

PART 1

GENERAL PROVISIONS AND DEFINITIONS

15-5-101. Short title. THIS ACT MAY BE CITED AS THE "COLORADO UNIFORM TRUST CODE".

15-5-102. Scope. THIS ARTICLE APPLIES TO EXPRESS TRUSTS, CHARITABLE OR NONCHARITABLE, AND TRUSTS CREATED PURSUANT TO A STATUTE, JUDGMENT, OR DECREE THAT REQUIRES THE TRUST TO BE ADMINISTERED IN THE MANNER OF AN EXPRESS TRUST. THIS ARTICLE DOES NOT APPLY TO A TRUST THAT IS USED PRIMARILY FOR BUSINESS, EMPLOYMENT, INVESTMENT, OR COMMERCIAL TRANSACTIONS, SUCH AS A BUSINESS TRUST; LAND TRUST; VOTING TRUST; COMMON TRUST FUND; SECURITY ARRANGEMENT; LIQUIDATION TRUST; TRUST CREATED BY A DEPOSIT ARRANGEMENT IN A FINANCIAL INSTITUTION; TRUST CREATED FOR PAYING DEBTS, DIVIDENDS, INTEREST, SALARIES, WAGES, PROFITS, PENSIONS, OR EMPLOYEE BENEFITS OF ANY KIND; OR ANY ARRANGEMENT UNDER WHICH A PERSON IS A NOMINEE OR ESCROWEE FOR ANOTHER.

15-5-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "ACTION", WITH RESPECT TO AN ACT OF A TRUSTEE, INCLUDES A FAILURE TO ACT.

New Definition – Alternative Dispute Resolution ; means a method of non-judicial dispute resolution as set forth in the governing instrument, which may include but is not limited to a method prescribed under the Uniform Arbitration Act (C.R.S. 13-22-201 *et seq*).

(2) "ASCERTAINABLE STANDARD" MEANS A STANDARD RELATING TO AN INDIVIDUAL'S HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE WITHIN THE MEANING OF SECTION 2041 (b) (1) (A) OR 2514 (c) (1) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS IN EFFECT ON JANUARY 1, 2015, OR AS LATER AMENDED.

(3) (A) "BENEFICIARY" MEANS A PERSON ~~THAT~~ WHO:

(i) HAS A PRESENT OR FUTURE BENEFICIAL INTEREST IN A TRUST, VESTED OR CONTINGENT; OR

(ii) IN A CAPACITY OTHER THAN THAT OF TRUSTEE, HOLDS A POWER OF APPOINTMENT OVER TRUST PROPERTY.

(B) "BENEFICIARY" DOES NOT INCLUDE AN APPOINTEE UNDER A POWER OF APPOINTMENT UNLESS AND UNTIL THE POWER IS EXERCISED AND THE TRUSTEE HAS KNOWLEDGE OF THE EXERCISE AND THE IDENTITY OF THE APPOINTEE.

(4) "CHARITABLE TRUST" MEANS A TRUST, OR A PORTION OF A TRUST, CREATED FOR A CHARITABLE PURPOSE DESCRIBED IN SECTION 15-5-405 (a).

(5) "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO ADMINISTER THE ESTATE OF A MINOR OR ADULT INDIVIDUAL.

(6) "ENVIRONMENTAL LAW" MEANS A FEDERAL, STATE, OR LOCAL LAW, RULE, REGULATION, OR ORDINANCE RELATING TO PROTECTION OF THE ENVIRONMENT.

(7) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF A MINOR OR ADULT INDIVIDUAL. THE TERM DOES NOT INCLUDE A GUARDIAN AD LITEM.

New Definition – INTERESTED PERSON: FOR PURPOSES OF ARTICLE 5
‘INTERESTED PERSON’ MEANS QUALIFIED BENEFICIARIES, AND OTHER
PERSONS HAVING A PROPERTY RIGHT IN OR CLAIM AGAINST A TRUST
ESTATE WHICH MAY REASONABLY AND MATERIALLY BE AFFECTED BY A
JUDICIAL PROCEEDING UNDER THIS ~~CODE~~ ARTICLE. IT ALSO INCLUDES
FIDUCIARIES AND OTHER PERSONS HAVING AUTHORITY TO ACT UNDER THE
TERMS OF THE TRUST.

