

HOUSE BILL No. 6716

November 19, 2008, Introduced by Rep. Schuitmaker and referred to the Committee on
Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending sections 1103, 1104, 1105, 1106, 1107, 1201, 1209,
1210, 1212, 1214, 1308, 1403, 1507, 2705, 2722, 2901, 3104, 3403,
3703, 3705, 3713, 3715, 3801, 3803, 3805, 3915, 5407, 5421, 7101,
7102, 7103, 7104, 7105, 7201, 7202, 7203, 7204, 7205, 7206, 7207,
7301, 7302, 7303, 7304, 7305, 7401, 7402, 7403, 7404, 7405, 7406,
7407, 7410, 7501, 7502, 7503, 7504, 7505, 7506, 7507, and 7508 (MCL
700.1103, 700.1104, 700.1105, 700.1106, 700.1107, 700.1201,
700.1209, 700.1210, 700.1212, 700.1214, 700.1308, 700.1403,
700.1507, 700.2705, 700.2722, 700.2901, 700.3104, 700.3403,
700.3703, 700.3705, 700.3713, 700.3715, 700.3801, 700.3803,
700.3805, 700.3915, 700.5407, 700.5421, 700.7101, 700.7102,
700.7103, 700.7104, 700.7105, 700.7201, 700.7202, 700.7203,

700.7204, 700.7205, 700.7206, 700.7207, 700.7301, 700.7302, 700.7303, 700.7304, 700.7305, 700.7401, 700.7402, 700.7403, 700.7404, 700.7405, 700.7406, 700.7407, 700.7410, 700.7501, 700.7502, 700.7503, 700.7504, 700.7505, 700.7506, 700.7507, and 700.7508), sections 1103 and 7503 as amended by 2000 PA 177, section 1104 as amended by 2006 PA 299, sections 1105, 3803, 7303, and 7406 as amended and section 7410 as added by 2004 PA 314, section 1106 as amended by 2004 PA 532, sections 1107, 1214, 7206, 7501, and 7507 as amended by 2000 PA 54, section 3705 as amended by 2004 PA 481, sections 3715, 7401, 7502, and 7508 as amended by 2005 PA 204, and section 3805 as amended by 2007 PA 73, by amending the heading of article VII and the headings of parts 1, 2, 3, 4, and 5 of article VII, by adding sections 7107, 7108, 7109, 7110, 7111, 7112, 7113, 7208, 7209, 7210, 7211, 7411, 7412, 7413, 7414, 7415, 7416, 7417, 8201, 8202, 8204, and 8206, and by adding parts 6, 7, 8, and 9 to article VII; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1103. As used in this act:

2 (a) "Agent" includes, but is not limited to, an attorney-in-
3 fact under a durable or nondurable power of attorney and an
4 individual authorized to make decisions as a patient advocate
5 concerning another's health care.

6 (b) "Application" means a written request to the probate
7 register for an order of informal probate or informal appointment
8 under part 3 of article III.

9 (c) "Attorney" means, if appointed to represent a child under
10 the provisions referenced in section 5213, an attorney serving as

1 the child's legal advocate in the manner defined and described in
2 section 13a of chapter XIIA of the probate code of 1939, 1939 PA
3 288, MCL 712A.13a.

4 (d) "Beneficiary" includes, but is not limited to, the
5 following:

6 (i) In relation to a trust, ~~beneficiary,~~ a person that is ~~an~~
7 ~~interested~~ **A trust beneficiary AS DEFINED IN SECTION 7103.**

8 (ii) In relation to a charitable trust, a person that is
9 entitled to enforce the trust.

10 (iii) In relation to a beneficiary of a beneficiary designation,
11 a person that is a beneficiary of an insurance or annuity policy,
12 of an account with POD designation, of a security registered in
13 beneficiary form (TOD), of a pension, profit-sharing, retirement,
14 or similar benefit plan, or of another nonprobate transfer at
15 death.

