
27 custodial trust;

28 (c) if the trustee does not know of a conservator,

1 guardian, custodian, or custodial trustee, paying it to an adult  
2 relative or other person having legal or physical care or custody  
3 of the beneficiary, to be expended on the beneficiary's behalf;  
4 or

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

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

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

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

19 (25) sign and deliver contracts and other instruments that  
20 are useful to achieve or facilitate the exercise of the trustee's  
21 powers.

22 (26) on termination of the trust, exercise the powers  
23 appropriate to wind up the administration of the trust and  
24 distribute the trust property to the persons entitled to it; and

25 (27) To invest and reinvest trust assets in accordance with  
26 sections 469.900 to 469.913, RSMo; including investing and  
27 reinvesting in securities or obligations of any state or its  
28 political subdivisions, including securities or obligations that

1 are underwritten by the trustee or an affiliate of the trustee or  
2 a syndicate in which the trustee or an affiliate of the trustee  
3 is a member which meet the standards established by the division  
4 of finance pursuant to subsection 5 of section 362.550, RSMo.

5 456.8-817. 1. Upon termination or partial termination of a  
6 trust, the trustee may send to the beneficiaries a proposal for  
7 distribution. The right of any beneficiary to object to the  
8 proposed distribution terminates if the beneficiary does not  
9 notify the trustee of an objection within thirty days after the  
10 proposal was sent but only if the proposal informed the  
11 beneficiary of the right to object and of the time allowed for  
12 objection.

13 2. Upon the occurrence of an event terminating or partially  
14 terminating a trust, the trustee shall proceed expeditiously to  
15 distribute the trust property to the persons entitled to it,  
16 subject to the right of the trustee to retain a reasonable  
17 reserve for the payment of debts, expenses, and taxes.

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

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

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

24 456.10-1001. 1. A violation by a trustee of a duty the  
25 trustee owes to a beneficiary is a breach of trust.

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

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

1       (2) enjoin the trustee from committing a breach of trust;  
2       (3) compel the trustee to redress a breach of trust by  
3 paying money, restoring property, or other means;  
4       (4) order a trustee to account;  
5       (5) appoint a special fiduciary to take possession of the  
6 trust property and administer the trust;  
7       (6) suspend the trustee;  
8       (7) remove the trustee as provided in section 456.7-706;  
9       (8) reduce or deny compensation to the trustee;  
10       (9) subject to section 456.10-1012, void an act of the  
11 trustee, impose a lien or a constructive trust on trust property,  
12 or trace trust property wrongfully disposed of and recover the  
13 property or its proceeds; or  
14       (10) order any other appropriate relief.  
15       456.10-1002. 1. A trustee who commits a breach of trust is  
16 liable to the beneficiaries affected for the greater of:  
17       (1) the amount required to restore the value of the trust  
18 property and trust distributions to what they would have been had  
19 the breach not occurred; or  
20       (2) the profit the trustee made by reason of the breach.  
21       2. Except as otherwise provided in this subsection, if more  
22 than one trustee is liable to the beneficiaries for a breach of  
23 trust, a trustee is entitled to contribution from the other  
24 trustee or trustees that are also liable. A trustee is not  
25 entitled to contribution if the trustee was substantially more at  
26 fault than another trustee or if the trustee committed the breach  
27 of trust in bad faith or with reckless indifference to the  
28 purposes of the trust or the interests of the beneficiaries. A

1 trustee who received a benefit from the breach of trust is not  
2 entitled to contribution from another trustee to the extent of  
3 the benefit received.

4 456.10-1003. 1. A trustee is accountable to an affected  
5 beneficiary for any profit made by the trustee arising from the  
6 administration of the trust, even absent a breach of trust.

7 2. Absent a breach of trust, a trustee is not liable to a  
8 beneficiary for a loss or depreciation in the value of trust  
9 property or for not having made a profit.

10 456.10-1004. In a judicial proceeding involving the  
11 administration of a trust, the court, as justice and equity may  
12 require, may award costs and expenses, including reasonable  
13 attorney's fees, to any party, to be paid by another party or  
14 from the trust that is the subject of the controversy.

15 456.10-1005. 1. A beneficiary may not commence a  
16 proceeding against a trustee for breach of trust more than one  
17 year after the last to occur of the date the beneficiary or a  
18 representative of the beneficiary was sent a report that  
19 adequately disclosed the existence of a potential claim for  
20 breach of trust and the date the trustee informed the beneficiary  
21 of the time allowed for commencing a proceeding with respect to  
22 any potential claim adequately disclosed on the report.

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

27 3. If subsection 1 of this section does not apply, a  
28 judicial proceeding by a beneficiary against a trustee for breach

1 of trust must be commenced within five years after the first to  
2 occur of:

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

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

6 (3) the termination of the trust.

7 456.10-1006. A trustee who acts in reasonable reliance on  
8 the terms of the trust as expressed in the trust instrument is  
9 not liable to a beneficiary for a breach of trust to the extent  
10 the breach resulted from the reliance.

11 456.10-1007. If the happening of an event, including  
12 marriage, divorce, performance of educational requirements, or  
13 death, affects the administration or distribution of a trust, a  
14 trustee who has exercised reasonable care to ascertain the  
15 happening of the event is not liable for a loss resulting from  
16 the trustee's lack of knowledge.

17 456.10-1008. 1. A term of a trust relieving a trustee of  
18 liability for breach of trust is unenforceable to the extent that  
19 it:

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

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

25 2. Unless the settlor was represented by an attorney not  
26 employed by the trustee with respect to the trust containing the  
27 exculpatory term, an exculpatory term drafted or caused to be  
28 drafted by the trustee is invalid as an abuse of a fiduciary or

1 confidential relationship unless the trustee proves that the  
2 exculpatory term is fair under the circumstances and that its  
3 existence and contents were adequately communicated to the  
4 settlor.

5 456.10-1009. A trustee is not liable to a beneficiary for  
6 breach of trust if the beneficiary, while having capacity,  
7 consented to the conduct constituting the breach, released the  
8 trustee from liability for the breach, or ratified the  
9 transaction constituting the breach, unless:

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

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

15 456.10-1010. 1. Except as otherwise provided in the  
16 contract, a trustee is not personally liable on a contract  
17 properly entered into in the trustee's fiduciary capacity in the  
18 course of administering the trust if the trustee in the contract  
19 disclosed the fiduciary capacity.

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

25 3. A claim based on a contract entered into by a trustee in  
26 the trustee's fiduciary capacity, on an obligation arising from  
27 ownership or control of trust property, or on a tort committed in  
28 the course of administering a trust, may be asserted in a

1 judicial proceeding against the trustee in the trustee's  
2 fiduciary capacity, whether or not the trustee is personally  
3 liable for the claim.

4 456.10-1011. 1. Except as otherwise provided in subsection  
5 3 of this section or unless personal liability is imposed in the  
6 contract, a trustee who holds an interest as a general partner in  
7 a general or limited partnership is not personally liable on a  
8 contract entered into by the partnership after the trust's  
9 acquisition of the interest if the fiduciary capacity was  
10 disclosed in the contract or in a statement previously filed with  
11 the Secretary of State of this State.

12 2. Except as otherwise provided in subsection 3 of this  
13 section, a trustee who holds an interest as a general partner is  
14 not personally liable for torts committed by the partnership or  
15 for obligations arising from ownership or control of the interest  
16 unless the trustee is personally at fault.

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

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

26 456.10-1012. 1. A person other than a beneficiary who in  
27 good faith assists a trustee, or who in good faith and for value  
28 deals with a trustee, without knowledge that the trustee is

1 exceeding or improperly exercising the trustee's powers is  
2 protected from liability as if the trustee properly exercised the  
3 power.

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

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

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

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

17 456.10-1013. 1. Instead of furnishing a copy of the trust  
18 instrument to a person other than a beneficiary, the trustee may  
19 furnish to the person a certification of trust containing the  
20 following information:

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

23 (2) the identity of the settlor;

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

26 (4) the powers of the trustee;

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

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

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

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

6 2. A certification of trust must be signed by all the  
7 trustees. A third party may require that the certification of  
8 trust be acknowledged or guaranteed.

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

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

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

20 6. A person who acts in reliance upon a certification of  
21 trust without knowledge that the representations contained  
22 therein are incorrect is not liable to any person for so acting  
23 and may assume without inquiry the existence of the facts  
24 contained in the certification. Knowledge of the terms of the  
25 trust may not be inferred solely from the fact that a copy of all  
26 or part of the trust instrument is held by the person relying  
27 upon the certification.

28 7. A person who in good faith enters into a transaction in

1 reliance upon a certification of trust may enforce the  
2 transaction against the trust property as if the representations  
3 contained in the certification were correct.

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

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

11 456.11-1101. In applying and construing this uniform act,  
12 consideration must be given to the need to promote uniformity of  
13 the law with respect to its subject matter among states that  
14 enact it.

15 456.11-1102. Sections 456.1-101 to 456.11-1106 modify,  
16 limit, and supersede the federal Electronic Signatures in Global  
17 and National Commerce Act (15 U.S.C. section 7001, et seq.) but  
18 do not modify, limit, or supersede section 101(c) of that Act (15  
19 U.S.C. section 7001(c)) or authorize electronic delivery of any  
20 of the notices described in section 103(b) of that act (15 U.S.C.  
21 section 7003(b)).

22 456.11-1103. If any provision of sections 456.1-101 to  
23 456.11-1106 or its application to any person or circumstances is  
24 held invalid, the invalidity does not affect other provisions or  
25 applications of sections 456.1-101 to 456.11-1106 which can be  
26 given effect without the invalid provision or application, and to  
27 this end the provisions of sections 456.1-101 to 456.11-1106 are  
28 severable.

1 456.11-1104. Sections 456.1-101 to 456.11-1106 take effect  
2 on January 1, 2005.

3 456.11-1106. 1. Except as otherwise provided in sections  
4 456.1-101 to 456.11-1106, on January 1, 2005:

5 (1) Sections 456.1-101 to 456.11-1106 apply to all trusts  
6 created before, on, or after January 1, 2005;

7 (2) Sections 456.1-101 to 456.11-1106 apply to all judicial  
8 proceedings concerning trusts commenced on or after January 1,  
9 2005;

10 (3) Sections 456.1-101 to 456.11-1106 apply to judicial  
11 proceedings concerning trusts commenced before January 1, 2005,  
12 unless the court finds that application of a particular provision  
13 of sections 456.1-101 to 456.11-1106 would substantially  
14 interfere with the effective conduct of the judicial proceedings  
15 or prejudice the rights of the parties, in which case the  
16 particular provision of sections 456.1-101 to 456.11-1106 does  
17 not apply and the superseded law applies;

18 (4) Any rule of construction or presumption provided in  
19 sections 456.1-101 to 456.11-1106 apply to trust instruments  
20 executed before January 1, 2005, unless there is a clear  
21 indication of a contrary intent in the terms of the trust;

22 (5) An act done before January 1, 2005, is not affected by  
23 any provisions contained in sections 456.1-101 to 456.11-1106;  
24 and

25 (6) Section 456.590 shall not apply to trusts created under  
26 an instrument executed on or after January 1, 2005.

27 2. If a right is acquired, extinguished, or barred upon the  
28 expiration of a prescribed period that has commenced to run under

1 any other statute before January 1, 2005, that statute continues  
2 to apply to the right even if it has been repealed or superseded.

3 [456.015.] 456.001. 1. If an instrument providing for a  
4 pecuniary bequest or transfer to or for the benefit of the spouse  
5 of the testator or transferor requires or permits the  
6 satisfaction of such bequest or transfer wholly or partly by the  
7 distribution of property valued at some date or on some basis  
8 other than its fair market value at the time of distribution, and  
9 does not require that such bequest or transfer be satisfied by  
10 the distribution of assets, including cash, having an aggregate  
11 fair market value on the date or dates of distribution amounting  
12 to no less than the amount of such bequest or transfer, then in  
13 such case, the provisions of the instrument notwithstanding, any  
14 property distributed in satisfaction of such bequest or transfer  
15 shall have an aggregate fair market value on the date of  
16 distribution fairly reflecting the distributee's proportionate  
17 share of the appreciation or depreciation in value to the date of  
18 distribution of all property then available for distribution.

19 2. If, in any instrument which provides for a pecuniary  
20 bequest or transfer, the personal representative or trustee is  
21 empowered to satisfy such bequest or transfer by distribution of  
22 property in kind, and the instrument is silent as to the value to  
23 be given to property distributed in kind, any property  
24 distributed in satisfaction of the bequest or transfer shall be  
25 valued at the fair market value thereof on the date of  
26 distribution.

27 3. The phrase "pecuniary bequest or transfer", as used in  
28 this section, means a bequest or transfer either in a stated

1 amount or in an amount determined by the use of a formula.

2 4. This section shall be effective with respect to wills  
3 and revocable inter vivos trusts executed or created before or  
4 after October 13, 1969, by persons who die on or after said date,  
5 and to irrevocable inter vivos trusts which are created on or  
6 after October 13, 1969.

7 [456.020.] 456.003. When the terms of an instrument  
8 creating a trust manifest intention that the trustee shall have  
9 the legal fee simple in land, the full legal ownership of an  
10 estate for years, or the absolute legal ownership of chattels  
11 personal, investment securities or choses in action, an exercise  
12 by the trustee or a successor trustee of an express or implied  
13 power of sale, mortgage, leasing, improvement or conducting any  
14 other transaction incident to the administration of the trust,  
15 shall bind the fee simple, term of years or absolute ownership  
16 notwithstanding the execution of a future interest under the  
17 trust into a legal estate or interest by the operation of the  
18 Statute of Uses, or former section [456.020] 456.003, or a  
19 judicial doctrine imposing such execution on dry or passive  
20 trusts.

21 [456.030.] 456.005. Proceeds of life insurance policies  
22 heretofore made payable to a trustee or trustees named as  
23 beneficiary or hereafter to be named beneficiary under an inter  
24 vivos trust shall be paid directly to the trustee or trustees and  
25 held and disposed of by the trustee or trustees as provided in  
26 the trust agreement or declaration of trust in writing made and  
27 in existence on the date of death of the insured, whether or not  
28 such trust or declaration of trust is amendable or revocable or

1 both, or whether it may have been amended, and notwithstanding  
2 the reservation of any or all rights of ownership under the  
3 insurance policy or annuity contract; subject, however, to a  
4 valid assignment of any part of the proceeds. It is not  
5 necessary to the validity of such trust agreement or declaration  
6 of trust that it be funded or have a corpus other than the right,  
7 which need not be irrevocable, of the trustee or trustees named  
8 therein to receive such proceeds as beneficiary. A policy of  
9 life insurance or annuity contract may designate as beneficiary a  
10 trustee or trustees named or to be named by will if the  
11 designation is made in accordance with the provisions of the  
12 policy or contract whether or not the will is in existence at the  
13 time of the designation.