(8) "INTERESTS OF THE BENEFICIARIES" MEANS THE BENEFICIAL INTERESTS PROVIDED IN THE TERMS OF THE TRUST.

(9) "JURISDICTION", WITH RESPECT TO A GEOGRAPHIC AREA, INCLUDES A STATE OR COUNTRY.

(10) "PERSON" MEANS AN INDIVIDUAL; CORPORATION; BUSINESS TRUST; ESTATE; TRUST; PARTNERSHIP; LIMITED LIABILITY COMPANY; ASSOCIATION; JOINT VENTURE; GOVERNMENT; GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY; PUBLIC CORPORATION; OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(11) "POWER OF WITHDRAWAL" MEANS A PRESENTLY EXERCISABLE GENERAL POWER OF APPOINTMENT OTHER THAN A POWER:

(A) EXERCISABLE BY A TRUSTEE AND LIMITED BY AN ASCERTAINABLE STANDARD;
OR

(B) EXERCISABLE BY ANOTHER PERSON ONLY UPON CONSENT OF THE TRUSTEE OR

A PERSON HOLDING AN ADVERSE INTEREST.

(12) "PROPERTY" MEANS ANYTHING THAT MAY BE THE SUBJECT OF OWNERSHIP, WHETHER REAL OR PERSONAL, LEGAL OR EQUITABLE, OR ANY INTEREST THEREIN.

(13) "QUALIFIED BENEFICIARY" MEANS A BENEFICIARY WHO, ON THE DATE THE BENEFICIARY'S QUALIFICATION IS DETERMINED:

(A) IS A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF TRUST INCOME OR PRINCIPAL;

(B) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF TRUST INCOME OR PRINCIPAL IF THE INTERESTS OF THE DISTRIBUTEES IN SUBPARAGRAPH (A) OF THIS PARAGRAPH (13) TERMINATED ON THAT DATE WITHOUT CAUSING THE TRUST TO TERMINATE; OR

(C) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON THAT DATE.

(14) "REVOCABLE", AS APPLIED TO A TRUST, MEANS REVOCABLE BY THE SETTLOR WITHOUT THE CONSENT OF THE TRUSTEE OR A PERSON HOLDING AN ADVERSE INTEREST.

(15) "SETTLOR" MEANS A PERSON, INCLUDING A TESTATOR, WHO CREATES, OR CONTRIBUTES PROPERTY TO, A TRUST. IF MORE THAN ONE PERSON CREATES OR CONTRIBUTES PROPERTY TO A TRUST, EACH PERSON IS A SETTLOR OF THE PORTION OF THE TRUST PROPERTY ATTRIBUTABLE TO THAT PERSON'S CONTRIBUTION EXCEPT TO THE EXTENT ANOTHER PERSON HAS THE POWER TO REVOKE OR HAS THE POWER OF WITHDRAWAL OVER ~~WITHDRAW~~ THAT PORTION.

(16) "SPENDTHRIFT PROVISION" MEANS A TERM OF A TRUST THAT RESTRAINS

BOTH VOLUNTARY AND INVOLUNTARY TRANSFER OF A BENEFICIARY'S INTEREST.

(17) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES AN INDIAN TRIBE OR BAND RECOGNIZED BY FEDERAL LAW OR FORMALLY ACKNOWLEDGED BY A STATE.

(18) "TERMS OF A TRUST" MEANS THE MANIFESTATION OF THE SETTLOR'S INTENT REGARDING A TRUST'S PROVISIONS, AS EXPRESSED IN THE TRUST INSTRUMENT OR AS MAY BE ESTABLISHED ~~BY OTHER EVIDENCE THAT WOULD BE ADMISSIBLE~~ IN A JUDICIAL PROCEEDING, OR A NONJUDICIAL SETTLEMENT AGREEMENT PURSANT TO SECTION 15-5-111.

(19) "TRUST INSTRUMENT" MEANS AN INSTRUMENT EXECUTED BY THE SETTLOR THAT CONTAINS TERMS OF THE TRUST, INCLUDING ANY AMENDMENTS THERETO.