16 (iv) In relation to a beneficiary designated in a governing
17 instrument, a person that is a grantee of a deed, devisee, trust
18 beneficiary, beneficiary of a beneficiary designation, donee,
19 appointee, taker in default of a power of appointment, or person in
20 whose favor a power of attorney or power held in an individual,
21 fiduciary, or representative capacity is exercised.

22 (e) "Beneficiary designation" means the naming in a governing
23 instrument of a beneficiary of an insurance or annuity policy, of
24 an account with POD designation, of a security registered in
25 beneficiary form (TOD), of a pension, profit-sharing, retirement,
26 or similar benefit plan, or of another nonprobate transfer at
27 death.

1 (f) "Child" includes, but is not limited to, an individual
2 entitled to take as a child under this act by intestate succession
3 from the parent whose relationship is involved. Child does not
4 include an individual who is only a stepchild, a foster child, or a
5 grandchild or more remote descendant.

6 (g) "Claim" includes, but is not limited to, in respect to a
7 decedent's or protected individual's estate, a liability of the
8 decedent or protected individual, whether arising in contract,
9 tort, or otherwise, and a liability of the estate that arises at or
10 after the decedent's death or after a conservator's appointment,
11 including funeral and burial expenses and costs and expenses of
12 administration. Claim does not include an estate or inheritance
13 tax, or a demand or dispute regarding a decedent's or protected
14 individual's title to specific property alleged to be included in
15 the estate.

16 (h) "Conservator" means a person appointed by a court to
17 manage a protected individual's estate.

18 (i) "Cost-of-living adjustment factor" means a fraction, the
19 numerator of which is the United States consumer price index for
20 the prior calendar year and the denominator of which is the United
21 States consumer price index for 1997. As used in this subdivision,
22 "United States consumer price index" means the annual average of
23 the United States consumer price index for all urban consumers as
24 defined and reported by the United States department of labor,
25 bureau of labor statistics, or its successor agency, and as
26 certified by the state treasurer.

27 (j) "Court" means the probate court or, when applicable, the

1 family division of circuit court.

2 ~~—— (k) "Current trust beneficiary" means a beneficiary about~~
3 ~~which either of the following is true:~~

4 ~~—— (i) The beneficiary has a current right to receive all or a~~
5 ~~portion of the income, if any, of the trust property.~~

6 ~~—— (ii) The beneficiary is currently eligible to receive all or a~~
7 ~~portion of a mandatory or discretionary distribution of income or~~
8 ~~principal.~~

9 (K) ~~(l)~~ "Descendant" means, in relation to an individual, all
10 of his or her descendants of all generations, with the relationship
11 of parent and child at each generation being determined by the
12 definitions of child and parent contained in this act.

13 (L) ~~(m)~~ "Devise" means, when used as a noun, a testamentary
14 disposition of real or personal property and, when used as a verb,
15 to dispose of real or personal property by will.

16 (M) ~~(n)~~ "Devisee" means a person designated in a will to
17 receive a devise. For the purposes of article II, for a devise to a
18 trustee of an existing trust or to a trustee under a will, the
19 trustee is a devisee and a beneficiary is not.

20 (N) ~~(o)~~ "Disability" means cause for a protective order as
21 described in section 5401.

22 (O) ~~(p)~~ "Distributee" means a person that receives a
23 decedent's property from the decedent's personal representative **OR**
24 **TRUST PROPERTY FROM THE TRUSTEE** other than as a creditor or
25 purchaser. A testamentary trustee is a distributee only to the
26 extent that distributed property or an increment of the distributed
27 property remains in the trustee's hands. A testamentary trust

1 beneficiary to whom the trustee distributes property received from
2 a personal representative is a distributee of the personal
3 representative. For the purposes of this subdivision, "testamentary
4 trustee" includes a trustee to whom property is transferred by will
5 to the extent of the devised property.

6 Sec. 1104. As used in this act:

7 (a) "Environmental law" means a federal, state, or local law,
8 rule, regulation, or ordinance that relates to the protection of
9 the environment or human health.