14 [456.040.] 456.007. 1. Whenever any person, firm or  
15 corporation, engaged in the leasing of personal property, shall  
16 require a deposit or advance payment to be made by the lessee to  
17 bind the lessee to the performance of such contract, then such  
18 money so deposited, with any accruing interest thereon, shall,  
19 until returned or applied in accordance with the terms of such  
20 contract or agreement, continue to be the money of the person  
21 making the deposit and shall become and remain a trust fund in  
22 the possession of the person with whom such deposit shall be  
23 made, and the person, firm or corporation, receiving such deposit  
24 shall be the holder of such fund as trustee, and as the trustee  
25 as herein defined shall forthwith, and within seven days after  
26 the receipt of such trust fund, deposit the same in some bank or  
27 trust company in the county in which the cestui que trust shall  
28 reside or have his principal office or place of business, and

1 such fund shall not be mingled with any other funds or assets of  
2 such trustee. Any person, firm or corporation receiving any  
3 money in trust, as herein defined, who shall violate any of the  
4 provisions of this section shall be deemed guilty of a  
5 misdemeanor; provided, however, that this section and section  
6 [456.050] 456.009 shall not apply to such transactions where the  
7 property used or leased is delivered to lessee at time of  
8 agreement and remains in the actual and continuous possession of  
9 lessee during the term of such agreement.

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

17 [456.050.] 456.009. Any person, firm or corporation being a  
18 trustee, as provided in section [456.040] 456.007, who shall  
19 violate any of the provisions thereof, shall pay to the depositor  
20 a sum of money double the amount of the deposit or advance  
21 payment, which may be recovered in any court of competent  
22 jurisdiction, together with a reasonable attorney's fee to be  
23 fixed by the court and collected as other costs in the case. Any  
24 waiver or attempt to waive the provisions of sections [456.040  
25 and 456.050] 456.007 and 456.009 shall be void.

26 [456.060.] 456.011. A trust of real or personal property,  
27 or both, created as part of a stock bonus plan, pension plan,  
28 disability or death benefit plan, medical benefit plan,

1 profit-sharing plan or retirement plan, for the exclusive benefit  
2 of employees or self-employed persons, to which contributions are  
3 made by an employer, or employees, or both, or by self-employed  
4 persons, for the purpose of distributing to such employees or  
5 self-employed persons the earnings or the principal, or both  
6 earnings and principal of the fund so held in trust, shall not be  
7 deemed to be invalid as violating any existing laws against  
8 perpetuities or suspension of the power of alienation of title to  
9 property; but such a trust may continue for such time as may be  
10 necessary to accomplish the purposes for which it may be created.

11 [456.070.] 456.013. The income arising from any property  
12 held in a trust created as part of a stock bonus plan, pension  
13 plan, disability or death benefit plan, medical benefit plan,  
14 profit-sharing plan or retirement plan for the exclusive benefit  
15 of employees or self-employed persons to which contributions are  
16 made by an employer or employees, or both, or by self-employed  
17 persons, for the purpose of distributing in accordance with such  
18 plan to such employees or self-employed persons the earnings or  
19 the principal or both earnings and principal of the trust fund,  
20 may be permitted to accumulate until the fund shall be sufficient  
21 to accomplish the purposes of such plan.

22 [456.072.] 456.015. A trust created as part of a stock  
23 bonus plan, nonpublic pension plan, disability or death benefit  
24 plan, profit-sharing plan, or retirement plan, for the exclusive  
25 benefit of employees to which contributions are made by an  
26 employer, or participant, or both, for the purpose of  
27 distributing to such participant the earnings or the principal,  
28 or both earnings and principal of the fund so held in trust,

1 shall be deemed to be a spendthrift trust if the plan or trust  
2 includes a provision restraining the assignment, alienation, or  
3 other voluntary or involuntary transfer of the interest of a  
4 participant in the trust. Prior to payment or delivery thereof  
5 to such participant by the plan trustee, such an interest of the  
6 participant shall be exempt from attachment or execution under  
7 the laws of this state, and such provision restraining the  
8 assignment, alienation, or other voluntary or involuntary  
9 transfer of the interest of a participant in the trust shall  
10 preclude any creditor of the participant from satisfying a claim  
11 from the assets or property of such a plan or trust before  
12 payment or delivery of such interest to the participant by the  
13 plan trustee, provided that the interest of any such participant  
14 shall be subject to attachment or execution pursuant to a  
15 qualified domestic relations order, as defined by section 414(p)  
16 of the federal Internal Revenue Code, as amended, issued by a  
17 court in any proceeding for dissolution of marriage or legal  
18 separation or a proceeding for disposition of property following  
19 dissolution of marriage by a court which lacked personal  
20 jurisdiction over the absent spouse or lacked jurisdiction to  
21 dispose of marital property at the time of the original judgment  
22 of dissolution.

23 [456.075.] 456.017. The provisions of sections [456.060,  
24 456.070, and 456.072] 456.011, 456.013, and 456.015 shall apply  
25 to every trust of the kind described in such sections hereafter  
26 created or heretofore created or attempted to be created as if  
27 such sections had been effective on and after the date of the  
28 creation, or attempted creation, of each such trust.

1           [456.230.] 456.019. 1. In the administration of any trust  
2 which is a "private foundation", as defined in section 509 of the  
3 United States Internal Revenue Code, a "charitable trust", as  
4 defined in section 4947(a)(1) of the United States Internal  
5 Revenue Code, or a "split-interest trust", as defined in section  
6 4947(a)(2) of the United States Internal Revenue Code, the  
7 following acts shall be prohibited:

8           (1) Engaging in any act of "self-dealing", as defined in  
9 section 4941(d) of the United States Internal Revenue Code, which  
10 would give rise to any liability for the tax imposed by section  
11 4941(a) of the United States Internal Revenue Code;

12           (2) Retaining any "excess business holdings", as defined in  
13 section 4943(c) of the United States Internal Revenue Code, which  
14 would give rise to any liability for the tax imposed by section  
15 4943(a) of the United States Internal Revenue Code;

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

21           (4) Making any "taxable expenditures", as defined in  
22 section 4945(d) of the United States Internal Revenue Code, which  
23 would give rise to any liability for the tax imposed by section  
24 4945(a) of the United States Internal Revenue Code; provided,  
25 however, that this section shall not apply either to those  
26 split-interest trusts or to amounts thereof which are not subject  
27 to the prohibitions applicable to private foundations by reason  
28 of the provisions of section 4947 of the United States Internal

1 Revenue Code.

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

10 3. The provisions of subsections 1 and 2 of this section  
11 shall not apply to any trust to the extent that a court of  
12 competent jurisdiction shall determine that such application  
13 would be contrary to the terms of the instrument governing such  
14 trust and that the same may not properly be changed to conform to  
15 such sections. The trustee shall not be held liable to anyone  
16 for any payments made under subsection 2 prior to such  
17 determination.

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

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

23 [456.232.] 456.021. A devise or other transfer, the  
24 validity of which is determinable by the law of this state, may  
25 be made by a will or other instrument of transfer, including a  
26 designation of beneficiary under a life insurance policy, to the  
27 trustee or trustees of a trust established or to be established  
28 by the testator or transferor or by the testator or transferor

1 and some other person or persons or by some other person or  
2 persons, including a funded or unfunded life insurance trust,  
3 although the settlor thereof has reserved any or all rights of  
4 ownership of the insurance contracts, if the trust is identified  
5 in the testator's will or the instrument of transfer and its  
6 terms are set forth in a written instrument. The devise or  
7 transfer shall not be invalid because the trust is amendable or  
8 revocable, or both, or because the trust was amended after the  
9 execution of the will, the delivery of the instrument of  
10 transfer, or the death of the testator. Notwithstanding whether  
11 a devise or transfer is made before or after August 28, 1996, a  
12 devise or transfer is valid if the devise or transfer is made  
13 only to the name of the trust or if the devise or transfer is  
14 made to the name or names of the trustee or trustees as the  
15 trustee or trustees of the trust. Unless the testator's will or  
16 the instrument of transfer provides otherwise, the property so  
17 devised:

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

21 (2) Shall be administered and disposed of in accordance  
22 with the provisions of the instrument or will setting forth the  
23 terms of the trust, including any amendments thereto made before  
24 the death of the testator or transferor, regardless of whether  
25 made before or after the execution of the testator's will or the  
26 delivery of the instrument of transfer, and, if the testator's  
27 will or the instrument of transfer so provides, including any  
28 amendments to the trust made after the death of the testator or

1 transferor. A revocation or termination of the trust before the  
2 death of the testator shall cause a devise to the trustees of  
3 that trust to lapse.

4 [456.235.] 456.023. A general residuary clause in a will,  
5 or a will making general disposition of all of the testator's  
6 property, does not exercise a power of appointment granted in an  
7 instrument creating or amending a trust unless specific reference  
8 is made to the power or there is some other indication of  
9 intention to include the property subject to the power.

10 [456.236.] 456.025. 1. The rule against perpetuities shall  
11 not apply to and any rule prohibiting unreasonable restraints on  
12 or suspension of the power of alienation shall not be violated by  
13 a trust if a trustee, or other person or persons to whom the  
14 power is properly granted or delegated, has the power pursuant to  
15 the terms of the trust or applicable law to sell the trust  
16 property during the period of time the trust continues beyond the  
17 period of the rule against perpetuities that would apply to the  
18 trust but for this subsection.

19 2. No rule against accumulations shall apply to a trust  
20 described in subsection 1 of this section unless the terms of the  
21 trust require that the income be accumulated during a period of  
22 time the trust continues beyond the period of the rule against  
23 perpetuities that would apply to the trust but for subsection 1  
24 of this section. If the terms of the trust require that the  
25 income be accumulated during any period of time the trust  
26 continues beyond the period of the rule against perpetuities that  
27 would apply to the trust but for subsection 1 of this section,  
28 then during that period of time the trustee shall have the power

1 to make discretionary distributions of net income to such  
2 recipients and in such shares and in such manner as most closely  
3 effectuates the settlor's or testator's manifested plan of  
4 distribution.

5 3. The provisions of this section apply to:

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

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

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

20 4. As used in this section, the term "trust" [shall have  
21 the same meaning as in subdivision (2) of section 456.500, except  
22 that the term shall not include a trust that is not subject to  
23 the rule against perpetuities by reason of any other law of this  
24 state] means an express trust created by a trust instrument,  
25 including a will, whereby a trustee has the duty to administer a  
26 trust asset for the benefit of a named or otherwise described  
27 income or principal beneficiary, or both. The term "trust" does  
28 not include a resulting or constructive trust, a business trust

1 which provides for certificates to be issued to the beneficiary,  
2 an investment trust, a voting trust, a security instrument, a  
3 trust created by the judgment or decree of a court, a liquidation  
4 trust, or a trust for the primary purpose of paying dividends,  
5 interests, interest coupons, salaries, wages, pensions, or  
6 profits, or employee benefits of any kind, an instrument wherein  
7 a person is nominee or escrowee for another, a trust created in  
8 deposits in any financial institution, a trust that is not  
9 subject to the rule against perpetuities by reason of any other  
10 law of this state, or any other trust the nature of which does  
11 not admit of general trust administration.

12 [456.400.] 456.027. 1. The trustee of a trust having its  
13 principal place of administration in this state may register the  
14 trust in the probate division of the circuit court of the county  
15 wherein the principal place of administration is located.

16 2. "Trust" includes any express trust, private or  
17 charitable, with additions thereto, wherever and however created.  
18 It also includes a resulting or constructive trust created or  
19 determined by judgment or decree under which the trust is to be  
20 administered in the manner of an express trust. "Trust" excludes  
21 other constructive and resulting trusts, guardianships,  
22 conservatorships, decedents' estates, and trust accounts with  
23 financial institutions in the name of one or more parties as  
24 trustee for one or more beneficiaries where the fiduciary  
25 relationship is established by the form of the account and the  
26 deposit agreement with the financial institution, and there is no  
27 subject of the trust other than the sums on deposit in such  
28 account. "Trust" also excludes custodial arrangements pursuant

1 to chapter 404, RSMo, the Missouri Uniform Gifts to Minors Law,  
2 paying and transfer agencies, business trusts providing for  
3 certificates to be issued to beneficiaries, investment trusts,  
4 common trust funds, voting trusts, security instruments or  
5 arrangements, liquidation trusts, trusts for the primary purpose  
6 of paying debts, dividends, interest, salaries, wages, profits,  
7 pensions or employee benefits of any kind, and any arrangements  
8 under which a person is nominee or escrowee for another.

9 3. Unless otherwise designated in the trust instrument, the  
10 "principal place of administration of a trust" is the trustee's  
11 usual place of business where the records pertaining to the trust  
12 are kept, or at the trustee's residence if he has no such place  
13 of business. In the case of cotrustees, the principal place of  
14 administration, if not otherwise designated in the trust  
15 instrument, is:

16 (1) The usual place of business of the corporate trustee if  
17 there is but one corporate cotrustee; or

18 (2) The usual place of business or residence of the  
19 individual trustee who is a professional fiduciary if there is  
20 but one such person and no corporate cotrustee; and otherwise

21 (3) The usual place of business or residence of any of the  
22 cotrustees as agreed upon by them.

23 4. "Professional fiduciary" means an individual trustee who  
24 represents himself to the public as having specialized training,  
25 experience or skills in the administration of trusts.

26 5. The right to register under this section does not apply  
27 to the trustee of a trust if registration would be inconsistent  
28 with the retained jurisdiction of a foreign court from which the

1 trustee cannot obtain release of registration.

2 [456.410.] 456.029. Such registration shall be accomplished  
3 by filing a statement, indicating the name and address of the  
4 trustee and acknowledging the trusteeship. The statement shall  
5 indicate whether the trust has been registered elsewhere and  
6 shall identify the trust:

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

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

12 (3) In the case of an oral trust, by information  
13 identifying the settlor or other source of funds and describing  
14 the time and manner of the trust's creation and the terms of the  
15 trust, including the subject matter, beneficiaries and time of  
16 performance. A registration may be withdrawn by a similar  
17 statement.

18 [456.420.] 456.031. The clerk of the probate division of  
19 the circuit court shall keep a record for each trust so  
20 registered, including trust registration statements, petitions  
21 and applications, demands for notices or bonds, and of any orders  
22 or responses relating thereto by the court, and establish and  
23 maintain a system for indexing, filing or recording which is  
24 sufficient to enable users of the records to identify and obtain  
25 information about such registered trusts. Upon payment of the  
26 fees required by law the clerk must issue certified copies of any  
27 record or paper filed or recorded.

28 [456.430.] 456.033. 1. By registering a trust, or

1 accepting the trusteeship of a registered trust, the trustee  
2 submits personally to the jurisdiction of the court in any  
3 proceeding involving the internal affairs of the trust that may  
4 be initiated by any interested person while the trust remains  
5 registered. Notice of any such proceeding shall be delivered to  
6 the trustee or mailed to him by ordinary first-class mail at his  
7 address as listed in the registration statement or as thereafter  
8 reported to the court and to his address as then known to the  
9 petitioner.

10 2. To the extent of their interests in the trust, all  
11 beneficiaries of a trust registered in this state are subject to  
12 the jurisdiction of the court of registration for the purposes of  
13 proceedings involving internal affairs of the trust, provided  
14 notice is given pursuant to section 472.100, RSMo.