(20) "TRUSTEE" INCLUDES AN ORIGINAL, AN ADDITIONAL, AND A SUCCESSOR TRUSTEE AND A COTRUSTEE.

15-5-104. Knowledge. (a) SUBJECT TO SUBSECTION (b) OF THIS SECTION, A PERSON HAS KNOWLEDGE OF A FACT IF THE PERSON:

- (1) HAS ACTUAL KNOWLEDGE OF IT;
- (2) HAS RECEIVED A NOTICE OR NOTIFICATION OF IT; OR
- (3) FROM ALL THE FACTS AND CIRCUMSTANCES KNOWN TO THE PERSON AT THE TIME IN QUESTION, HAS REASON TO KNOW IT.

(b) AN ORGANIZATION THAT CONDUCTS ACTIVITIES THROUGH EMPLOYEES HAS

NOTICE OR KNOWLEDGE OF A FACT INVOLVING A TRUST ONLY FROM THE TIME THE INFORMATION WAS RECEIVED BY AN EMPLOYEE HAVING RESPONSIBILITY TO ACT FOR THE TRUST, OR WOULD HAVE BEEN BROUGHT TO THE EMPLOYEE'S ATTENTION IF THE ORGANIZATION HAD EXERCISED REASONABLE DILIGENCE. AN ORGANIZATION EXERCISES REASONABLE DILIGENCE IF IT MAINTAINS REASONABLE ROUTINES FOR COMMUNICATING SIGNIFICANT INFORMATION TO THE EMPLOYEE HAVING RESPONSIBILITY TO ACT FOR THE TRUST AND THERE IS REASONABLE COMPLIANCE WITH THE ROUTINES. REASONABLE DILIGENCE DOES NOT REQUIRE AN EMPLOYEE OF THE ORGANIZATION TO COMMUNICATE INFORMATION UNLESS THE COMMUNICATION IS PART OF THE INDIVIDUAL'S REGULAR DUTIES OR THE INDIVIDUAL KNOWS THAT A MATTER INVOLVING THE TRUST WOULD BE MATERIALLY AFFECTED BY THE INFORMATION.

15-5-105. Default and mandatory rules. (a) EXCEPT AS OTHERWISE PROVIDED IN THE TERMS OF THE TRUST, THIS ARTICLE GOVERNS THE DUTIES RIGHTS AND POWERS OF A TRUSTEE, RELATIONS AMONG TRUSTEES, AND THE RIGHTS, POWERS AND INTERESTS OF A BENEFICIARY, THE RELATIONSHIP BETWEEN THE TRUSTEES AND THE BENEFICIARIES, THE PURPOSES OF THE TRUST AND OTHER MATTERS WITH RESPECT TO THE TRUST OR THE PROPERTY SUBJECT TO THE TRUST.

(b) THE TERMS OF A TRUST PREVAIL OVER ANY PROVISION OF THIS ARTICLE EXCEPT:

- (1) THE MINIMUM REQUIREMENTS FOR CREATING ~~A~~ THE TRUST;
- (2) THE DUTY OF A TRUSTEE TO ACT IN GOOD FAITH AND IN ACCORDANCE WITH THE TERMS AND PURPOSES OF THE TRUST AND THE INTERESTS OF THE BENEFICIARIES;

(3) THE REQUIREMENT THAT A TRUST AND ITS TERMS BE FOR THE BENEFIT OF ITS BENEFICIARIES, AND THAT THE TRUST HAVE A PURPOSE THAT IS LAWFUL, NOT CONTRARY TO PUBLIC POLICY, AND POSSIBLE TO ACHIEVE;

(4) THE POWER OF THE COURT TO MODIFY OR TERMINATE A TRUST UNDER SECTIONS 15-5-410 TO 15-5-416;

~~—— (5) THE EFFECT OF A SPENDTHRIFT PROVISION AND THE RIGHTS OF CERTAIN CREDITORS AND ASSIGNEES TO REACH A TRUST AS PROVIDED IN PART 5 OF THIS ARTICLE;~~