10 (b) "Estate" includes the property of the decedent, trust, or
11 other person whose affairs are subject to this act as the property
12 is originally constituted and as it exists throughout
13 administration. Estate also includes the rights described in
14 sections 3805, 3922, and ~~7502-7606~~ to collect from others amounts
15 necessary to pay claims, allowances, and taxes.

16 (c) "Exempt property" means property of a decedent's estate
17 that is described in section 2404.

18 (d) "Family allowance" means the allowance prescribed in
19 section 2403.

20 (e) "Fiduciary" includes, but is not limited to, a personal
21 representative, guardian, conservator, trustee, plenary ~~or~~
22 **GUARDIAN**, partial guardian, ~~appointed as provided in chapter 6 of~~
23 ~~the mental health code, 1974 PA 258, MCL 330.1600 to 330.1644,~~ and
24 successor fiduciary.

25 (f) "Financial institution" means an organization authorized
26 to do business under state or federal laws relating to a financial
27 institution and includes, but is not limited to, a bank, trust

1 company, savings bank, building and loan association, savings and
2 loan company or association, and credit union.

3 (g) "Foreign personal representative" means a personal
4 representative appointed by another jurisdiction.

5 (h) "Formal proceedings" means proceedings conducted before a
6 judge with notice to interested persons.

7 (i) "Funeral establishment" means that term as defined in
8 section 1801 of the occupational code, 1980 PA 299, MCL 339.1801,
9 and the owners, employees, and agents of the funeral establishment.

10 (j) "General personal representative" means a personal
11 representative other than a special personal representative.

12 (k) "Governing instrument" means a deed; will; trust;
13 insurance or annuity policy; account with POD designation; security
14 registered in beneficiary form (TOD); pension, profit-sharing,
15 retirement, or similar benefit plan; instrument creating or
16 exercising a power of appointment or a power of attorney; or
17 dispositive, appointive, or nominative instrument of any similar
18 type.

19 (l) "Guardian" means a person who has qualified as a guardian
20 of a minor or a legally incapacitated individual under a parental
21 or spousal nomination or a court appointment and includes a limited
22 guardian as described in sections 5205, 5206, and 5306. Guardian
23 does not include a guardian ad litem.

24 (m) "Hazardous substance" means a substance defined as
25 hazardous or toxic or otherwise regulated by an environmental law.

26 (n) "Heir" means, except as controlled by section 2720, a
27 person, including the surviving spouse or the state, that is

1 entitled under the statutes of intestate succession to a decedent's
2 property.

3 (o) "Homestead allowance" means the allowance prescribed in
4 section 2402.

5 Sec. 1105. As used in this act:

6 (a) "Incapacitated individual" means an individual who is
7 impaired by reason of mental illness, mental deficiency, physical
8 illness or disability, chronic use of drugs, chronic intoxication,
9 or other cause, not including minority, to the extent of lacking
10 sufficient understanding or capacity to make or communicate
11 informed decisions.

12 (b) "Informal proceedings" means proceedings for probate of a
13 will or appointment of a personal representative conducted by the
14 probate register without notice to interested persons.

15 (c) "Interested person" or "person interested in an estate"
16 includes, but is not limited to, the incumbent fiduciary; an heir,
17 devisee, child, spouse, creditor, and beneficiary and any other
18 person that has a property right in or claim against a trust estate
19 or the estate of a decedent, ward, or protected individual; a
20 person that has priority for appointment as personal
21 representative; and a fiduciary representing an interested person.
22 Identification of interested persons may vary from time to time and
23 shall be determined according to the particular purposes of, and
24 matter involved in, a proceeding, and by the supreme court rules.

25 ~~—— (d) "Interested trust beneficiary" means a person that has 1~~
26 ~~or more of the following interests in the trust:~~

27 ~~—— (i) Life estate.~~

1 ~~—— (ii) Eligible recipient of a mandatory or discretionary~~
 2 ~~distribution by the trustee of income or principal.~~

3 ~~—— (iii) Eligible recipient of a mandatory or discretionary~~
 4 ~~distribution by the trustee of income or principal upon termination~~
 5 ~~of an interest of a person described in subparagraph (i) or (ii).~~

6 ~~—— (iv) Presently exercisable or testamentary general or special~~
 7 ~~power of appointment.~~

8 (D) ~~(e)~~—"Issue" means an individual's descendant.