15 3. "Interested persons" include beneficiaries and any  
16 others having a property right in or claim against a trust estate  
17 which may be affected by a judicial proceeding. It also includes  
18 persons and other fiduciaries representing interested persons.  
19 The meaning as it relates to particular persons may vary from  
20 time to time and must be determined according to the particular  
21 purposes of, and matter involved in, any proceeding.

22 4. "Internal affairs" proceedings, without limitation, are  
23 those which involve interpretation or construction of the terms  
24 of the trust by declarations, instructions or judgments as to the  
25 existence, nonexistence and extent of rights, powers, privileges,  
26 immunities, duties, liabilities and remedies of trustees and  
27 beneficiaries in the administration and distribution of trusts,  
28 including but not limited to proceedings concerning:

1           (1) The qualifications, appointment, removal,  
2 indemnification, reimbursement, exoneration or surcharge of  
3 trustees;

4           (2) The imposition, change and release of requirements for  
5 trustees' bonds;

6           (3) The employment of agents and compensation to them and  
7 to trustees;

8           (4) The review and settlement of interim and final  
9 accounts;

10          (5) The propriety of investments or of principal and income  
11 allocations;

12          (6) The allowance of deviations from or modifications of  
13 trust terms;

14          (7) The ascertainment of beneficiaries or of beneficial  
15 interests;

16          (8) The requirements for release of registration or change  
17 of principal place of administration;

18          (9) The timing and quantity of distributions and  
19 dispositions of assets;

20          (10) The validity and effect of alienations by  
21 beneficiaries, by exercise of powers of appointment or otherwise;  
22 and

23          (11) Terminations of trusts.

24          [456.620.] 456.035. 1. A certified or authenticated copy  
25 of a death certificate purporting to be issued by an official or  
26 agency of the place where the death purportedly occurred is prima  
27 facie proof of the fact, place, date and time of death and the  
28 identity of the deceased settlor, trustee, beneficiary or other

1 interested person.

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

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

13 [456.640.] 456.037. 1. Property of any kind remaining in a  
14 trust which is not subject to administration or distribution to  
15 or for an identifiable beneficiary may be deemed to be unclaimed  
16 property when the trustee, after reasonable and diligent search,  
17 is unable to find or ascertain the existence of any heirs, legal  
18 representatives, successors or assigns of any beneficiary to whom  
19 such property is distributable by the trust instrument, by any  
20 other instrument pertaining to the trust estate, or by the laws  
21 of Missouri.

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

28 [456.650.] 456.039. 1. Any trustee holding such unclaimed

1 property may file with the state treasurer a verified statement  
2 setting forth the reason or reasons why such property is presumed  
3 to be unclaimed, the efforts made to find or ascertain any heirs,  
4 legal representatives, successors or assigns of any beneficiary  
5 or beneficiaries to whom such property is distributable, a list  
6 of all instruments known to the trustee that pertain to the trust  
7 and their location, with copies of those that are in possession  
8 of the trustee, and any further facts causing the trustee to  
9 believe that the property is unclaimed, and transfer such  
10 property to the state treasurer, who shall issue his receipt  
11 therefor.

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

14 [456.660.] 456.041. 1. The payment or delivery of such  
15 unclaimed property to the state treasurer by the trustee shall  
16 terminate any legal relationship between the trustee and  
17 beneficiary or apparent beneficiary to receive such property and  
18 shall release and discharge the trustee from any and all  
19 liability to such beneficiary, his heirs, personal  
20 representatives, successors and assigns by such payment or  
21 delivery, regardless of whether such property is in fact or in  
22 law unclaimed property.

23 2. Such payment or delivery may be pleaded as a bar to  
24 recovery and shall be a defense in any suit or action brought by  
25 the apparent owner, or his heirs, personal representatives,  
26 successors or assigns, or any claimant against the trustee by  
27 reason of the delivery of payment.

28 461.300. 1. Each recipient of a recoverable transfer of a

1 decedent's property shall be liable to account for a pro rata  
2 share of the value of all such property received, to the extent  
3 necessary to discharge the statutory allowances to the decedent's  
4 surviving spouse and dependent children, and claims remaining  
5 unpaid after application of the decedent's estate, including  
6 expenses of administration and costs as provided in subsection 3  
7 of this section, and including estate or inheritance or other  
8 transfer taxes imposed by reason of the decedent's death only  
9 where payment of those taxes is a prerequisite to satisfying  
10 unpaid claims which have a lower level of priority. No  
11 proceeding may be brought under this section when the deficiency  
12 described in this subsection is solely attributable to costs and  
13 expenses of administration.

14 2. The obligation of a recipient of a recoverable transfer  
15 may be enforced by an action for accounting commenced within  
16 eighteen months following the decedent's death by the decedent's  
17 personal representative or a qualified claimant, but no action  
18 for accounting under this section shall be commenced by any  
19 qualified claimant unless the personal representative has  
20 received a written demand therefor by a qualified claimant. If  
21 the personal representative fails to commence an action within  
22 thirty days of the receipt of a written demand to do so, any  
23 qualified claimant may commence such action. If the personal  
24 representative fails to commence the action, the personal  
25 representative shall disclose to the qualified claimant or  
26 qualified claimants who made such written demand all material  
27 knowledge within the possession of the personal representative  
28 reasonably relating to the identity of any recipient of a

1 recoverable transfer made by the decedent. In the event the  
2 personal representative fails to provide such information with  
3 respect to any recoverable transfer of the decedent's property to  
4 the personal representative, the eighteen-month limitation is  
5 tolled for such recoverable transfer until such time as the  
6 personal representative provides such information. In the event  
7 the personal representative is alleged in a verified pleading to  
8 be a recipient of a recoverable transfer from the decedent, the  
9 court may appoint an administrator ad litem to represent the  
10 estate in any proceeding brought pursuant to this section. Sums  
11 recovered in an action for accounting under this section shall be  
12 administered by the personal representative as part of the  
13 decedent's estate.

14 3. The judgment in a proceeding authorized by this section  
15 shall take into account the expenses of administration of the  
16 estate including the cost of administering the additional assets  
17 obtained in the proceeding, and the costs of the proceeding to  
18 the extent authorized by this subsection. The court may order  
19 the costs of the proceeding, including attorney fees, to be  
20 treated as expenses of administration of the estate.

21 4. If an action for accounting has been commenced under  
22 this section within eighteen months following the decedent's  
23 death, then any party to the proceeding may join and bring into  
24 the action for accounting any other recipient of a recoverable  
25 transfer of the decedent's property even if the other recipient  
26 is not joined until more than eighteen months following the  
27 decedent's death. If an action for accounting has been commenced  
28 under this section more than eighteen months following the

1 decedent's death pursuant to the tolling provisions of subsection  
2 2 of this section, then the personal representative, or former  
3 personal representative, who received a recoverable transfer of  
4 the decedent's property shall be liable to account under the  
5 provisions of subsection 1 of this section for the value of all  
6 such property received by such personal representative, or former  
7 personal representative, and no other recipient of a recoverable  
8 transfer of the decedent's property may be joined or brought into  
9 the action, and in such case, full recovery, rather than pro rata  
10 recovery, may be had from the recoverable property received by  
11 such personal representative or former personal representative.

12 5. This section shall not affect the right of any  
13 transferring entity, as defined in section 461.005, to execute a  
14 direction of the decedent to make a payment or to make a  
15 recoverable transfer on death of the decedent, or make the  
16 transferring entity liable to the decedent's estate, unless  
17 before the payment or transfer is made the transferring entity  
18 has been served with process in a proceeding brought under this  
19 section and the transferring entity has had a reasonable time to  
20 act on it.

21 6. This section does not create a lien on any property that  
22 is the subject of a recoverable transfer, except as a lien may be  
23 perfected by the way of attachment, garnishment, or judgment in  
24 an accounting proceeding authorized by this section.

25 7. An action for accounting under the provisions of this  
26 section may be filed in the probate division of the circuit  
27 court, and the probate division of the circuit court may hear and  
28 determine questions and issue appropriate orders in an action for

1 accounting under this section. Any proceeding under this section  
2 and any statements by a personal representative in connection  
3 with any recoverable transfer shall be deemed to be proceedings  
4 or statements under the probate code that are subject to section  
5 472.013, RSMo.

6 8. The recipient of any property held in trust that was  
7 subject to the satisfaction of the decedent's debts immediately  
8 prior to the decedent's death, and the recipient of any property  
9 held in joint tenancy with right of survivorship that was subject  
10 to the satisfaction of the decedent's debts immediately prior to  
11 the decedent's death, are subject to this section, but only to  
12 the extent of the decedent's contribution to the value of the  
13 property.

14 9. The provisions of this section shall apply to all  
15 actions commenced after August 28, 1995, except that with respect  
16 to decedents dying prior to August 28, 1995, an action for  
17 accounting under this section may be commenced within two years  
18 following the decedent's death.

19 10. As used in this section, the following terms mean:

20 (1) "Creditor", any person to whom the decedent is liable,  
21 which liability survives whether arising in contract, tort, or  
22 otherwise, and any person to whom the decedent's estate is liable  
23 for funeral expenses and the reasonable cost of a tombstone;

24 (2) "Dependent child", the decedent's minor children whom  
25 the decedent was obligated to support and the children who were  
26 in fact being supported by the decedent;

27 (3) "Qualified claimant", a creditor, surviving spouse,  
28 dependent child, or a person acting for a dependent child of the

1 decedent;

2 (4) "Recoverable transfer", a nonprobate transfer of a  
3 decedent's property under sections 461.003 to 461.081 and any  
4 other transfer of a decedent's property other than from the  
5 administration of the decedent's probate estate that was subject  
6 to satisfaction of the decedent's debts immediately prior to the  
7 decedent's death, but only to the extent of the decedent's  
8 contribution to the value of such property.

9 [456.240.] 469.240. 1. In sections [456.240 to 456.350]  
10 469.240 to 469.350 unless the context or subject matter otherwise  
11 requires:

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

14 (2) "Fiduciary" includes a trustee under any trust,  
15 expressed, implied, resulting or constructive, executor,  
16 administrator, guardian, conservator, curator, receiver, trustee  
17 in bankruptcy, assignee for the benefit of creditors, partner,  
18 agent, officer of a corporation, public or private, public  
19 officer, or any other person acting in a fiduciary capacity for  
20 any person, trust or estate;

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

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

26 2. A thing is done "in good faith" within the meaning of  
27 sections [456.240 to 456.350] 469.240 to 469.350, when it is in  
28 fact done honestly, whether it be done negligently or not.

1           [456.250.] 469.250. A person who in good faith pays or  
2 transfers to a fiduciary or to any other person as directed by a  
3 fiduciary any money or other property which the fiduciary as such  
4 is authorized to receive, is not responsible for the proper  
5 application thereof by the fiduciary, and any right or title  
6 acquired from the fiduciary in consideration of such payment or  
7 transfer is not invalid in consequence of a misapplication by the  
8 fiduciary.

9           [456.260.] 469.260. If any negotiable instrument payable or  
10 endorsed to a fiduciary as such is endorsed by the fiduciary, or  
11 if any negotiable instrument payable or endorsed to his principal  
12 is endorsed by a fiduciary empowered to endorse such instrument  
13 on behalf of his principal, the endorsee is not bound to inquire  
14 whether the fiduciary is committing a breach of his obligation as  
15 fiduciary in endorsing or delivering the instrument, and is not  
16 chargeable with notice that the fiduciary is committing a breach  
17 of his obligation as fiduciary unless he takes the instrument  
18 with actual knowledge of such breach or with knowledge of such  
19 facts that his action in taking the instrument amounts to bad  
20 faith. If, however, such instrument is transferred by the  
21 fiduciary in payment of or as security for a personal debt of the  
22 fiduciary to the actual knowledge of the creditor, or is  
23 transferred in any transaction known by the transferee to be for  
24 the personal benefit of the fiduciary, the creditor or other  
25 transferee is liable to the principal if the fiduciary in fact  
26 commits a breach of his obligation as fiduciary in transferring  
27 the instrument.

28           [456.270.] 469.270. If a check or other bill of exchange is

1 drawn by a fiduciary as such, or in the name of his principal by  
2 a fiduciary empowered to draw such instrument in the name of his  
3 principal, the payee is not bound to inquire whether the  
4 fiduciary is committing a breach of his obligation as fiduciary  
5 in drawing or delivering the instrument, and is not chargeable  
6 with notice that the fiduciary is committing a breach of his  
7 obligation as fiduciary unless he takes the instrument with  
8 actual knowledge of such breach or with knowledge of such facts  
9 that this action in taking the instrument amounts to bad faith.  
10 If, however, such instrument is payable to a personal creditor of  
11 the fiduciary and delivered to the creditor in payment of or as  
12 security for a personal debt of the fiduciary to the actual  
13 knowledge of the creditor, or is drawn and delivered in any  
14 transaction known by the payee to be for the personal benefit of  
15 the fiduciary, the creditor or other payee is liable to the  
16 principal if the fiduciary in fact commits a breach of his  
17 obligation as fiduciary in drawing or delivering the instrument.

18 [456.280.] 469.280. If a check or other bill of exchange is  
19 drawn by a fiduciary as such or in the name of his principal by a  
20 fiduciary empowered to draw such instrument in the name of his  
21 principal, payable to the fiduciary personally, or payable to a  
22 third person and by him transferred to the fiduciary, and is  
23 thereafter transferred by the fiduciary, whether in payment of a  
24 personal debt of the fiduciary or otherwise, the transferee is  
25 not bound to inquire whether the fiduciary is committing a breach  
26 of his obligation as fiduciary in transferring the instrument,  
27 and is not chargeable with notice that the fiduciary is  
28 committing a breach of his obligation as fiduciary unless he

1 takes the instrument with actual knowledge of such breach or with  
2 knowledge of such facts that his action in taking the instrument  
3 amounts to bad faith.

4 [456.290.] 469.290. If a deposit is made in a bank to the  
5 credit of a fiduciary as such, the bank is authorized to pay the  
6 amount of the deposit or any part thereof upon the check of the  
7 fiduciary, signed with the name in which such deposit is entered,  
8 without being liable to the principal, unless the bank pays the  
9 check with actual knowledge that the fiduciary is committing a  
10 breach of his obligation as fiduciary in drawing the check or  
11 with knowledge of such facts that its action in paying the check  
12 amounts to bad faith. If, however, such a check is payable to the  
13 drawee bank and is delivered to it in payment of or as security  
14 for a personal debt of the fiduciary to it, the bank is liable to  
15 the principal if the fiduciary in fact commits a breach of his  
16 obligation as fiduciary in drawing or delivering the check.