(6) THE POWER OF THE COURT UNDER SECTION 15-5-702 TO REQUIRE, DISPENSE WITH, MODIFY, OR TERMINATE A BOND;

(7) THE POWER OF THE COURT UNDER SECTION 15-5-708 (b) TO ADJUST A TRUSTEE'S COMPENSATION SPECIFIED IN THE TERMS OF THE TRUST THAT IS UNREASONABLY LOW OR HIGH;

(8) THE DUTY UNDER SECTION 15-5-813 (b) (2) AND (b) (3) TO PROVIDE NOTICE OF THE EXISTENCE OF AN IRREVOCABLE TRUST, OF THE IDENTITY OF THE TRUSTEE, AND OF THE RIGHT TO REQUEST TRUSTEE'S REPORTS TO CURRENT DISTRIBUTEES OR PERMISSIBLE DISTRIBUTEES OF SUCH TRUST AT ANY AGE, OR TO OTHER QUALIFIED BENEFICIARIES OF SUCH TRUST WHO HAVE ATTAINED TWENTY-FIVE YEARS OF AGE. ~~NOTIFY QUALIFIED BENEFICIARIES OF AN IRREVOCABLE TRUST WHO HAVE ATTAINED TWENTY-FIVE YEARS OF AGE OF THE EXISTENCE OF THE TRUST, OF THE IDENTITY OF THE TRUSTEE, AND OF THEIR RIGHT TO REQUEST TRUSTEE'S REPORTS;~~

(9) THE DUTY UNDER SECTION 15-5-813 (a) TO RESPOND TO THE REQUEST OF A

QUALIFIED BENEFICIARY OF AN IRREVOCABLE TRUST FOR TRUSTEE'S REPORTS AND OTHER INFORMATION REASONABLY RELATED TO THE ADMINISTRATION OF A TRUST;

(10) THE EFFECT OF AN EXCULPATORY TERM UNDER SECTION 15-5-1008;

(11) THE RIGHTS UNDER SECTIONS 15-5-1010 TO 15-5-1013 OF A PERSON OTHER THAN A TRUSTEE OR BENEFICIARY;

(12) PERIODS OF LIMITATION FOR COMMENCING A JUDICIAL PROCEEDING;

(13) CONSISTENT WITH THE TERMS OF THE TRUST AND THE PROVISIONS OF THIS ARTICLE, THE POWER OF THE COURT TO TAKE SUCH ACTION AND EXERCISE SUCH JURISDICTION CONSISTENT WITH SETTLOR'S INTENT AS MAY BE NECESSARY IN THE INTERESTS OF JUSTICE; AND

(14) THE SUBJECT MATTER JURISDICTION OF THE COURT AND VENUE FOR COMMENCING A PROCEEDING AS PROVIDED IN SECTIONS 15-5-203 AND 15-5-204, EXCEPT TO THE EXTENT THE TRUST INSTRUMENT REQUIRES ALTERNATIVE DISPUTE RESOLUTION.

.

15-5-106. Common law of trusts - principles of equity. ~~THE COMMON LAW OF TRUSTS AND PRINCIPLES OF EQUITY SUPPLEMENT THIS ARTICLE, EXCEPT TO THE EXTENT MODIFIED BY THIS ARTICLE OR ANOTHER STATUTE OF THIS STATE. UNLESS DISPLACED BY THE PARTICULAR PROVISIONS OF THIS CODE ARTICLE, THE COMMON LAW OF TRUSTS AND PRINCIPLES OF LAW AND EQUITY SUPPLEMENT ITS PROVISIONS.~~

15-5-107. Governing law. (a) THE MEANING AND EFFECT OF THE TERMS OF A TRUST ARE DETERMINED BY:

(1) THE LAW OF THE JURISDICTION DESIGNATED IN THE TERMS OF THE TRUST UNLESS THE DESIGNATION OF THAT JURISDICTION'S LAW IS CONTRARY TO A STRONG PUBLIC POLICY OF THE JURISDICTION HAVING THE MOST SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE; OR

(2) IN THE ABSENCE OF A CONTROLLING DESIGNATION IN THE TERMS OF THE TRUST, THE LAW OF THE JURISDICTION HAVING THE MOST SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE.