9 (E) ~~(f)~~—"Joint tenants with the right of survivorship"
 10 includes, but is not limited to, co-owners or ownership of property
 11 held under circumstances that entitle 1 or more to the whole of the
 12 property on the death of the other or others, but does not include
 13 forms of co-ownership registration in which the underlying
 14 ownership of each party is in proportion to that party's
 15 contribution.

16 (F) **"JURISDICTION," WITH RESPECT TO A GEOGRAPHIC AREA,**
 17 **INCLUDES A COUNTY, STATE, OR COUNTRY.**

18 (g) "Lawyer-guardian ad litem" means an attorney appointed
 19 under section 5213 or 5219 who has the powers and duties referenced
 20 by and provided in section 5213.

21 (h) "Lease" includes, but is not limited to, an oil, gas, or
 22 other mineral lease.

23 (i) "Legally incapacitated individual" means an individual,
 24 other than a minor, for whom a guardian is appointed under this act
 25 or an individual, other than a minor, who has been adjudged by a
 26 court to be an incapacitated individual.

27 (j) "Letters" includes, but is not limited to, letters

1 testamentary, letters of guardianship, letters of administration,
2 and letters of conservatorship.

3 Sec. 1106. As used in this act:

4 (a) "Mental health professional" means an individual who is
5 trained and experienced in the area of mental illness or
6 developmental disabilities and who is 1 of the following:

7 (i) A physician who is licensed to practice medicine or
8 osteopathic medicine and surgery in this state under article 15 of
9 the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

10 (ii) A psychologist licensed to practice in this state under
11 article 15 of the public health code, 1978 PA 368, MCL 333.16101 to
12 333.18838.

13 (iii) A registered professional nurse licensed to practice in
14 this state under article 15 of the public health code, 1978 PA 368,
15 MCL 333.16101 to 333.18838.

16 (iv) ~~Until July 1, 2005, a social worker registered as a~~
17 ~~certified social worker under article 15 of the public health code,~~
18 ~~1978 PA 368, MCL 333.16101 to 333.18838. Beginning July 1, 2005, a~~
19 **A** licensed master's social worker licensed under article 15 of the
20 public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

21 (v) A physician's assistant licensed to practice in this state
22 under article 15 of the public health code, 1978 PA 368, MCL
23 333.16101 to 333.18838.

24 (vi) A licensed professional counselor licensed under part 181
25 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

26 (b) "Michigan prudent investor rule" means the fiduciary
27 investment and management rule prescribed by part 5 of this

1 article.

2 (c) "Minor" means an individual who is less than 18 years of
3 age.

4 (d) "Minor ward" means a minor for whom a guardian is
5 appointed solely because of minority.

6 (e) "Money" means legal tender or a note, draft, certificate
7 of deposit, stock, bond, check, or credit card.

8 (f) "Mortgage" means a conveyance, agreement, or arrangement
9 in which property is encumbered or used as security.

10 (g) "Nonresident decedent" means a decedent who was domiciled
11 in another jurisdiction at the time of his or her death.

12 (h) "Organization" means a corporation, business trust,
13 estate, trust, partnership, **LIMITED LIABILITY COMPANY, ASSOCIATION,**
14 **OR** joint venture; ~~, association, limited liability company,~~
15 ~~government, governmental subdivision, or agency, OR~~
16 **INSTRUMENTALITY; PUBLIC CORPORATION;** or another legal or commercial
17 entity.

18 (i) "Parent" includes, but is not limited to, an individual
19 entitled to take, or who would be entitled to take, as a parent
20 under this act by intestate succession from a child who dies
21 without a will and whose relationship is in question. Parent does
22 not include an individual who is only a stepparent, foster parent,
23 or grandparent.