17 [456.300.] 469.300. If a check is drawn upon the account of  
18 his principal in a bank by a fiduciary who is empowered to draw  
19 checks upon his principal's account, the bank is authorized to  
20 pay such check without being liable to the principal, unless the  
21 bank pays the check with actual knowledge that the fiduciary is  
22 committing a breach of his obligation as fiduciary in drawing  
23 such check, or with knowledge of such facts that its action in  
24 paying the check amounts to bad faith. If, however, such a check  
25 is payable to the drawee bank and is delivered to it in payment  
26 of or as security for a personal debt of the fiduciary to it, the  
27 bank is liable to the principal if the fiduciary in fact commits  
28 a breach of his obligation as fiduciary in drawing or delivering

1 the check.

2 [456.310.] 469.310. If a fiduciary makes a deposit in a bank  
3 to his personal credit of checks drawn by him upon an account in  
4 his own name as fiduciary, or of checks payable to him as  
5 fiduciary, or of checks drawn by him upon an account in the name  
6 of his principal if he is empowered to draw checks thereon, or of  
7 checks payable to his principal and endorsed by him, if he is  
8 empowered to endorse such checks, or if he otherwise makes a  
9 deposit of funds held by him as fiduciary, the bank receiving  
10 such deposit is not bound to inquire whether the fiduciary is  
11 committing thereby a breach of his obligation as fiduciary; and  
12 the bank is authorized to pay the amount of the deposit or any  
13 part thereof upon the personal check of the fiduciary without  
14 being liable to the principal, unless the bank receives the  
15 deposit or pays the check with actual knowledge that the  
16 fiduciary is committing a breach of his obligation as fiduciary  
17 in making such deposit or in drawing such check, or with  
18 knowledge of such facts that its action in receiving the deposit  
19 or paying the check amounts to bad faith.

20 [456.320.] 469.320. When a deposit is made in a bank in the  
21 name of two or more persons as trustees and a check is drawn upon  
22 the trust account by any trustee or trustees authorized by the  
23 other trustee or trustees to draw checks upon the trust account,  
24 neither the payee nor other holder nor the bank is bound to  
25 inquire whether it is a breach of trust to authorize such trustee  
26 or trustees to draw checks upon the trust account, and is not  
27 liable unless the circumstances be such that the action of the  
28 payee or other holder or the bank amounts to bad faith.

1           [456.330.] 469.330. In any case not provided for in  
2 sections [456.240 to 456.350] 469.240 to 469.350 the rules of law  
3 and equity, including the law merchant and those rules of law and  
4 equity relating to trusts, agency, negotiable instruments and  
5 banking, shall continue to apply.

6           [456.340.] 469.340. This law shall be so interpreted and  
7 construed as to effectuate its general purpose to make uniform  
8 the law of those states which enact it.

9           [456.350.] 469.350. Sections [456.240 to 456.350] 469.240  
10 to 469.350 may be cited as the "Uniform Fiduciaries Law".

11           469.401. As used in sections 469.401 to 469.467, the  
12 following terms mean:

13           (1) "Accounting period", a calendar year unless another  
14 twelve-month period is selected by a fiduciary. The term  
15 includes a portion of a calendar year or other twelve-month  
16 period that begins when an income interest begins or ends when an  
17 income interest ends;

18           (2) "Beneficiary", an heir, legatee and devisee of a  
19 decedent's estate, and an income beneficiary and a remainder  
20 beneficiary of a trust, including any type of entity that has a  
21 beneficial interest in either an estate or a trust;

22           (3) "Fiduciary", a personal representative, trustee,  
23 executor, administrator, successor personal representative,  
24 special administrator and any other person performing  
25 substantially the same function;

26           (4) "Income", money or property that a fiduciary receives  
27 as current return from a principal asset, including a portion of  
28 receipts from a sale, exchange or liquidation of a principal

1 asset, as provided in sections 469.423 to 469.449;

2 (5) "Income beneficiary", a person to whom net income of a  
3 trust is or may be payable;

4 (6) "Income interest", the right of an income beneficiary  
5 to receive all or part of net income, whether the terms of the  
6 trust require it to be distributed or authorize it to be  
7 distributed in the trustee's discretion;

8 (7) "Mandatory income interest", the right of an income  
9 beneficiary to receive net income that the terms of the trust  
10 require the fiduciary to distribute;

11 (8) "Net income", if section 469.411 applies to the trust,  
12 the unitrust amount, or if section 469.411 does not apply to the  
13 trust, the total receipts allocated to income during an  
14 accounting period minus the disbursements made from income during  
15 the same period, plus or minus transfers pursuant to sections  
16 469.401 to 469.467 to or from income during the same period;

17 (9) "Person", an individual, corporation, business trust,  
18 estate, trust, partnership, limited liability company,  
19 association, joint venture, government, governmental subdivision,  
20 agency, or instrumentality, public corporation or any other legal  
21 or commercial entity;

22 (10) "Principal", property held in trust for distribution  
23 to a remainder beneficiary when the trust terminates;

24 (11) "Qualified beneficiary", a beneficiary [who, on the  
25 date qualification is determined, either is entitled or eligible  
26 to receive a distribution of trust income or principal, or would  
27 be entitled to receive a distribution if the event causing the  
28 trust to terminate occurred on that date] defined in section

1 456.1-103, RSMo;

2 (12) "Remainder beneficiary", a person entitled to receive  
3 principal when an income interest ends;

4 (13) "Terms of a trust", the manifestation of the settlor's  
5 or decedent's intent expressed in a manner which is admissible as  
6 proof in a judicial proceeding, whether by written or spoken  
7 words or by conduct;

8 (14) "Trustee", an original, additional or successor  
9 trustee, whether or not appointed or confirmed by a court;

10 (15) "Unitrust amount", net income as defined by section  
11 469.411.

12 469.402. The provisions of sections 456.3-301 to 456.3-305  
13 shall apply to sections 469.401 to 469.467 for all purposes.

14 469.409. 1. Any claim for breach of a trustee's duty to  
15 impartially administer a trust related, directly or indirectly,  
16 to an adjustment made by a fiduciary to the allocation between  
17 principal and income pursuant to subsection 1 of section 469.405  
18 or any allocation made by the fiduciary pursuant to any authority  
19 or discretion specified in subsection 1 of section 469.403,  
20 unless previously barred by adjudication, consent or other  
21 limitation, shall be barred as provided in this section.

22 (1) Any such claim brought by a qualified beneficiary is  
23 barred if not asserted in a judicial proceeding commenced within  
24 two years after the trustee has sent a report to that qualified  
25 beneficiary that adequately discloses the facts constituting the  
26 claim.

27 (2) Any such claim [is barred if not asserted in a judicial  
28 proceeding brought by any beneficiary] brought by a beneficiary

1 (other than a qualified beneficiary) with any interest whatsoever  
2 in the trust, no matter how remote or contingent, or whether or  
3 not the beneficiary is ascertainable or has the capacity to  
4 contract, is barred if not asserted in a judicial proceeding  
5 commenced within two years after the first to occur of:

6 \_\_\_\_\_ (a) The date the trustee [has] sent a report to all  
7 qualified beneficiaries that adequately discloses the facts  
8 constituting the claim; or

9 \_\_\_\_\_ (b) The date the trustee sent a report to a person that  
10 represents the beneficiary under the provisions of subdivision  
11 (2) of subsection 2 of this section.

12 2. For purposes of this section the following rules shall  
13 apply:

14 (1) A report adequately discloses the facts constituting a  
15 claim if it provides sufficient information so that the  
16 beneficiary should know of the claim or reasonably should have  
17 inquired into its existence;

18 (2) [A qualified beneficiary is deemed to have been sent a  
19 report if:

20 (a) In the case of a qualified beneficiary who has the  
21 capacity to contract, the report is either delivered personally  
22 to the beneficiary or sent to the beneficiary at the  
23 beneficiary's last known address;

24 (b) In the case of a qualified beneficiary who lacks the  
25 capacity to contract, the report is either hand delivered to a  
26 person with respect to whom pursuant to subdivision (2) of  
27 section 472.300, RSMo, an order would bind that beneficiary with  
28 respect to the subject of the claim or sent to the person at that

1 person's last known address, provided that there is no conflict  
2 of interest between that person and the qualified beneficiary  
3 that person is representing] Section 469.402 shall apply in  
4 determining whether a beneficiary (including a qualified  
5 beneficiary) has received notice for purposes of this section;

6 (3) The determination of the identity of all qualified  
7 beneficiaries shall be made on the date the report is deemed to  
8 have been sent; and

9 (4) This section does not preclude an action to recover for  
10 fraud or misrepresentation related to the report.

11 469.411. 1. If the provisions of this section apply to a  
12 trust, the unitrust amount shall be determined as follows:

13 (1) For the first three accounting periods of the trust,  
14 the unitrust amount for a current valuation year of the trust  
15 shall be [three percent, or any higher percentage] a percentage  
16 between three and five percent that is specified by the terms of  
17 the governing instrument or by the election made in accordance  
18 with subdivision (2) of subsection 5 of this section, of the net  
19 fair market values of the assets held in the trust on the first  
20 business day of the current valuation year;

21 (2) Beginning with the fourth accounting period of the  
22 trust, the unitrust amount for a current valuation year of the  
23 trust shall be [three percent, or any higher percentage] a  
24 percentage between three and five percent that is specified by  
25 the terms of the governing instrument or by the election made in  
26 accordance with subdivision (2) of subsection 5 of this section,  
27 of the average of the net fair market values of the assets held  
28 in the trust on the first business day of the current valuation

1 year and the net fair market values of the assets held in the  
2 trust on the first business day of each prior valuation year,  
3 regardless of whether this section applied to the ascertainment  
4 of net income for all valuation years;

5 (3) The unitrust amount for the current valuation year  
6 computed pursuant to subdivision (1) or (2) of this subsection  
7 shall be proportionately reduced for any distributions, in whole  
8 or in part, other than distributions of the unitrust amount, and  
9 for any payments of expenses, including debts, disbursements and  
10 taxes, from the trust within a current valuation year that the  
11 trustee determines to be material and substantial, and shall be  
12 proportionately increased for the receipt, other than a receipt  
13 that represents a return on investment, of any additional  
14 property into the trust within a current valuation year;

15 (4) For purposes of subdivision (2) of this subsection, the  
16 net fair market values of the assets held in the trust on the  
17 first business day of a prior valuation year shall be adjusted to  
18 reflect any reduction, in the case of a distribution or payment,  
19 or increase, in the case of a receipt, for the prior valuation  
20 year pursuant to subdivision (3) of this subsection, as if the  
21 distribution, payment or receipt had occurred on the first day of  
22 the prior valuation year;

23 (5) In the case of a short accounting period, the trustee  
24 shall prorate the unitrust amount on a daily basis;

25 (6) In the case where the net fair market value of an asset  
26 held in the trust has been incorrectly determined either in a  
27 current valuation year or in a prior valuation year, the unitrust  
28 amount shall be increased in the case of an undervaluation, or be

1 decreased in the case of an overvaluation, by an amount equal to  
2 the difference between the unitrust amount determined based on  
3 the correct valuation of the asset and the unitrust amount  
4 originally determined.

5 2. As used in this section, the following terms mean:

6 (1) "Current valuation year", the accounting period of the  
7 trust for which the unitrust amount is being determined;

8 (2) "Prior valuation year", each of the two accounting  
9 periods of the trust immediately preceding the current valuation  
10 year.

11 3. In determining the sum of the net fair market values of  
12 the assets held in the trust for purposes of subdivisions (1) and  
13 (2) of subsection 1 of this section, there shall not be included  
14 the value of:

15 (1) Any residential property or any tangible personal  
16 property that, as of the first business day of the current  
17 valuation year, one or more income beneficiaries of the trust  
18 have or had the right to occupy, or have or had the right to  
19 possess or control, other than in a capacity as trustee, and  
20 instead the right of occupancy or the right to possession or  
21 control shall be deemed to be the unitrust amount with respect to  
22 the residential property or the tangible personal property; or

23 (2) Any asset specifically given to a beneficiary under the  
24 terms of the trust and the return on investment on that asset,  
25 which return on investment shall be distributable to the  
26 beneficiary.

27 4. In determining the net fair market value of each asset  
28 held in the trust pursuant to subdivisions (1) and (2) of

1 subsection 1 of this section, the trustee shall, not less often  
2 than annually, determine the fair market value of each asset of  
3 the trust that consists primarily of real property or other  
4 property that is not traded on a regular basis in an active  
5 market by appraisal or other reasonable method or estimate, and  
6 that determination, if made reasonably and in good faith, shall  
7 be conclusive as to all persons interested in the trust. Any  
8 claim based on a determination made pursuant to this subsection  
9 shall be barred if not asserted in a judicial proceeding brought  
10 by any beneficiary with any interest whatsoever in the trust  
11 within two years after the trustee has sent a report to all  
12 qualified beneficiaries that adequately discloses the facts  
13 constituting the claim. The rules set forth in subsection 2 of  
14 section 469.409 shall apply to the barring of claims pursuant to  
15 this subsection.

16 5. This section shall apply to the following trusts:

17 (1) Any trust created after August 28, 2001, with respect  
18 to which the terms of the trust clearly manifest an intent that  
19 this section apply;

20 (2) Any trust created under an instrument that became  
21 irrevocable on ~~[or]~~, before, or after August 28, 2001, if the  
22 trustee, in the trustee's discretion, elects to have this section  
23 apply ~~[two years from August 28, 2001,]~~ unless the instrument  
24 creating the trust ~~[provides otherwise]~~ specifically prohibits an  
25 election under this subdivision. The trustee shall deliver  
26 notice to all qualified beneficiaries and the settlor of the  
27 trust, if he or she is then living, of the trustee's intent to  
28 make such an election at least sixty days before making that

1 election. The trustee shall have sole authority to make the  
2 election. [Delivery of the notice to a person with respect to  
3 whom, pursuant to subdivision (2) of section 472.300, RSMo, an  
4 order would bind a beneficiary of the trust is delivery of notice  
5 to that beneficiary for all purposes of this subsection.] Section  
6 469.402 shall apply for all purposes of this subdivision. An  
7 action or order by any court shall not be required. The election  
8 shall be made by a signed writing delivered to the settlor of the  
9 trust, if he or she is then living, and to all qualified  
10 beneficiaries. The election is irrevocable, unless revoked by  
11 order of the court having jurisdiction of the trust. The  
12 election may specify the percentage used to determine the  
13 unitrust amount pursuant to this section, provided that such  
14 percentage is [three percent or greater] between three and five  
15 percent, or if no percentage is specified, then that percentage  
16 shall be three percent. In making an election pursuant to this  
17 subsection, the trustee shall be subject to the same limitations  
18 and conditions as apply to an adjustment between income and  
19 principal pursuant to subsections 3 and 4 of section 469.405;

20 (3) No action of any kind based on an election made [or not  
21 made] by a trustee pursuant to subdivision (2) of this subsection  
22 shall be brought against the trustee by any beneficiary of that  
23 trust three years from [August 28, 2001] the effective date of  
24 that election.

25 (4) If this section is made applicable under this  
26 subdivision to an institutional endowment fund, as defined in  
27 section 402.010, RSMo, the restrictions contained in section  
28 402.015, RSMo, shall not apply to the extent payment of a

1 unitrust amount would otherwise be prohibited.