15-5-108. Principal place of administration. (a) WITHOUT PRECLUDING OTHER MEANS FOR ESTABLISHING A SUFFICIENT CONNECTION WITH THE DESIGNATED JURISDICTION, TERMS OF A TRUST DESIGNATING THE PRINCIPAL PLACE OF ADMINISTRATION ARE VALID AND CONTROLLING IF:

(1) A TRUSTEE'S PRINCIPAL PLACE OF BUSINESS IS LOCATED IN OR A TRUSTEE IS A RESIDENT OF THE DESIGNATED JURISDICTION; OR

(2) ALL OR PART OF THE ADMINISTRATION OCCURS IN THE DESIGNATED JURISDICTION.

(3) IN THE CASE OF COTRUSTEES, THE PRINCIPAL PLACE OF ADMINISTRATION, IF NOT OTHERWISE DESIGNATED IN THE TRUST INSTRUMENT, IS THE USUAL PLACE OF BUSINESS OF THE CORPORATE TRUSTEE IF THERE IS BUT ONE CORPORATE COTRUSTEE OR THE USUAL PLACE OF BUSINESS OR RESIDENCE OF THE INDIVIDUAL TRUSTEE WHO IS A PROFESSIONAL FIDUCIARY IF THERE IS BUT ONE SUCH PERSON AND NO CORPORATE COTRUSTEE, AND OTHERWISE THE USUAL PLACE OF BUSINESS OR RESIDENCE OF ANY OF THE COTRUSTEES AS AGREED UPON BY THEM.

From 15-5-205

(b) A TRUSTEE IS UNDER A CONTINUING DUTY TO ADMINISTER THE TRUST AT A PLACE APPROPRIATE TO ITS PURPOSES, ITS ADMINISTRATION, AND THE INTERESTS OF THE BENEFICIARIES.

(c) WITHOUT PRECLUDING THE RIGHT OF THE COURT TO ORDER, APPROVE, OR DISAPPROVE A TRANSFER, THE TRUSTEE, IN FURTHERANCE OF THE DUTY PRESCRIBED BY SUBSECTION (b) OF THIS SECTION, MAY TRANSFER THE TRUST'S PRINCIPAL PLACE OF ADMINISTRATION TO ANOTHER STATE OR TO A JURISDICTION OUTSIDE OF THE UNITED STATES.

(d) THE TRUSTEE SHALL NOTIFY THE QUALIFIED BENEFICIARIES OF A PROPOSED TRANSFER OF A TRUST'S PRINCIPAL PLACE OF ADMINISTRATION NOT LESS THAN SIXTY DAYS BEFORE INITIATING THE TRANSFER. THE NOTICE OF PROPOSED TRANSFER MUST INCLUDE:

(1) THE NAME OF THE JURISDICTION TO WHICH THE PRINCIPAL PLACE OF ADMINISTRATION IS TO BE TRANSFERRED;

(2) THE ADDRESS, EMAIL ADDRESS AND TELEPHONE NUMBER AT THE NEW LOCATION AT WHICH THE TRUSTEE CAN BE CONTACTED;

(3) AN EXPLANATION OF THE REASONS FOR THE PROPOSED TRANSFER;

(4) THE DATE ON WHICH THE PROPOSED TRANSFER IS ANTICIPATED TO OCCUR;

AND

(5) THE DATE, NOT LESS THAN SIXTY DAYS AFTER THE GIVING OF THE NOTICE, BY

WHICH THE QUALIFIED BENEFICIARY MUST NOTIFY THE TRUSTEE OF AN OBJECTION TO THE PROPOSED TRANSFER.

(e) THE AUTHORITY OF A TRUSTEE UNDER THIS SECTION TO TRANSFER A TRUST'S PRINCIPAL PLACE OF ADMINISTRATION ~~TERMINATES~~ IS SUSPENDED PENDING A JUDICIAL PROCEEDING OR NONJUDICIAL SETTLEMENT AGREEMENT IF A QUALIFIED BENEFICIARY NOTIFIES THE TRUSTEE OF AN OBJECTION TO THE PROPOSED TRANSFER ON OR BEFORE THE DATE SPECIFIED IN THE NOTICE.