24 (J) **"PARTIAL GUARDIAN" MEANS THAT TERM AS DEFINED IN SECTION**
25 **600 OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1600.**

26 (K) ~~(j)~~ "Patient advocate" means an individual designated to
27 exercise powers concerning another individual's care, custody, and

1 medical or mental health treatment or authorized to make an
2 anatomical gift on behalf of another individual, or both, as
3 provided in section 5506.

4 (I) ~~(k)~~—"Patient advocate designation" means the written
5 document executed and with the effect as described in sections 5506
6 to 5515.

7 (M) ~~(l)~~—"Payor" means a trustee, insurer, business entity,
8 employer, government, governmental subdivision or agency, or other
9 person authorized or obligated by law or a governing instrument to
10 make payments.

11 (N) ~~(m)~~—"Person" means an individual or an organization.

12 (O) ~~(n)~~—"Personal representative" includes, but is not limited
13 to, an executor, administrator, successor personal representative,
14 and special personal representative, and any other person, **OTHER**
15 **THAN A TRUSTEE OF A TRUST SUBJECT TO ARTICLE VII**, who performs
16 substantially the same function under the law governing that
17 person's status.

18 (P) ~~(o)~~—"Petition" means a written request to the court for an
19 order after notice.

20 (Q) **"PLENARY GUARDIAN" MEANS THAT TERM AS DEFINED IN SECTION**
21 **600 OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1600.**

22 (R) ~~(p)~~—"Proceeding" includes an application and a petition,
23 and may be an action at law or a suit in equity. A proceeding may
24 be denominated a civil action under court rules.

25 (S) ~~(q)~~—"Professional conservator" means a person that
26 provides conservatorship services for a fee. Professional
27 conservator does not include a person who is an individual who is

1 related to all but 2 of the protected individuals for whom he or
2 she is appointed as conservator.

3 (T) ~~(r)~~—"Professional guardian" means a person that provides
4 guardianship services for a fee. Professional guardian does not
5 include a person who is an individual who is related to all but 2
6 of the wards for whom he or she is appointed as guardian.

7 (U) ~~(s)~~—"Property" means anything that may be the subject of
8 ownership, and includes both real and personal property or an
9 interest in real or personal property.

10 (V) ~~(t)~~—"Protected individual" means a minor or other
11 individual for whom a conservator has been appointed or other
12 protective order has been made as provided in part 4 of article V.

13 (W) ~~(u)~~—"Protective proceeding" means a proceeding under the
14 provisions of part 4 of article V.

15 Sec. 1107. As used in this act:

16 (a) "Register" or "probate register" means the official of the
17 court designated to perform the functions of register as provided
18 in section 1304.

19 (b) "Revised judicature act of 1961" means the revised
20 judicature act of 1961, 1961 PA 236, MCL 600.101 to ~~600.9948~~
21 600.9947.

22 (c) "Security" includes, but is not limited to, a note, stock,
23 treasury stock, bond, debenture, evidence of indebtedness,
24 certificate of interest or participation in an oil, gas, or mining
25 title or lease or in payments out of production under such a title
26 or lease, collateral trust certificate, transferable share, voting
27 trust certificate, or interest in a regulated investment company or

1 other entity generally referred to as a mutual fund or, in general,
2 an interest or instrument commonly known as a security, or a
3 certificate of interest or participation for, a temporary or
4 interim certificate, receipt, or certificate of deposit for, or any
5 warrant or right to subscribe to or purchase any of the items
6 listed in this subdivision.

7 (d) "Settlement" means, in reference to a decedent's estate,
8 the full process of administration, distribution, and closing.

9 (e) "Special personal representative" means a personal
10 representative as described by sections 3614 to 3618.

11 (f) "State" means a state of the United States, the District
12 of Columbia, the Commonwealth of Puerto Rico, or a territory or
13 insular possession subject to the jurisdiction of the United
14 States.

15 (g) "Successor" means a person, other than a creditor, who is
16 entitled to property of a decedent under the decedent's will or
17 this act.

18 (h) "Successor personal representative" means a personal
19 representative, other than a special personal representative, who
20 is appointed to succeed a previously appointed personal
21 representative.

22 (i) "Supervised administration" means the proceedings
23 described in part 5 of article III.