2 469.419. 1. A trustee shall allocate an income receipt or  
3 disbursement other than one to which subsection 1 of section  
4 469.413 applies to principal if its due date occurs before a  
5 decedent dies in the case of an estate or before an income  
6 interest begins in the case of a trust or successive income  
7 interest.

8 2. A trustee shall allocate an income receipt or  
9 disbursement to income if its due date occurs on or after the  
10 date on which a decedent dies or an income interest begins and it  
11 is a periodic due date. An income receipt or disbursement shall  
12 be treated as accruing from day to day if its due date is not  
13 periodic or it has no due date. The portion of the receipt or  
14 disbursement accruing before the date on which a decedent dies or  
15 an income interest begins shall be allocated to principal and the  
16 balance shall be allocated to income.

17 3. An item of income or an obligation is due on the date a  
18 payment is required. If a payment date is not stated, there is  
19 no due date for the purposes of sections 469.401 to 469.467.  
20 Distributions to shareholders or other owners from an entity to  
21 which section 469.423 applies are deemed to be due on the date  
22 fixed by the entity for determining who is entitled to receive  
23 the distribution or, if no date is fixed, on the declaration date  
24 for the distribution. A due date is periodic for receipts or  
25 disbursements that shall be paid at regular intervals under a  
26 lease or an obligation to pay interest or if an entity  
27 customarily makes distributions at regular intervals.

28 469.423. 1. For purposes of this section, the term

1 "entity" means a corporation, partnership, limited liability  
2 company, regulated investment company, real estate investment  
3 trust, common trust fund, or any other organization in which a  
4 trustee has an interest, other than a trust or estate to which  
5 section 469.425 applies, a business or activity to which section  
6 469.427 applies, or an asset-backed security to which section  
7 ~~[469.447]~~ 469.449 applies.

8 2. Except as otherwise provided in this section, a trustee  
9 shall allocate to income money received from an entity.

10 3. A trustee shall allocate the following receipts from an  
11 entity to principal:

12 (1) Property other than money;

13 (2) Money received in one distribution or a series of  
14 related distributions in exchange for part or all of a trust's  
15 interest in the entity;

16 (3) Money received in total or partial liquidation of the  
17 entity; and

18 (4) Money received from an entity that is a regulated  
19 investment company or a real estate investment trust if the money  
20 distributed is a capital gain dividend for federal income tax  
21 purposes.

22 4. Money is received in partial liquidation:

23 (1) To the extent that the entity, at or near the time of a  
24 distribution, indicates that such money is a distribution in  
25 partial liquidation; or

26 (2) If the total amount of money and property received in a  
27 distribution or series of related distributions is greater than  
28 twenty percent of the entity's gross assets, as shown by the

1 entity's year-end financial statements immediately preceding the  
2 initial receipt.

3 5. Money is not received in partial liquidation, nor may it  
4 be taken into account pursuant to subdivision (2) of subsection 4  
5 of this section, to the extent that such money does not exceed  
6 the amount of income tax that a trustee or beneficiary shall pay  
7 on taxable income of the entity that distributes the money.

8 6. A trustee may rely upon a statement made by an entity  
9 about the source or character of a distribution if the statement  
10 is made at or near the time of distribution by the entity's board  
11 of directors or other person or group of persons authorized to  
12 exercise powers to pay money or transfer property comparable to  
13 those of a corporation's board of directors.

14 469.435. If a trustee determines that an allocation between  
15 principal and income required by section 469.437, 469.439,  
16 469.441, 469.443 or [469.447] 469.449 is insubstantial, the  
17 trustee may allocate the entire amount to principal unless one of  
18 the circumstances described in subsection 3 of section 469.405  
19 applies to the allocation. This power may be exercised by a  
20 cotrustee in the circumstances described in subsection 4 of  
21 section 469.405 and may be released for the reasons and in the  
22 manner described in subsection 5 of section 469.405. An  
23 allocation is presumed to be insubstantial if:

24 (1) The amount of the allocation would increase or decrease  
25 net income in an accounting period, as determined before the  
26 allocation, by less than ten percent; or

27 (2) The value of the asset producing the receipt for which  
28 the allocation would be made is less than ten percent of the

1 total value of the trust's assets at the beginning of the  
2 accounting period.

3 469.449. 1. As used in this section, the phrase  
4 "asset-backed security" means an asset whose value is based upon  
5 the right it gives the owner to receive distributions from the  
6 proceeds of financial assets that provide collateral for the  
7 security. The phrase includes an asset that gives the owner the  
8 right to receive from the collateral financial assets only the  
9 interest or other current return or only the proceeds other than  
10 interest or current return. The phrase does not include an asset  
11 to which section 469.423 or ~~[469.435]~~ 469.437 applies.

12 2. If a trust receives a payment from interest or other  
13 current return and from other proceeds of the collateral  
14 financial assets, the trustee shall allocate to income the  
15 portion of the payment which the payer identifies as being from  
16 interest or other current return and shall allocate the balance  
17 of the payment to principal.

18 3. If a trust receives one or more payments in exchange for  
19 the trust's entire interest in an asset-backed security in one  
20 accounting period, the trustee shall allocate the payments to  
21 principal. If a payment is one of a series of payments that will  
22 result in the liquidation of the trust's interest in the security  
23 over more than one accounting period, the trustee shall allocate  
24 ten percent of the payment to income and the balance to  
25 principal.

26 469.453. 1. A trustee shall make the following  
27 disbursements from principal:

28 (1) The remaining one-half of the disbursements described

1 in subdivisions (1) and (2) of section 469.451;

2 (2) All of the trustee's compensation calculated on  
3 principal as a fee for acceptance, distribution or termination,  
4 and disbursements made to prepare property for sale;

5 (3) Payments on the principal of a trust debt;

6 (4) Expenses of a proceeding or other matter that concerns  
7 primarily an interest in principal;

8 (5) Premiums paid on a policy of insurance not described in  
9 subdivision (4) of section 469.451 of which the trust is the  
10 owner and beneficiary;

11 (6) Estate, inheritance and other transfer taxes, including  
12 penalties, apportioned to the trust; and

13 (7) Extraordinary expenses incurred in connection with the  
14 management and preservation of trust property;

15 (8) Expenses for a capital improvement to a principal  
16 asset, whether in the form of changes to an existing asset or the  
17 construction of a new asset, including special assessments; and

18 (9) Disbursements related to environmental matters,  
19 including reclamation, assessing environmental conditions,  
20 remedying and removing environmental contamination, monitoring  
21 remedial activities and the release of substances, preventing  
22 future releases of substances, collecting amounts from persons  
23 liable or potentially liable for the costs of those activities,  
24 penalties imposed under environmental laws or regulations and  
25 other payments made to comply with those laws or regulations,  
26 statutory or common law claims by third parties, and defending  
27 claims based on environmental matters.

28 2. If a principal asset is encumbered with an obligation

1 that requires income from that asset to be paid directly to the  
2 creditor, the trustee shall transfer from principal to income an  
3 amount equal to the income paid to the creditor in reduction of  
4 the principal balance of the obligation.

5 [456.900.] 469.900. Sections [456.900 to 456.913] 469.900  
6 to 469.913 shall be known, and may be cited, as the "Missouri  
7 Prudent Investor Act". As used in this act, the term "trustee"  
8 includes independent personal representatives and trustees,  
9 whether of express or implied trusts, and the term "trust"  
10 includes independently administered estates.

11 [456.901.] 469.901. 1. Except as otherwise provided in  
12 subsection 2 of this section, or by other applicable laws, a  
13 trustee who invests and manages trust assets owes a duty to the  
14 beneficiaries of the trust to comply with the prudent investor  
15 rule set forth in this act.

16 2. A settlor may expand or restrict the prudent investor  
17 rule detailed in this act by express provisions in the trust  
18 instrument. A trustee is not liable to a beneficiary for the  
19 trustee's good faith reliance on these express provisions.

20 [456.902.] 469.902. 1. A trustee shall invest and manage  
21 trust assets as a prudent investor would, by considering the  
22 purposes, terms, distribution requirements, and other  
23 circumstances of the trust. In satisfying this standard, the  
24 trustee shall exercise reasonable care, skill, and caution.

25 2. A trustee's investment and management decisions  
26 respecting individual assets and courses of action must be  
27 evaluated not in isolation but in the context of the trust  
28 portfolio as a whole and as a part of an overall investment

1 strategy having risk and return objectives reasonably suited to  
2 the trust.

3 3. When investing and managing trust assets, a trustee  
4 shall consider the following as are relevant to the trust or its  
5 beneficiaries:

6 (1) General economic conditions;

7 (2) The possible effect of inflation or deflation;

8 (3) The expected tax consequences of investment decisions  
9 or strategies;

10 (4) The role that each investment or course of action plays  
11 within the overall trust portfolio;

12 (5) The expected total return from income and the  
13 appreciation of capital;

14 (6) Other resources of the beneficiaries known to the  
15 trustee;

16 (7) Needs for liquidity, regularity of income, and  
17 preservation or appreciation of capital;

18 (8) An asset's special relationship or special value, if  
19 any, to the purposes of the trust or to one or more of the  
20 beneficiaries; and

21 (9) The size of the portfolio, nature and estimated  
22 duration of the fiduciary relationship and distribution  
23 requirements under the governing instrument.

24 4. A trustee shall make a reasonable effort to ascertain  
25 facts relevant to the investment and management of trust assets.

26 5. A trustee may invest in any kind of property or type of  
27 investment consistent with the standards of this act.

28 6. A trustee who has special skills or expertise, or is

1 named trustee in reliance upon the trustee's representation that  
2 the trustee has special skills or expertise, has a duty to use  
3 those special skills or expertise when investing and managing  
4 trust assets.

5 [456.903.] 469.903. A trustee shall diversify the  
6 investments of the trust unless the trustee reasonably determines  
7 that, because of special circumstances, the purposes of the trust  
8 are better served without diversifying.

9 [456.904.] 469.904. Within a reasonable time after  
10 accepting a trusteeship or receiving trust assets, a trustee  
11 shall review the trust assets and make and implement decisions  
12 concerning the retention and disposition of assets in order to  
13 bring the trust portfolio into compliance with the purposes,  
14 terms, distribution requirements, and other circumstances of the  
15 trust, and with the requirements of this act.

16 [456.905.] 469.905. A trustee shall invest and manage the  
17 trust assets solely in the interest of the beneficiaries.

18 [456.906.] 469.906. If a trust has two or more  
19 beneficiaries, the trustee shall act impartially in investing and  
20 managing the trust assets, taking into account any differing  
21 interests of the beneficiaries.

22 [456.907.] 469.907. In investing and managing trust assets,  
23 a trustee may only incur costs that are appropriate and  
24 reasonable in relation to the assets, the purposes of the trust,  
25 and the skills of the trustee.

26 [456.908.] 469.908. The prudent investor rule imposes a  
27 standard of conduct, but does not contemplate a specific outcome  
28 or performance. Compliance with the prudent investor rule is

1 determined in light of the facts and circumstances existing at  
2 the time of a trustee's decision or action and not by hindsight.

3 [456.909.] 469.909. 1. A trustee may delegate investment  
4 and management functions that a prudent trustee of comparable  
5 skills could properly delegate under the circumstances. The  
6 trustee shall exercise reasonable care, skill, and caution in:

7 (1) Selecting an agent suitable to the exercise of the  
8 delegated function, taking into account the nature and the value  
9 of the assets subject to such delegation and the expertise of the  
10 agent;

11 (2) Establishing the scope and terms of the delegation,  
12 consistent with the purposes and terms of the trust; and

13 (3) Periodically reviewing the agent's actions in order to  
14 monitor the agent's performance and compliance with the terms of  
15 the delegation.

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

19 3. A trustee who complies with the requirements of  
20 subsection 1 of this section is not liable to the beneficiaries  
21 or to the trust for the decisions or actions of the agent to whom  
22 the function was delegated.

23 4. By accepting the delegation of a trust function from the  
24 trustee of a trust that is subject to the law of this state, an  
25 agent submits to the jurisdiction of the courts of this state  
26 even if the delegation agreement provides otherwise.

27 [456.910.] 469.910. The following terms or comparable  
28 language in the provisions of a trust, unless otherwise limited

1 or modified, authorize any investment or strategy permitted under  
2 this act: "investments permissible by law for investment of  
3 trust funds", "legal investments", "authorized investments",  
4 "using the judgment and care under the circumstances then  
5 prevailing that persons of prudence, discretion, and intelligence  
6 exercise in the management of their own affairs, not in regard to  
7 speculation but in regard to the permanent disposition of their  
8 funds, considering the probable income as well as the probable  
9 safety of their capital", "prudent man rule", "prudent trustee  
10 rule", "prudent person rule", and "prudent investor rule".

11 [456.911.] 469.911. Except as otherwise specifically  
12 provided in the terms of the trust or in sections [456.500 to  
13 456.913] 456.035 to 456.041 and sections 469.900 to 469.913, the  
14 provisions of sections [456.500 to 456.913] 456.035 to 456.041  
15 and sections 469.900 to 469.913 shall apply to any trust  
16 established before or after August 28, [1996] 2004, and to any  
17 trust asset acquired by the trustee before or after August 28,  
18 [1996] 2004.

19 [456.912.] 469.912. This act shall be applied and construed  
20 to effectuate its general purpose to make uniform the law with  
21 respect to the subject of this act among the states enacting it.

22 [456.913.] 469.913. The general assembly recognizes that  
23 persons, corporations, entities or state agencies who have  
24 responsibility for investing funds may be subject to a standard  
25 that is specifically set forth in other statutes. Under such  
26 circumstances, such persons, corporations, entities or state  
27 agencies shall comply with the standard of investment set forth  
28 in the other statute, and this act shall not modify or repeal

1 that standard.

2 700.630. 1. A sole owner of a manufactured home, and  
3 multiple owners of a manufactured home who hold their interest as  
4 joint tenants with right of survivorship or as tenants by the  
5 entirety, on application and payment of the fee required for an  
6 original certificate of ownership, may request the director of  
7 revenue to issue a certificate of ownership for the manufactured  
8 home in beneficiary form which includes a directive to the  
9 director of revenue to transfer the certificate of ownership on  
10 death of the sole owner or on death of all multiple owners to one  
11 beneficiary or to two or more beneficiaries as joint tenants with  
12 right of survivorship or as tenants by the entirety named on the  
13 face of the certificate. The directive to the director of  
14 revenue shall also permit the beneficiary or beneficiaries to  
15 make one reassignment of the original certificate of ownership  
16 upon the death of the owner to another owner without transferring  
17 the certificate to the beneficiary or beneficiaries name.

18 2. A certificate of ownership in beneficiary form may not  
19 be issued to persons who hold their interest in a manufactured  
20 home as tenants in common.

21 3. A certificate of ownership issued in beneficiary form  
22 shall include after the name of the owner, or after the names of  
23 multiple owners, the words "transfer on death to" or the  
24 abbreviation "TOD" followed by the name of the beneficiary or  
25 beneficiaries.