(f) IN CONNECTION WITH A TRANSFER OF THE TRUST'S PRINCIPAL PLACE OF ADMINISTRATION, THE TRUSTEE MAY TRANSFER SOME OR ALL OF THE TRUST PROPERTY TO A SUCCESSOR TRUSTEE DESIGNATED IN THE TERMS OF THE TRUST OR APPOINTED PURSUANT TO SECTION 15-5-704.

15-5-109. Methods and waiver of notice notice in matters other than judicial proceedings. (a) NOTICE TO A PERSON UNDER THIS ARTICLE OR THE SENDING OF A DOCUMENT TO A PERSON UNDER THIS ARTICLE MUST BE ACCOMPLISHED IN A MANNER REASONABLY SUITABLE UNDER THE CIRCUMSTANCES AND LIKELY TO RESULT IN RECEIPT OF THE NOTICE OR DOCUMENT. PERMISSIBLE METHODS OF NOTICE OR FOR SENDING A DOCUMENT INCLUDE FIRST-CLASS MAIL, PERSONAL DELIVERY, DELIVERY TO THE PERSON'S LAST-KNOWN PLACE OF RESIDENCE OR PLACE OF BUSINESS, OR A PROPERLY DIRECTED ELECTRONIC MESSAGE.

(b) ~~Reserved.~~ A TRUSTEE NEED NOT PROVIDE A NOTICE OR DOCUMENT OTHERWISE REQUIRED UNDER THIS ARTICLE OR A DOCUMENT OTHERWISE REQUIRED TO BE SENT UNDER THIS CODE NEED

~~NOT BE PROVIDED TO A PERSON WHOSE IDENTITY OR LOCATION IS UNKNOWN TO AND NOT REASONABLY ASCERTAINABLE BY THE TRUSTEE. THE TRUSTEE SHALL KEEP A RECORD OF MAINTAIN DOCUMENTATION OF THE TRUSTEE'S REASONABLE EFFORTS TO DETERMINE ASCERTAIN THE LOCATION IDENTITY AND/OR IDENTITY- LOCATION OF A BENEFICIARY WHOSE IDENTITY OR WHEREABOUTS ARE UNKNOWN SUCH A PERSON.~~

(c) NOTICE UNDER THIS ARTICLE OR THE SENDING OF A DOCUMENT UNDER THIS ARTICLE MAY BE WAIVED BY THE PERSON TO BE NOTIFIED OR SENT THE DOCUMENT.

(d) NOTICE OF A JUDICIAL PROCEEDING MUST BE GIVEN AS PROVIDED IN THE ~~APPLICABLE RULES OF CIVIL PROCEDURE~~ COLORADO RULES OF PROBATE PROCEDURE, THE COLORADO PROBATE CODE , AND IF APPLICABLE, THE COLORADO RULES OF CIVIL PROCEDURE.

15-5-110. Others treated as qualified beneficiaries. (a) WHENEVER NOTICE TO QUALIFIED BENEFICIARIES OF A TRUST IS REQUIRED UNDER THIS ARTICLE, THE TRUSTEE SHALL ALSO GIVE NOTICE TO ANY OTHER BENEFICIARY WHO HAS SENT THE TRUSTEE A REQUEST FOR NOTICE.

(b) A CHARITABLE ORGANIZATION EXPRESSLY DESIGNATED TO RECEIVE DISTRIBUTIONS UNDER THE TERMS OF A CHARITABLE TRUST HAS THE RIGHTS OF A QUALIFIED BENEFICIARY UNDER THIS ARTICLE IF THE CHARITABLE ORGANIZATION, ON THE DATE THE CHARITABLE ORGANIZATION'S QUALIFICATION IS BEING DETERMINED:

(1) IS A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF TRUST INCOME OR PRINCIPAL;

(2) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF TRUST INCOME OR PRINCIPAL UPON THE TERMINATION OF THE INTERESTS OF OTHER DISTRIBUTEES OR PERMISSIBLE DISTRIBUTEES THEN RECEIVING OR ELIGIBLE TO RECEIVE DISTRIBUTIONS; OR

(3) WOULD BE A DISTRIBUTE OR PERMISSIBLE DISTRIBUTE OF TRUST INCOME OR PRINCIPAL IF THE TRUST TERMINATED ON THAT DATE.