24 (j) "Survive" means that an individual neither predeceases an
25 event, including the death of another individual, nor is considered
26 to predecease an event under section 2104 or 2702.

27 **(K) "TERMS OF A TRUST" OR "TERMS OF THE TRUST" MEANS THE**

1 **MANIFESTATION OF THE SETTLOR'S INTENT REGARDING A TRUST'S**
2 **PROVISIONS AS EXPRESSED IN THE TERMS OF THE TRUST OR AS MAY BE**
3 **ESTABLISHED BY OTHER EVIDENCE THAT WOULD BE ADMISSIBLE IN A**
4 **JUDICIAL PROCEEDING.**

5 (I) ~~(k)~~—"Testacy proceeding" means a proceeding to establish a
6 will or determine intestacy.

7 (M) ~~(l)~~—"Testator" includes an individual of either ~~sex~~ **GENDER**.

8 (N) ~~(m)~~—"Trust" includes, but is not limited to, an express
9 trust, private or charitable, with additions to the trust, wherever
10 and however created. Trust includes, but is not limited to, a trust
11 created or determined by judgment or decree under which the trust
12 is to be administered in the manner of an express trust. Trust does
13 not include a constructive trust or a resulting trust,
14 conservatorship, personal representative, custodial arrangement
15 under the Michigan uniform transfers to minors act, 1998 PA 433,
16 MCL 554.521 to 554.552, business trust providing for a certificate
17 to be issued to a beneficiary, common trust fund, voting trust,
18 security arrangement, liquidation trust, or trust for the primary
19 purpose of paying debts, dividends, interest, salaries, wages,
20 profits, pensions, or employee benefits of any kind, or another
21 arrangement under which a person is a nominee or escrowee for
22 another.

23 (O) ~~(n)~~—"Trustee" includes an original, additional, or
24 successor trustee, whether or not appointed or confirmed by the
25 court.

26 Sec. 1201. This act shall be liberally construed and applied
27 to promote its underlying purposes and policies, which include all

1 of the following:

2 (a) To simplify and clarify the law concerning the affairs of
3 decedents, missing individuals, protected individuals, minors, and
4 legally incapacitated individuals.

5 (b) To discover and make effective a decedent's intent in
6 distribution of the decedent's property.

7 (c) To promote a speedy and efficient system for liquidating a
8 decedent's estate and making distribution to the decedent's
9 successors.

10 ~~—— (d) To facilitate use and enforcement of certain trusts.~~

11 (D) ~~(e)~~ To make the law uniform among the various
12 jurisdictions, both within and outside of this state.

13 Sec. 1209. For the purpose of granting consent or approval
14 with regard to the acts or accounts of a personal representative,
15 ~~or trustee,~~ including relief from liability or penalty for failure
16 to post bond ~~, to register a trust,~~ or to perform other duties, the
17 sole holder or all coholders of a presently exercisable or
18 testamentary general or special power of appointment, including 1
19 in the form of a power of amendment or revocation, are deemed to
20 act for beneficiaries to the extent their interests, as ~~objects~~
21 **PERMISSIBLE APPOINTEES**, takers in default, or otherwise, are
22 subject to the power **AND TO THE EXTENT THERE IS NO CONFLICT OF**
23 **INTEREST BETWEEN THE HOLDER AND THE PERSONS REPRESENTED.** ~~For the~~
24 ~~purpose, however, of granting consent or approval to modification~~
25 ~~or termination of a trust or to deviation from its terms, including~~
26 ~~consent or approval to settlement agreements described in section~~
27 ~~7207, only the holder or holders of a presently exercisable or~~

1 ~~testamentary general power of appointment are deemed to act for~~
2 ~~beneficiaries whose interests are subject to the power.~~

3 Sec. 1210. (1) The specific dollar amounts stated in sections
4 2102, 2402, 2404, 2405, and 3983 apply to decedents who die before
5 January 1, 2001. For decedents who die after December 31, 2000,
6 these specific dollar amounts shall be multiplied by the cost-of-
7 living adjustment factor for the calendar year in which the
8 decedent dies.