26 4. (1) During the lifetime of a sole owner or prior to the  
27 death of the last surviving multiple owner, the signature or  
28 consent of the beneficiary or beneficiaries shall not be required

1 for any transaction relating to the manufactured home for which a  
2 certificate of ownership in beneficiary form has been issued.

3 (2) A certificate of ownership in beneficiary form may be  
4 revoked or the beneficiary or beneficiaries changed at any time  
5 before the death of a sole owner or the last surviving multiple  
6 owner only by the following methods:

7 (a) By a sale of the manufactured home with proper  
8 assignment and delivery of the certificate of ownership to  
9 another person; or

10 (b) By filing an application to reissue the certificate of  
11 ownership with no designation of a beneficiary or with the  
12 designation of a different beneficiary or beneficiaries with the  
13 director of revenue in proper form and accompanied by the payment  
14 of the fee for an original certificate of ownership.

15 (3) The beneficiary's or beneficiaries' interest in the  
16 manufactured home at death of the owner or surviving owner shall  
17 be subject to any contract of sale, assignment of ownership or  
18 security interest to which the owner or owners of the  
19 manufactured home were subject during their lifetime.

20 (4) The designation of a beneficiary or beneficiaries in a  
21 certificate of ownership issued in beneficiary form may not be  
22 changed or revoked by a will, any other instrument, or a change  
23 in circumstances, or otherwise be changed or revoked except as  
24 provided by subdivision (2) of this subsection.

25 5. (1) On proof of death of one of the owners of two or  
26 more multiple owners, or of a sole owner, surrender of the  
27 outstanding certificate of ownership, and on application and  
28 payment of the fee for an original certificate of ownership, the

1 director of revenue shall issue a new certificate of ownership  
2 for the manufactured home to the surviving owner or owners or, if  
3 none, to the surviving beneficiary or beneficiaries, subject to  
4 any outstanding security interest; and the current valid  
5 certificate of number shall be so transferred. If the surviving  
6 beneficiary or beneficiaries makes a request of the director of  
7 revenue, the director may allow the beneficiary or beneficiaries  
8 to make one assignment of title.

9 (2) The director of revenue may rely on a death certificate  
10 or record or report that constitutes prima facie proof or  
11 evidence of death under subdivisions (1) and (2) of section  
12 472.290, RSMo.

13 (3) The transfer of a manufactured home at death pursuant  
14 to this section is not to be considered as testamentary, or to be  
15 subject to the requirements of section 473.087, RSMo, or section  
16 474.320, RSMo.

17 Section 1. There shall be a rebuttable presumption of undue  
18 influence for any transfer of assets or bequest or devise to the  
19 benefit of any in-home health care provider who is not related to  
20 the grantor within the third degree of consanguinity. Such  
21 presumption shall not apply to reasonable payments for services  
22 rendered nor to transfers of less than five percent of the assets  
23 of the grantor.

24 [456.010. 1. All declarations or creations of  
25 trust of any lands, tenements or hereditaments shall be  
26 manifested and proved by some writing signed by the  
27 party who is, or shall be, by law, enabled to declare  
28 such trusts, or by his last will, in writing, or else  
29 they shall be void.

30 2. When any conveyance shall be made of any lands,  
31 tenements or hereditaments, by which a trust may arise  
32 or result by the implication or construction of law,

1 such trust shall be excepted from the requirements of  
2 subsection 1.

3 3. All grants and assignments of the interest of a  
4 beneficiary under any trust of real or personal  
5 property shall be in writing signed by the party  
6 granting or assigning the same, or by his or her last  
7 will, in writing, or else they shall be void.]  
8

9 [456.016. Sections 456.015 and 456.016 shall be  
10 effective with respect to wills and revocable inter  
11 vivos trusts executed or created before or after  
12 October 13, 1969, by persons who die on or after said  
13 date, and to irrevocable inter vivos trusts which are  
14 created on or after October 13, 1969.]  
15

16 [456.055. A trust for care of pet animals or other  
17 lawful specific noncharitable purpose, society or  
18 organization may be carried out by the intended trustee  
19 or a successor trustee for twenty-one years or any  
20 shorter period specified by the terms of the trust  
21 although it has no ascertainable human beneficiary or  
22 might, by its terms, last longer than the period of the  
23 rule against perpetuities.]  
24

25 [456.080. 1. All restraints upon the right of the  
26 cestui que trust to alienate or anticipate the income  
27 of any trust estate in the form of a spendthrift trust,  
28 or otherwise, and all attempts to withdraw the income  
29 of any trust estate from the claims of creditors of the  
30 cestui que trust, whether such restraints be by will or  
31 deed, now existing or in force, or, which may be  
32 hereafter executed in this state, be and the same are  
33 hereby declared null and void and of no effect, as  
34 against the claims of any wife, child or children, of  
35 such cestui que trust for support and maintenance.

36 2. The settlor may provide in the terms of the  
37 trust that the interest of a beneficiary may not be  
38 either voluntarily or involuntarily transferred before  
39 payment or delivery of the interest to the beneficiary  
40 by the trustee.

41 3. A provision restraining the voluntary or  
42 involuntary transfer of beneficial interests in a trust  
43 will prevent the settlor's creditors from satisfying  
44 claims from the trust assets except:

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

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

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

4 (b) The settlor was one of a class of  
5 beneficiaries and retained a right to receive a  
6 specific portion of the income or principal of the  
7 trust that was determinable solely from the provisions  
8 of the trust instrument.

9 4. Subsection 3 of this section shall not apply to  
10 spendthrift trusts described, defined, or established  
11 pursuant to section 456.072.]  
12

13 [456.090. Each county in this state shall have the  
14 power of acting as trustee for charitable uses, and as  
15 such trustee to take and hold by gift, grant, bequest  
16 or devise, money and other property, real, personal and  
17 mixed, to it given, granted, bequeathed or devised, in  
18 trust for charitable uses, and shall have the power, by  
19 and through its county commission, of executing trusts  
20 created in it for charitable uses in as full and ample  
21 a manner as an individual; provided, however, that  
22 gifts, grants, bequests or devises to provide medals,  
23 awards, prizes, scholarships, or other things to be  
24 given in or under the direction of any public school in  
25 such county shall be deemed a charitable use, within  
26 the meaning of sections 456.090 to 456.110.]  
27

28 [456.100. In all cases where heretofore money or  
29 other property, real, personal or mixed, has been  
30 given, granted, bequeathed or devised, in trust for  
31 charitable uses to any county in this state, or to the  
32 county commission of any county in this state, or to  
33 the commissioners of any county commission in this  
34 state, whether the individual names of such  
35 commissioners were or were not inserted in the  
36 instrument of gift, grant, bequest or devise, and there  
37 remains in the possession or control, or both, of the  
38 county named in said instrument, such money or other  
39 property and the increase thereof, or any portion of  
40 the same, then in all such cases the gift, grant,  
41 bequest or devise of money or other property shall be  
42 deemed and taken by all courts in this state in law and  
43 equity to have been made to the county mentioned in the  
44 said instrument, and such county shall be deemed and  
45 taken to have been created a trustee by such  
46 instrument, and shall continue to hold said money or  
47 other property and the increase thereof, or such  
48 portion thereof as remains in its possession or  
49 control, or both, under the trust created by said  
50 instrument, and shall have the power, by and through  
51 its county commission, to execute the trust created by

1 such instrument in as full and ample manner as an  
2 individual.]

3  
4 [456.110. All counties which have been created and  
5 all counties which shall hereafter be created trustees  
6 for charitable uses, together with the trust property  
7 held or that may be held by them, shall be under the  
8 supervision and control of the circuit courts of the  
9 respective counties, and said counties, by and through  
10 their respective county commissions, may at any time  
11 apply to their respective circuit courts for advice and  
12 directions in the execution of their trusts for  
13 charitable uses.]

14  
15 [456.120. 1. The trustee may be a natural person,  
16 corporation, limited liability company formed pursuant  
17 to chapter 347, RSMo, association or partnership with  
18 the capacity to take and hold property except as  
19 provided in subsection 2 of this section.

20 2. No corporation, partnership or association  
21 organized under the law of a state or country other  
22 than the state of Missouri and no United States  
23 national banking association having its principal place  
24 of business outside of the state of Missouri shall have  
25 the capacity to act as trustee in Missouri except as  
26 otherwise provided by section 362.600, RSMo.]

27  
28 [456.130. Every trustee appointed or who may be  
29 appointed, by any last will, deed or other instrument  
30 of writing, to hold, manage or dispose of any property  
31 or estate, real, personal or mixed, for the use or  
32 benefit of any other person, may be required by the  
33 circuit court of the county in which any such will  
34 shall be proved and recorded, or in which such deed or  
35 instrument of writing shall be recorded, to give bond,  
36 in such sum and with such securities as the court shall  
37 direct, conditioned for the faithful execution of the  
38 trust, unless the will, deed or other instrument of  
39 writing, creating such trust, shall, in express terms,  
40 dispense with security.]

41  
42 [456.140. Any person having beneficial interest,  
43 present or future, absolute or contingent, in the trust  
44 property, may apply to such court for security, by a  
45 petition in writing, stating plainly and briefly why  
46 security ought to be given by the trustee, and shall  
47 deliver to the trustee a copy of the petition, and a  
48 notice, in writing, of the time when it will be  
49 presented, at least ten days before the application is  
50 made.]

1           [456.150. The trustee may answer the petition, in  
2 writing, and the court shall hear and determine the  
3 application summarily, and shall, as may be just,  
4 either reject the petition or direct the trustee to  
5 give security.]  
6

7           [456.160. When security is directed to be given,  
8 the bond shall be to the state of Missouri, for the use  
9 of all persons beneficially interested in the trust  
10 property, and in such sum as the court shall direct,  
11 and shall be executed, approved by the court or judge  
12 thereof, and filed in the office of said court within  
13 the time to be specified in the order of court.]  
14

15           [456.170. If the trustee fail to give bond and  
16 security in the time and manner required by the court,  
17 his trusteeship, and all his title, right and power to,  
18 in and over the trust property, shall cease, and the  
19 court shall appoint a new trustee in his stead, who  
20 shall immediately be invested with all the title, right  
21 and power of the former trustee.]  
22

23           [456.180. The court may, upon its own motion or  
24 upon the application of any person interested, require  
25 and cause the new trustee from time to time, and as  
26 often as may be, to give such security as shall be  
27 sufficient to insure the faithful execution of the  
28 trust, or, in default thereof, to dismiss him, and  
29 appoint another trustee in his stead, who will give the  
30 required security, to be approved by the court.]  
31

32           [456.183. A trustee may resign at any time by  
33 written notice of the resignation to the settlor, if  
34 living, to a cotrustee, if any, and to the  
35 beneficiaries then entitled to receive or eligible to  
36 have the benefit of the income from the trust estate.]  
37

38           [456.185. If a trustee resigns:

39           (1) The remaining trustee, if any, shall continue  
40 to act, with all the rights, powers and duties, of all  
41 the trustees; or

42           (2) If there is no remaining trustee, the  
43 resigning trustee shall continue serving until a  
44 successor is appointed and a successor trustee may be  
45 appointed by a majority in interest of the  
46 beneficiaries then entitled to receive the income from  
47 the trust estate or, if the interest of the income  
48 beneficiaries is\* indefinite, by a majority in number  
49 of the beneficiaries then eligible to have the benefit  
50 of the income of the trust estate, by an instrument in

1 writing delivered to the successor, who shall become a  
2 successor trustee upon written acceptance of the  
3 appointment.]  
4

5 [456.187. 1. A successor trustee shall have all  
6 the rights, powers and duties, which are granted to or  
7 imposed on the predecessor.

8 2. A successor trustee shall be under no duty to  
9 inquire into the acts or doings of a predecessor  
10 trustee, and is liable only for any act or failure to  
11 act of a predecessor trustee of which the successor  
12 trustee had actual knowledge and which the successor  
13 trustee fails to reveal to a majority in interest of  
14 the beneficiaries entitled, at the time of succession,  
15 to receive or eligible to have the benefit of the  
16 income from the trust.

17 3. With the approval of a majority in interest of  
18 the beneficiaries then entitled to receive or eligible  
19 to have the benefit of the income from the trust, a  
20 successor trustee may accept the account rendered and  
21 the property received as a full and complete discharge  
22 to the predecessor trustee without incurring any  
23 liability for so doing.]  
24

25 [456.190. If any trustee appointed by any last  
26 will, deed or other instrument of writing to hold,  
27 manage or dispose of any property or estate, real,  
28 personal or mixed, for the use or benefit of any person  
29 or purpose shall die, or has died, shall become or has  
30 become mentally incapacitated or disabled, shall tender  
31 his resignation as such trustee, shall neglect or  
32 refuse or has neglected or refused to act as such  
33 trustee, or shall or has become unable, by sickness or  
34 other disability to perform or execute his trust, the  
35 trustee or a beneficiary, his or her heirs, legal  
36 representatives or assigns may present his or their  
37 affidavit, stating the facts of the case, specifically,  
38 to the circuit court of the county in which the trust  
39 property, or any part thereof, is situated or in which  
40 the will creating the trust has been proved or  
41 recorded.]  
42

43 [456.195. Unless all beneficiaries of the trust  
44 having the capacity to contract and to transfer  
45 property consent to the appointment of a named proposed  
46 successor trustee in an affidavit filed pursuant to the  
47 provisions of section 456.190, notice of hearing is  
48 required to be given pursuant to the provisions of  
49 section 472.300, RSMo.]  
50

1           [456.200. If such court shall be satisfied that  
2 the facts stated in such affidavit are true, it shall  
3 make an order appointing a suitable trustee in the  
4 place of the prior trustee to hold the trust property  
5 to the same uses and trusts under and subject to the  
6 same powers and conditions as the same was held by the  
7 prior trustee, and who shall do and perform all the  
8 acts and things that the original trustee had power to  
9 do and perform, with the same force and effect, and  
10 shall thereby be substituted to and vested with the  
11 same title and interest in the trust property as was  
12 vested in and possessed by the prior trustee, and shall  
13 have the same power and right to convey and dispose of  
14 such title as the prior trustee had.]  
15

16           [456.210. When the circuit court of any county  
17 has acquired jurisdiction over the trustee and  
18 beneficiaries of a trust incident to a proceeding for  
19 removal or appointment of a trustee, instructions to a  
20 trustee, accounting by a trustee, reimbursement,  
21 exoneration or surcharge of a trustee, or construction  
22 of the terms of the trust, it may, in its decree  
23 granting or denying relief in such proceeding, retain  
24 jurisdiction for the purpose of entertaining later  
25 proceedings of any of such types with reference to the  
26 trust so that no more notice need be given of such  
27 later proceedings than that required for hearings on  
28 motions during the pendency of a suit.]  
29

30           [456.220. 1. Unless previously barred by  
31 adjudication, consent or limitation, any cause of  
32 action against a trustee for breach of trust shall be  
33 barred as to any beneficiary who has received a final  
34 account or other statement fully disclosing the matter  
35 and showing termination of the trust relationship  
36 between the trustee and the beneficiary unless a  
37 proceeding to assert the cause of action is commenced  
38 within five years after receipt of the final account or  
39 statement by him or, if he is a minor or disabled  
40 person, by a guardian or conservator of his estate;  
41 provided that, if a minor or disabled person has no  
42 guardian or conservator of his estate, then such cause  
43 of action shall not be barred until one year after the  
44 removal of such disability. The cause of action thus  
45 barred does not include any action to recover from a  
46 trustee for fraud, misrepresentation or concealment  
47 related to the settlement of the trust.