(c) A PERSON APPOINTED TO ENFORCE A TRUST CREATED FOR THE CARE OF AN ANIMAL OR ANOTHER NONCHARITABLE PURPOSE AS PROVIDED IN SECTION 15-11-901 (1) OR (2) HAS THE RIGHTS OF A QUALIFIED BENEFICIARY UNDER THIS ARTICLE.

(d) THE ATTORNEY GENERAL HAS THE RIGHTS OF A QUALIFIED BENEFICIARY WITH RESPECT TO A CHARITABLE TRUST HAVING ITS PRINCIPAL PLACE OF ADMINISTRATION IN THIS STATE.

15-5-111. Nonjudicial settlement agreements. (a) ~~FOR PURPOSES OF THIS SECTION, "INTERESTED PERSONS" MEANS PERSONS WHOSE CONSENT WOULD BE REQUIRED IN ORDER TO ACHIEVE A BINDING SETTLEMENT WERE THE SETTLEMENT TO BE APPROVED BY THE COURT. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, ANY PERSON MAY ENTER INTO A BINDING NONJUDICIAL SETTLEMENT AGREEMENT WITH RESPECT TO ANY MATTER INVOLVING A TRUST, WHETHER OR NOT SUPPORTED BY CONSIDERATION.~~

(b) ~~EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (c) OF THIS SECTION, INTERESTED PERSONS MAY ENTER INTO A BINDING NONJUDICIAL SETTLEMENT AGREEMENT WITH RESPECT TO ANY MATTER INVOLVING A TRUST. THE REQUIRED PARTIES TO THE NONJUDICIAL SETTLEMENT AGREEMENT SHALL CONSIST OF THE~~ ARE THOSE PERSONS WHOSE INTERESTS IN THE

TRUST WOULD BE MATERIALLY AFFECTED BY ITS PROVISIONS REQUIRED
IN ORDER TO ACHIEVE A BINDING SETTLEMENT TO BIND AN INTEREST IN
THE TRUST WERE THE SETTLEMENT TO BE APPROVED BY THE COURT AT
THE TIME IT WAS ENTERED INTO BY THE PARTIES.

(c) A NONJUDICIAL SETTLEMENT AGREEMENT IS VALID ONLY TO THE EXTENT IT DOES NOT VIOLATE A MATERIAL PURPOSE OF THE TRUST AND INCLUDES TERMS AND CONDITIONS THAT COULD BE PROPERLY APPROVED BY THE COURT UNDER THIS ARTICLE OR OTHER APPLICABLE LAW.

(d) MATTERS THAT MAY BE RESOLVED BY A NONJUDICIAL SETTLEMENT AGREEMENT INCLUDE BUT ARE NOT LIMITED TO:

- (1) THE INTERPRETATION OR CONSTRUCTION OF THE TERMS OF THE TRUST;
- (2) THE APPROVAL OF A TRUSTEE'S REPORT OR ACCOUNTING;
- (3) DIRECTION TO A TRUSTEE TO REFRAIN FROM PERFORMING A PARTICULAR ACT OR THE GRANT TO A TRUSTEE OF ANY NECESSARY OR DESIRABLE POWER;
- (4) THE RESIGNATION OR APPOINTMENT OF A TRUSTEE AND THE DETERMINATION OF A TRUSTEE'S COMPENSATION;
- (5) TRANSFER OF A TRUST'S PRINCIPAL PLACE OF ADMINISTRATION; AND
- (6) LIABILITY OF A TRUSTEE FOR AN ACTION RELATING TO THE TRUST.

(e) ANY ~~INTERESTED~~ PERSON WHOSE INTEREST IN THE TRUST MAY BE
AFFECTED BY A NONJUDICIAL SETTLEMENT AGREEMENT MAY REQUEST THE
COURT TO APPROVE OR DISAPPROVE THE NONJUDICIAL SETTLEMENT AGREEMENT,
TO DETERMINE WHETHER THE REPRESENTATION AS PROVIDED IN PART 3 OF THIS ARTICLE

WAS ADEQUATE, AND TO DETERMINE WHETHER THE AGREEMENT CONTAINS TERMS AND CONDITIONS THE COURT COULD HAVE PROPERLY APPROVED.