9 (2) Before February 1, 2001, and annually after 2001, the
10 department of treasury shall publish the cost-of-living adjustment
11 factor to be applied to the specific dollar amounts referred to in
12 subsection (1) for decedents who die during that calendar year **AND**
13 **IN SECTION 7414 FOR TRUSTS THE VALUE OF THE PROPERTY OF WHICH IS**
14 **INSUFFICIENT TO JUSTIFY THE COST OF ADMINISTRATION.** A product
15 resulting from application of the cost-of-living adjustment factor
16 to a specific dollar amount ~~must~~ **SHALL** be rounded to the nearest
17 \$1,000.00 amount.

18 Sec. 1212. (1) A fiduciary stands in a position of confidence
19 and trust with respect to each heir, devisee, beneficiary,
20 protected individual, or ward for whom the person is a fiduciary. A
21 fiduciary shall observe the standard of care described in section
22 ~~7302-7803~~ and shall discharge all of the duties and obligations of
23 a confidential and fiduciary relationship, including the duties of
24 undivided loyalty; impartiality between heirs, devisees, and
25 beneficiaries; care and prudence in actions; and segregation of
26 assets held in the fiduciary capacity. With respect to investments,
27 a fiduciary shall conform to the Michigan prudent investor rule.

1 (2) Except in response to legal process, in cases expressly
2 required by law, or in the necessary or proper administration of
3 the estate, a fiduciary shall not disclose facts or knowledge
4 pertaining to property in the fiduciary's possession or to the
5 affairs of those for whom the fiduciary is acting in any manner
6 without the consent of the heirs, devisees, beneficiaries,
7 protected individuals, or wards. The fiduciary of a minor or an
8 incapacitated individual may give this consent on behalf of that
9 individual. This subsection's restriction on disclosure does not
10 apply in an action or proceeding in which the fiduciary and the
11 fiduciary's heir, devisee, beneficiary, protected individual, or
12 ward are parties adverse to each other after the identity and
13 relationship is determined and established.

14 Sec. 1214. Unless the governing instrument expressly
15 authorizes such a transaction or investment, unless authorized by
16 the court, **EXCEPT AS PROVIDED IN SECTIONS 3713, 5421, OR 7802**, or
17 except as provided in section 4405 of the banking code of 1999,
18 1999 PA 276, MCL 487.14405, a fiduciary in the fiduciary's personal
19 capacity shall not engage in a transaction with the estate that the
20 fiduciary represents and shall not invest estate money in a
21 company, corporation, or association with which the fiduciary is
22 affiliated, other than as a bondholder or minority stockholder. A
23 fiduciary in the fiduciary's personal capacity shall not personally
24 derive a profit from the purchase, sale, or transfer of the
25 estate's property. A fiduciary's deposit of money in a bank or
26 trust company, in which the fiduciary is interested as an officer,
27 director, or stockholder, does not constitute a violation of this

1 section.

2 Sec. 1308. ~~(1) A fiduciary is liable for a loss to an estate~~
3 ~~that arises from embezzlement by the fiduciary; for a loss through~~
4 ~~commingling estate money with the fiduciary's money; for negligence~~
5 ~~in the handling of an estate; for wanton and willful mishandling of~~
6 ~~an estate; for loss through self dealing; for failure to account~~
7 ~~for an estate; for failure to terminate the estate when it is ready~~
8 ~~for termination; and for misfeasance, malfeasance, nonfeasance, or~~
9 ~~other breach of duty.~~

10 (1) A VIOLATION BY A FIDUCIARY OF A DUTY THE FIDUCIARY OWES TO
11 AN HEIR, DEVISEE, BENEFICIARY, PROTECTED INDIVIDUAL, OR WARD FOR
12 WHOM THE PERSON IS A FIDUCIARY IS A BREACH OF DUTY. TO REMEDY A
13 BREACH OF DUTY THAT HAS OCCURRED OR MAY OCCUR, THE COURT MAY DO ANY
14 OF THE FOLLOWING:

15 (A) COMPEL THE FIDUCIARY TO PERFORM THE FIDUCIARY'S DUTIES.