48           2. Any person shall be presumed to have received  
49 such a final account or statement as of the date such  
50 final account or statement is delivered personally to  
51 such person or mailed to such person at his last

1 address known to the trustee.

2 3. Notwithstanding the above, all causes of  
3 action against a trustee for breach of trust or other  
4 action pertaining to the administration of the trust  
5 shall be barred as to all beneficiaries twenty-two  
6 years after the date of final termination of the trust.

7 4. The limitations herein shall apply to trusts  
8 terminating before or after the enactment of this  
9 section; provided, however, that as to trusts  
10 terminating before enactment, the limitations shall not  
11 apply until two years after September 28, 1983.]  
12

13 [456.225. 1. Before rendering any decree of  
14 partial or final distribution of any bequest or devise  
15 in trust, the probate division of the circuit court, in  
16 its discretion, may require any trustee named as  
17 distributee in the will creating such trust to file  
18 bond, in an amount and with security fixed by the  
19 court, conditioned upon the faithful performance of the  
20 duties of the trustee, except the court shall not  
21 require a bond if the will which creates the trust  
22 directs that no bond shall be required of the trustee  
23 or trustees. No bond shall be required if the trustee  
24 is the surviving spouse of the testator or if the  
25 trustee or any cotrustee of the trust is a corporation  
26 and has a certificate of the director of finance of the  
27 state of Missouri that it has complied with the  
28 provisions of section 362.115, RSMo.]  
29

30 [456.233. Unless the terms of the trust provide  
31 otherwise or unless waived in writing by an adult,  
32 competent beneficiary, the trustee shall deliver a  
33 written statement of accounts to each income  
34 beneficiary or his personal representative at least  
35 annually. The statement shall contain at least:

36 (1) A list of all receipts and disbursements  
37 since the last statement; and

38 (2) All items of trust property held by the  
39 trustee on the date of the statement at their cost  
40 basis, if known, and their market value, if readily  
41 ascertainable.]  
42

43 [456.234. The meaning of a disposition in an  
44 instrument creating or amending a trust shall be  
45 determined by the local law of a particular state  
46 selected by the settlor in his instrument unless the  
47 application of that law is contrary to the public  
48 policy of this state otherwise applicable to the  
49 disposition.]  
50

1           [456.440. 1. By accepting the trusteeship of a  
2 trust of which the principal place of administration is  
3 in this state, or by moving the principal place of  
4 administration of a trust to this state, the trustee  
5 submits personally to the courts of this state in  
6 proceedings involving internal affairs of such trust as  
7 to any matter relating to such internal affairs of the  
8 trust arising while the principal place of  
9 administration is located in this state.

10           2. To the extent of the beneficial interests in a  
11 trust of which the principal place of administration is  
12 in this state, the beneficiaries of the trust are  
13 subject to the jurisdiction of the courts of this state  
14 for purposes of proceedings involving internal affairs  
15 of that trust.]

16  
17           [456.450. 1. Venue for proceedings involving the  
18 internal affairs of registered trusts is in the place  
19 of registration. Venue for proceedings involving the  
20 internal affairs of trusts not registered in this state  
21 is in any place where the trust properly could have  
22 been registered, and otherwise by the rules of civil  
23 procedure.

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

28           3. If proceedings concerning the same trust are  
29 commenced in more than one court of this state, the  
30 court in which the proceeding was first commenced shall  
31 continue to hear the matter, and the other courts shall  
32 hold the matter in abeyance until the question of venue  
33 is decided, and if the ruling court determines that  
34 venue is properly in another court, it shall transfer  
35 the proceeding to the other court.

36           4. If a court finds that in the interest of  
37 justice a proceeding or a file should be located in  
38 another court of this state, the court making the  
39 finding may transfer the proceeding or file to the  
40 other court.]

41  
42           [456.460. The court may, even over the objection  
43 of a party, entertain proceedings involving the  
44 internal affairs of a trust registered or having its  
45 principal place of administration in another state when  
46 all appropriate parties could not be bound by  
47 litigation in the courts of the state where the trust  
48 is registered or has its principal place of  
49 administration; or when the interests of justice  
50 otherwise would seriously be impaired. The court may  
51 condition a stay or dismissal of a proceeding on the

1 consent of any party to jurisdiction of the state in  
2 which the trust is registered or has its principal  
3 place of business, or the court may grant a continuance  
4 or enter any other appropriate order.]  
5

6 [456.470. Except as otherwise specifically  
7 provided in this chapter or by rule, every document  
8 filed with the court under this chapter, including  
9 applications, petitions, and demands for notice, shall  
10 be deemed to include an oath, affirmation or statement  
11 to the effect that its representations are true as far  
12 as the person executing or filing it knows or is  
13 informed.]  
14

15 [456.480. 1. Unless otherwise provided by the  
16 terms of the contract, a trustee is not individually  
17 liable on a contract properly entered into in his  
18 fiduciary capacity in the course of administration of  
19 the trust, unless he fails to reveal his fiduciary  
20 capacity and identify the trust in the contract.

21 2. A trustee is individually liable for  
22 obligations arising from ownership or control of the  
23 trust assets or for torts committed in the course of  
24 administration of the trust only if he is personally at  
25 fault.

26 3. Claims based on contracts entered into by a  
27 trustee in his fiduciary capacity, on obligations  
28 arising from ownership or control of the trust assets,  
29 or on torts committed in the course of trust  
30 administration may be asserted against the trust by  
31 proceeding against the trustee in his fiduciary  
32 capacity, whether or not the trustee is individually  
33 liable therefor.

34 4. Issues of liability as between the trust and  
35 the trustee individually may be determined in a  
36 proceeding for accounting, surcharge or  
37 indemnification, or other appropriate proceeding.

38 5. A trustee who is a member of a partnership in  
39 his fiduciary capacity only is not individually liable  
40 for the obligations of the partnership but claims based  
41 upon such obligations may be asserted against the trust  
42 by proceeding against the trustee in his fiduciary  
43 capacity.]  
44

45 [456.490. For the purpose of granting consent or  
46 approval with regard to the acts or accounts of a  
47 trustee, including relief from liability or penalty for  
48 failure to post bond, or to perform other duties, and  
49 for purposes of consenting to modification or  
50 termination of a trust or to deviation from its terms,

1 the sole holder or all coholders of a presently  
2 exercisable general power of appointment, including one  
3 in the form of a power of amendment or revocation, are  
4 deemed to act for beneficiaries to the extent their  
5 interests, as objects, takers in default, or otherwise,  
6 are subject to the power.]  
7

8 [456.500. As used in sections 456.500 to 456.600:

9 (1) "Prudent investor" means:

10 (a) In the case of decisions and actions taken  
11 before August 28, 1996, a trustee whose exercise of  
12 trust powers is reasonable and equitable in view of the  
13 interests of income or principal beneficiaries, or  
14 both, and in view of the manner in which men of  
15 ordinary prudence, diligence, discretion, and judgment  
16 would act in the management of the affairs of others;  
17 and

18 (b) In the case of decisions and actions taken on  
19 or after August 28, 1996, a trustee whose exercise of  
20 trust powers is in accordance with the provisions of  
21 the Missouri prudent investor act, sections 456.900 to  
22 456.913;

23 (2) "Trust" means an express trust created by a  
24 trust instrument, including a will, whereby a trustee  
25 has the duty to administer a trust asset for the  
26 benefit of a named or otherwise described income or  
27 principal beneficiary, or both; "trust" does not  
28 include a resulting or constructive trust, a business  
29 trust which provides for certificates to be issued to  
30 the beneficiary, an investment trust, a voting trust, a  
31 security instrument, a trust created by the judgment or  
32 decree of a court, a liquidation trust, or a trust for  
33 the primary purpose of paying dividends, interests,  
34 interest coupons, salaries, wages, pensions or profits,  
35 or employee benefits of any kind, an instrument wherein  
36 a person is nominee or escrowee for another, a trust  
37 created in deposits in any financial institution, or  
38 other trust the nature of which does not admit of  
39 general trust administration;

40 (3) "Trustee" means an original, added, or  
41 successor trustee.]  
42

43 [456.510. 1. The trustee has all powers conferred  
44 upon him by the provisions of sections 456.500 to  
45 456.600, unless limited by the trust instrument.

46 2. An instrument which is not a trust as defined  
47 in section 456.500 may incorporate any part of sections  
48 456.500 to 456.600 by reference.]  
49

50 [456.520. 1. From time of creation of the trust

1 until final distribution of the assets of the trust, a  
2 trustee has the power to perform, without court  
3 authorization, every act which a prudent investor would  
4 perform for the purposes of the trust including but not  
5 limited to the powers specified in subsection 3 of this  
6 section.

7 2. In the exercise of the trustee's powers  
8 including the powers granted by this chapter, a trustee  
9 has a duty to act with due regard to the trustee's  
10 obligation as a fiduciary.

11 3. A trustee has the power, subject to subsections  
12 1 and 2 of this section:

13 (1) To collect, hold, and retain trust assets  
14 received from a trustor until, in the judgment of the  
15 trustee, disposition of the assets should be made; and  
16 the assets may be retained even though they include an  
17 asset in which the trustee is personally interested;

18 (2) To receive additions to the assets of the  
19 trust;

20 (3) To continue or participate in the operation of  
21 any business or other enterprise, and to effect  
22 incorporations, dissolution, or other change in the  
23 form of the organization of the business or enterprise;

24 (4) To acquire an undivided interest in a trust  
25 asset in which the trustee, in any trust capacity,  
26 holds an undivided interest;

27 (5) To invest and reinvest trust assets in  
28 accordance with the provisions of the trust or as  
29 provided by law;

30 (6) To deposit trust funds in savings and loan  
31 associations, credit unions and banks, including a bank  
32 operated by the trustee;

33 (7) To acquire or dispose of an asset, for cash or  
34 on credit, at public or private sale; and to manage,  
35 develop, improve, exchange, partition, change the  
36 character of, or abandon a trust asset or any interest  
37 therein; and to encumber, mortgage, or pledge a trust  
38 asset for a term within or extending beyond the term of  
39 the trust, in connection with the exercise of any power  
40 vested in the trustee;

41 (8) To make ordinary or extraordinary repairs or  
42 alterations in buildings or other structures, to  
43 demolish any improvements, to raze existing or erect  
44 new party walls or buildings;

45 (9) To subdivide, develop, or dedicate land to  
46 public use; or to make or obtain the vacation of plats  
47 and adjust boundaries; or to adjust differences in  
48 valuation on exchange or partition by giving or  
49 receiving consideration; or to dedicate easements to  
50 public use without consideration;

51 (10) To enter for any purpose into a lease as

1 lessor or lessee with or without option to purchase or  
2 renew for a term within or extending beyond the term of  
3 the trust;

4 (11) To enter into a lease or arrangement for  
5 exploration and removal of minerals or other natural  
6 resources or enter into a pooling or unitization  
7 agreement;

8 (12) To grant an option involving disposition of a  
9 trust asset, or to take an option for the acquisition  
10 of any asset;

11 (13) To vote a security, in person or by general  
12 or limited proxy;

13 (14) To pay calls, assessments, and any other sums  
14 chargeable or accruing against or on account of  
15 securities;

16 (15) To sell or exercise stock subscription or  
17 conversion rights; directly or through a committee or  
18 other agent, to consent to or oppose the  
19 reorganization, consolidation, merger, dissolution, or  
20 liquidation of a corporation or other business  
21 enterprise;

22 (16) To hold a security in the name of a nominee  
23 or in other form without disclosure of the trust, so  
24 that title to the security may pass by delivery, but  
25 the trustee is liable for any act of the nominee in  
26 connection with the security so held;

27 (17) To insure the assets of the trust against  
28 damage or loss, and the trustee against liability with  
29 respect to third persons;

30 (18) To borrow money from any person including the  
31 trustee to be repaid from or secured by trust assets or  
32 otherwise; to advance money for the protection of the  
33 trust, and for all expenses, losses, and liability  
34 sustained in the administration of the trust or because  
35 of the holding or ownership of any trust assets, for  
36 which advances with any interest the trustee has a lien  
37 on the trust assets as against the beneficiary;

38 (19) To pay or contest any claim; to settle a  
39 claim by or against the trust by compromise,  
40 arbitration, or otherwise; and to release, in whole or  
41 in part, any claim belonging to the trust to the extent  
42 that the claim is uncollectible;

43 (20) To pay taxes, assessments, compensation of  
44 the trustee, and other expenses incurred in the  
45 collection, care, administration, and protection of the  
46 trust;

47 (21) To allocate items of income or expense to  
48 either trust income or principal, as provided by this  
49 chapter, including creation of reserves out of income  
50 for depreciation, obsolescence, or amortization, or for  
51 depletion in mineral or timber properties;

1 (22) To pay any sum distributable to a beneficiary  
2 under legal disability, without liability to the  
3 trustee, by paying the sum to the beneficiary or by  
4 paying the sum for the use of the beneficiary;

5 (23) To effect distribution of property and money  
6 in divided or undivided interests and to adjust  
7 resulting differences in valuation;

8 (24) To employ or contract with persons, including  
9 attorneys, accountants, investment advisors, or agents,  
10 even if they are associated or affiliated with the  
11 trustee, to provide brokerage investment products,  
12 administrative (whether or not discretionary),  
13 custodial or other account services to advise or assist  
14 the trustee in the performance of the trustee's  
15 administrative duties; to act without independent  
16 investigation upon their recommendations; or instead of  
17 acting personally, to employ one or more agents to  
18 perform any act of administration, whether or not  
19 discretionary;

20 (25) To prosecute or defend actions, claims, or  
21 proceedings for the protection of trust assets and of  
22 the trustee in the performance of the trustee's duties;

23 (26) To execute and deliver all instruments which  
24 will accomplish or facilitate the exercise of the  
25 powers vested in the trustee;

26 (27) To invest and reinvest trust assets in United  
27 States government obligations, either directly or in  
28 the form of securities of, or other interests in, any  
29 open-end or closed-end management type investment  
30 company or investment trust registered pursuant to the  
31 Investment Company Act of 1940, as amended, provided  
32 that the governing instrument or order directs,  
33 requires, authorizes, or permits investment in United  
34 States government obligations, and provided that the  
35 portfolio of such investment company or investment  
36 trust is limited to United States government  
37 obligations and to repurchase agreements fully  
38 collateralized by such obligations, and provided  
39 further that such investment company or investment  
40 trust shall take delivery of such collateral;

41 (28) To invest and reinvest trust assets in  
42 securities or obligations of any state or its political  
43 subdivisions, including securities or obligations that  
44 are underwritten by the trustee or an affiliate of the  
45 trustee or a syndicate in which the trustee or an  
46 affiliate of the trustee is a member which in addition  
47 to meeting the standards pursuant to subsections 1 and  
48 2 of this section also meet the standards established  
49 by the division of finance pursuant to subsection 5 of  
50 section 362.550, RSMo;

51 (29) To divide any trust, before or after its

1 initial funding, into two or more separate trusts, and  
2 to make payments or distributions that are authorized  
3 by or directed in the governing instrument from any one  
4 or more of such separate trusts.】

5  
6 [456.524. 1. A trustee shall be entitled to  
7 reasonable compensation for services rendered. For  
8 purposes of this section, "reasonable compensation" may  
9 include fees that take into account the administration  
10 of both income and principal.