15-5-112. Rules of construction. UNLESS THE TERMS OF THE TRUST INSTRUMENT CONTAIN CONTRARY RULES OF CONSTRUCTION, THE RULES OF CONSTRUCTION THAT APPLY IN THIS STATE TO THE INTERPRETATION OF AND DISPOSITION OF PROPERTY BY A WILL OR OTHER GOVERNING INSTRUMENT, AS THAT TERM IS DEFINED IN THE "COLORADO PROBATE CODE", ARTICLES 10 TO 17 OF THIS TITLE, ALSO APPLY AS APPROPRIATE TO THE INTERPRETATION OF THE TERMS OF A TRUST AND THE DISPOSITION OF THE TRUST PROPERTY.

15-5-113 Alternative Dispute Resolution: (A) A SETTLOR MAY DESIGNATE IN THE GOVERNING INSTRUMENT OF THE TRUST A METHOD OF NON-JUDICIAL ALTERNATIVE DISPUTE RESOLUTION WHICH IS VALID, ENFORCEABLE, AND IRREVOCABLE, EXCEPT ON A GROUND THAT EXISTS AT LAW OR IN EQUITY FOR THE REVOCATION OF A CONTRACT. SUCH METHOD OF NON-JUDICIAL DISPUTE RESOLUTION MUST MAY INCLUDE RULES OF NOTICE AND PROCEDURE. ~~ADDITIONALLY,~~ THE SETTLOR MAY BIND BENEFICIARIES AND ASSIGNS TO THE METHOD OF DISPUTE RESOLUTION.

(B) A METHOD OF NON-JUDICIAL DISPUTE RESOLUTION PROVIDED BY THE SETTLOR IN THE TRUST INSTRUMENT DOES NOT PRECLUDE THE COURT'S AUTHORITY TO ENTER AN ORDER OF ALTERNATIVE DISPUTE RESOLUTION WHICH DOES NOT ELIMINATE OR NEGATE THE METHOD OF NON-JUDICIAL RESOLUTION PROVIDED BY THE SETTLOR EXCEPT ON A GROUND THAT EXISTS AT LAW OR IN EQUITY FOR THE REVOCATION OF A CONTRACT.

~~15-5-113~~ 15-5-114. [Formerly 15-16-501] Insurable interest of trustee -

definition. ~~(1)~~ (a) In this ~~part 5~~ SECTION, "settlor" means a person that executes a trust instrument. The term includes a person for which a fiduciary or agent is acting.

~~(2)~~ (b) A trustee of a trust has an insurable interest in the life of an individual insured under a life insurance policy that is owned by the trustee of the trust acting in a fiduciary capacity or that designates the trust itself as the owner if, on the date the policy is issued:

~~(a)~~ (1) The insured is:

~~(A)~~ (A) A settlor of the trust; or

~~(B)~~ (B) An individual in whom a settlor of the trust has, or would have had if living at the time the policy was issued, an insurable interest; and

~~(b)~~ (2) The life insurance proceeds are primarily for the benefit of one or more trust beneficiaries that have:

~~(A)~~ (A) An insurable interest in the life of the insured; or

~~(B)~~ (B) A substantial interest engendered by love and affection in the continuation of the life of the insured and, if not already included under subparagraph ~~(A)~~ (A) of this paragraph ~~(b)~~ (2), who are:

~~(A)~~ (i) Related within the fifth degree or closer, as measured by the civil law system of determining degrees of relation, either by blood or law, to the insured;

~~(B)~~ (ii) Stepchildren of the insured or their descendants; or

~~(C)~~ (iii) Individuals who are designated as beneficiaries of insurance policies for

life insurance coverage on the life of the insured under a designated beneficiary agreement executed pursuant to article 22 of this title.

~~(3)~~ (c) This section does not limit or abridge any insurable interest or right to insure under the common law or any other statute.