11 2. The provisions of this section shall apply to  
12 all testamentary and inter vivos trusts upon and after  
13 August 28, 1998, whether established before or after  
14 such date, and whether or not the will or trust  
15 instrument contains provisions relating to compensation  
16 of the trustee; provided that this section shall not  
17 apply to the extent of any inconsistency between the  
18 provisions of this section and the provisions of the  
19 will or trust instrument.】

20  
21 [456.530. Unless otherwise permitted by law or the  
22 governing instrument, the trustee shall not transfer  
23 his office to another or delegate the entire  
24 administration of the trust to a cotrustee or another.】

25  
26 [456.535. 1. Unless the terms of the trust refer  
27 to this section and provide otherwise, a power  
28 exercisable by or attributable to a person, other than  
29 the settlor, in such person's capacity as a trustee or  
30 because the person is deemed to have any power of a  
31 trustee, whether because such person has the right to  
32 remove or replace any trustee or because a reciprocal  
33 trust or power doctrine applies or otherwise, to make  
34 discretionary distribution of either principal or  
35 income:

36 (1) To or for the benefit of himself or herself  
37 shall be exercisable only for his or her health,  
38 education and support in his or her accustomed manner  
39 of living; or

40 (2) To or for the benefit of others shall not be  
41 exercisable to discharge any of his or her legal  
42 obligations.

43 2. The provisions of this section apply to any  
44 trust established before or after August 13, 1986.】

45  
46 [456.540. 1. Any power vested in three or more  
47 trustees may be exercised by a majority, but a trustee  
48 who has not joined in exercising a power is not liable  
49 to the beneficiaries or to others for the consequences  
50 of the exercise; and a dissenting trustee is not liable

1 for the consequences of an act in which he joins at the  
2 direction of the majority of the trustees, if he  
3 expressed his dissent in writing to any of his  
4 cotrustees at or before the time of the joinder.

5 2. If two or more trustees are appointed to  
6 perform a trust, and if any of them is unable or  
7 refuses to accept the appointment, or, having accepted,  
8 ceases to be a trustee, the surviving or remaining  
9 trustees shall perform the trust and succeed to all the  
10 powers, duties, and discretionary authority given to  
11 the trustees jointly.

12 3. This section does not excuse a cotrustee from  
13 liability for failure either to participate in the  
14 administration of the trust or to attempt to prevent a  
15 breach of trust.

16 4. Unless the terms of the trust refer to this  
17 subsection and provide otherwise, a power conferred  
18 upon two or more persons, none of whom is the settlor,  
19 in their capacity as trustees to make discretionary  
20 distribution of either principal or income to or for  
21 the benefit of one of them, cannot be exercised by such  
22 person, but it shall be exercisable by the trustee or  
23 trustees who are not so disqualified. The provisions of  
24 this subsection apply to any trust established before  
25 or after August 13, 1986.]

26  
27 [456.550. Unless the terms of the trust provide  
28 otherwise, when an instrument creating or amending the  
29 terms of a trust authorizes or directs one or more of  
30 several cotrustees or other persons to perform  
31 designated duties, other cotrustees are not under a  
32 duty to inquire into or participate in the performance  
33 of any such duties by the cotrustee or cotrustees or  
34 other persons authorized or directed to perform it  
35 alone in the absence of actual knowledge that the  
36 former is or are contemplating, committing or  
37 concealing a breach of trust.]

38  
39 [456.560. With respect to a third person dealing  
40 with a trustee or assisting a trustee in the conduct of  
41 a transaction, the existence of trust powers and their  
42 proper exercise by the trustee may be assumed without  
43 inquiry. The third person is not bound to inquire  
44 whether the trustee has power to act or is properly  
45 exercising the power; and a third person, without  
46 actual knowledge that the trustee is exceeding his  
47 powers or improperly exercising them, is fully  
48 protected in dealing with the trustee as if the trustee  
49 possessed and properly exercised the powers he purports  
50 to exercise. A third person is not bound to assure the  
51 proper application of trust assets paid or delivered to

1 the trustee.]  
2

3 [456.570. 1. A court of competent jurisdiction for  
4 cause shown and upon petition of the trustee or  
5 affected beneficiary and upon appropriate notice to the  
6 affected parties may relieve a trustee from any  
7 restrictions on his power that would otherwise be  
8 placed upon him by the trust or by this chapter.

9 2. If the duty of the trustee and his individual  
10 interest or his interest as trustee of another trust,  
11 conflict in the exercise of a trust power, the power  
12 may be exercised only by court authorization, except as  
13 provided in subdivisions (1), (4), (6), (18), (24) and  
14 (28) of subsection 3 of section 456.520, upon petition  
15 of the trustee. Under this section, personal profit or  
16 advantage to an affiliated or subsidiary company or  
17 association is personal profit to any corporate  
18 trustee. The mere fact that the trustee is also the  
19 trustee of another trust or personal representative of  
20 an estate with which transactions are conducted does  
21 not, of and in itself, create a conflict of interest.]  
22

23 [456.580. When a trustee or beneficial owner of a  
24 present estate in land is unable to convey or mortgage  
25 a merchantable title in fee simple, to give an  
26 indefeasible lease for ninety-nine years, or to make  
27 improvements to the land, because his estate is for  
28 life or in determinable or defeasible fee simple and  
29 such a conveyance, mortgage, lease or improvement is  
30 needed to assure a reasonable income, considering the  
31 market value of the land, a court of competent  
32 jurisdiction may and, unless it finds that the  
33 transaction will injure the holder or holders of a  
34 future interest in the land, shall, authorize the  
35 trustee or beneficial owner to convey or mortgage the  
36 fee simple, to give a lease for any period up to  
37 ninety-nine years or to make improvements. Any  
38 transaction so authorized shall be binding upon all  
39 persons with interests in the land. If sale is  
40 authorized, the proceeds shall be held in trust for the  
41 holders of present and future beneficial interests as  
42 their interests shall appear. If mortgage is  
43 authorized, the money borrowed shall be used to pay for  
44 improvements on the land; any surplus to be held upon  
45 trust as in the case of sale proceeds.]  
46

47 [456.610. 1. Any trustee who has a duty or power  
48 to pay the debts of a decedent may publish a notice in  
49 some newspaper published in the county once a week for  
50 four consecutive weeks in substantially the following

1 form:

2  
3 To all persons interested in the estate of  
4 ....., decedent. The undersigned  
5 ..... is acting as Trustee under a  
6 trust the terms of which provide that the debts of the  
7 decedent may be paid by the Trustee(s) upon receipt of  
8 proper proof thereof. The address of the Trustee is  
9 .....  
10 ..... . All creditors of the decedent are noticed to  
11 present their claims to the undersigned within six (6)  
12 months from the date of the first publication of this  
13 notice or be forever barred.  
14 .....

15 Trustee

16 2. If such publication is duly made by the  
17 trustee, any debts not presented to the trustee within  
18 six months from the date of the first publication of  
19 the aforesaid notice shall be forever barred as against  
20 the trustee and the trust property.]

21  
22 [456.630. 1. Notwithstanding any provision of law  
23 to the contrary, whenever fraud has been perpetrated in  
24 connection with any proceeding under this chapter or if  
25 fraud is used to avoid or circumvent the provisions of  
26 purposes of this chapter, any person injured thereby  
27 may obtain appropriate relief against the perpetrator  
28 of the fraud, including restitution from any person,  
29 other than a bona fide purchaser, benefiting from the  
30 fraud, whether innocent or not. Any such proceeding  
31 must be commenced within two years after the discovery  
32 of the fraud but no proceeding may be brought against  
33 one not a perpetrator of the fraud later than ten years  
34 after the time of commission of the fraud. This section  
35 has no bearing on remedies relating to fraud practiced  
36 on a settlor during his lifetime which affects validity  
37 of a trust or succession to its assets.

38 2. For the purpose of subsections 2 to 4 of this  
39 section:

40 (1) "Fraud" includes the transfer of funds to any  
41 spendthrift trust, including a trust qualifying as a  
42 spendthrift trust under the provisions of section  
43 456.072, where the party committing fraud transfers  
44 funds to the trust and such transfer is fraudulent as  
45 to a creditor of such party in that such party  
46 transferred such funds:

47 (a) With intent to hinder, delay, or prevent the  
48 creditor from collecting a lawful debt;

49 (b) When such party was, or shortly before he  
50 became, insolvent;

51 (c) When such party was not paying his debts as

1 they became due; or

2 (d) While any creditor lawsuit was pending against  
3 such party;

4 (2) "Party committing fraud" includes any grantor,  
5 any person who makes a transfer to the trust,  
6 beneficiary, participant, or other similar party of the  
7 trust who makes use of a spendthrift trust to commit  
8 fraud or attempt to commit fraud against creditors.

9 3. In addition to any other remedies under  
10 subsection 1 of this section, any person injured by a  
11 party committing fraud may obtain appropriate relief  
12 against such party, where the fraud was committed  
13 within three years prior to filing a petition for  
14 relief under Title 11 of the United States Code, or  
15 three years prior to the discovery of such fraud. The  
16 action for fraud shall survive the death of the party  
17 committing fraud. Such action shall be limited by the  
18 earlier of the time period provided by section 456.610  
19 or a one-year period after death.

20 4. Any spendthrift trust that otherwise qualifies  
21 as part of a plan or contract that is exempt under  
22 sections 401(a), 403(a), 403(b), and 409 of the  
23 Internal Revenue Code of 1986, as amended, where the  
24 funds contributed to such qualified plan or contract  
25 were contributed no less often than annually as a part  
26 of employee benefits, and including funds transferred  
27 under section 408 of such code permitting rollovers,  
28 when such funds were originally contributed to such  
29 qualified plan or contract no less often than annually  
30 as a part of employee benefits is exempt from  
31 subsections 2 to 4 of this section, provided such  
32 contributions were permitted by the Internal Revenue  
33 Code for the years in question.]

34  
35 [456.670. Unless displaced by the particular  
36 provisions of this chapter, the principles of law and  
37 equity supplement its provisions.]

38  
39 [461.300. 1. Each beneficiary who receives a  
40 nonprobate transfer of a decedent's property under  
41 sections 461.003 to 461.081 and each person who  
42 receives other property by a transfer other than from  
43 the administration of the decedent's probate estate  
44 that was subject to satisfaction of the decedent's  
45 debts immediately prior to the decedent's death, but  
46 only to the extent of the decedent's contribution to  
47 the value of such other property, shall be liable to  
48 account to the decedent's personal representative for a  
49 pro rata share of the value of all such property  
50 received, to the extent necessary to discharge the  
51 statutory allowances to the surviving spouse and

1 unmarried minor children, and claims, remaining unpaid  
2 after application of the decedent's estate, including  
3 expenses of administration and costs as provided in  
4 subsection 3 of this section, and including estate or  
5 inheritance or other transfer taxes imposed by reason  
6 of the decedent's death only where payment of those  
7 taxes is a prerequisite to satisfying unpaid claims  
8 which have a lower level of priority. No proceeding  
9 may be brought under this section when the deficiency  
10 described in this subsection is solely attributable to  
11 costs and expenses of administration.

12 2. The obligation of a beneficiary of a  
13 nonprobate transfer or other recipient of property  
14 under subsection 1 of this section may be enforced by  
15 an action for accounting commenced within eighteen  
16 months following the decedent's death by the decedent's  
17 personal representative, a creditor of the decedent's  
18 estate, the decedent's surviving spouse or one acting  
19 for an unmarried minor child of the decedent, but no  
20 action for accounting under this section shall be  
21 commenced by any person unless the personal  
22 representative has received a written demand therefor  
23 by a creditor, surviving spouse or one acting for an  
24 unmarried minor child of the decedent. Sums recovered  
25 in an action for accounting under this section shall be  
26 administered by the personal representative as part of  
27 the decedent's estate except as provided in subsection  
28 3 of this section.

29 3. The judgment in a proceeding authorized by  
30 this section shall take into account the expenses of  
31 administration of the estate including the cost of  
32 administering the additional assets obtained in the  
33 proceeding, and the costs of the proceeding to the  
34 extent authorized by this subsection. If the  
35 proceeding is commenced by a person other than the  
36 personal representative, the court may order the costs  
37 of the proceeding, other than attorney fees, to be  
38 charged against the amounts recovered and recoverable  
39 as a result of the proceeding. If the proceeding is  
40 commenced by the personal representative, the court may  
41 order the costs of the proceeding, including attorney  
42 fees, to be treated as expenses of administration of  
43 the estate.

44 4. After an action for accounting has been  
45 commenced under this section, any party to the  
46 proceeding may join and bring into the action for  
47 accounting other persons who are liable to account to  
48 the decedent's personal representative under subsection  
49 1 of this section.

50 5. This section shall not affect the right of any  
51 transferring entity, as defined in section 461.005, to

1 execute a direction of the decedent to make a payment  
2 or to make a nonprobate transfer or other transfer  
3 described in subsection 1 of this section on death of  
4 the decedent, or make the transferring entity liable to  
5 the decedent's estate, unless before the payment or  
6 transfer is made the transferring entity has been  
7 served with process in a proceeding brought under this  
8 section and the transferring entity has had a  
9 reasonable time to act on it.

10 6. This section does not create a lien on any  
11 property that is the subject of a nonprobate transfer  
12 or other property not subject to probate  
13 administration, except as a lien may be perfected by  
14 way of attachment, garnishment or judgment in an  
15 accounting proceeding authorized by this section.

16 7. An action for accounting under this section  
17 may be filed in the probate division of the circuit  
18 court, and the probate division of the circuit court  
19 may hear and determine questions and issue appropriate  
20 orders in an action for accounting under this section.

21 8. The recipient of any property held in trust  
22 that was subject to the satisfaction of the decedent's  
23 debts immediately prior to the decedent's death, and  
24 the recipient of any property held in joint tenancy  
25 with right of survivorship that was subject to the  
26 satisfaction of the decedent's debts immediately prior  
27 to the decedent's death, are subject to this section,  
28 but only to the extent of the decedent's contribution  
29 to the value of the property.

30 9. This section shall apply to all actions  
31 commenced after August 28, 1995, except that with  
32 respect to decedents dying prior to August 28, 1995, an  
33 action for accounting under this section may be  
34 commenced within two years following the decedent's  
35 death.]  
36