16 (B) ENJOIN THE FIDUCIARY FROM COMMITTING A BREACH OF DUTY.

17 (C) COMPEL THE FIDUCIARY TO REDRESS A BREACH OF DUTY BY PAYING
18 MONEY, RESTORING PROPERTY, OR OTHER MEANS.

19 (D) ORDER A FIDUCIARY TO ACCOUNT.

20 (E) APPOINT A SPECIAL FIDUCIARY TO TAKE POSSESSION OF THE
21 ESTATE'S, WARD'S, PROTECTED INDIVIDUAL'S, OR TRUST PROPERTY AND
22 ADMINISTER THE PROPERTY.

23 (F) SUSPEND THE FIDUCIARY.

24 (G) REMOVE THE FIDUCIARY AS PROVIDED IN THIS ACT.

25 (H) FOR A FIDUCIARY OTHERWISE ENTITLED TO COMPENSATION, REDUCE
26 OR DENY COMPENSATION TO THE FIDUCIARY.

27 (I) SUBJECT TO OTHER PROVISIONS OF THIS ACT PROTECTING PERSONS

1 DEALING WITH A FIDUCIARY, VOID AN ACT OF THE FIDUCIARY, IMPOSE A
 2 LIEN OR A CONSTRUCTIVE TRUST ON PROPERTY, OR TRACE PROPERTY
 3 WRONGFULLY DISPOSED OF AND RECOVER THE PROPERTY OR ITS PROCEEDS.

4 (2) In response to an interested person's petition or on its
 5 own motion, the court may at any time order a fiduciary of an
 6 estate under its jurisdiction to file an accounting. After due
 7 hearing on the accounting, the court shall enter an order that
 8 agrees with the law and the facts of the case.

9 Sec. 1403. In a formal proceeding that involves ~~a trust or AN~~
 10 estate of a decedent, minor, protected individual, or incapacitated
 11 individual or in a judicially supervised settlement **RELATING TO**
 12 **SUCH MATTERS**, the following apply:

13 (a) An interest to be affected shall be described in pleadings
 14 that give reasonable information to owners by name or class, by
 15 reference to the instrument that creates the interests, or in
 16 another appropriate manner.

17 (b) A person is bound by an order binding others in each of
 18 the following cases:

19 (i) An order that binds the ~~sole holder or all coholders~~ of a
 20 power of revocation or **AMENDMENT OR** a presently exercisable or
 21 testamentary general or special power of appointment ~~, including~~
 22 ~~one in the form of a power of amendment,~~ binds another person to
 23 the extent the person's interest, as ~~an object~~ **A PERMISSIBLE**
 24 **APPOINTEE**, taker in default, or otherwise, is subject to the power.

25 (ii) To the extent there is no conflict of interest between the
 26 persons represented, ~~an~~ **AS FOLLOWS:**

27 (A) **AN** order that binds a conservator, **PLENARY GUARDIAN, OR**

1 PARTIAL GUARDIAN binds the ~~person whose estate~~ THAT the
2 conservator, PLENARY GUARDIAN, OR PARTIAL GUARDIAN controls. ~~an~~

3 (B) AN ORDER THAT BINDS AN AGENT UNDER A DURABLE POWER OF
4 ATTORNEY HAVING AUTHORITY TO ACT BINDS THE PRINCIPAL IF A
5 CONSERVATOR, PLENARY GUARDIAN, OR PARTIAL GUARDIAN HAS NOT BEEN
6 APPOINTED.

7 (C) AN order that binds a guardian HAVING AUTHORITY TO ACT
8 WITH RESPECT TO THE MATTER binds the ward if ~~no~~A conservator of
9 the ward's estate has NOT been appointed AND NO AGENT UNDER A
10 DURABLE POWER OF ATTORNEY HAS AUTHORITY TO ACT. ~~an~~

11 (D) AN order that binds a trustee binds beneficiaries of the
12 trust. ~~in proceedings to probate a will, to establish or add to a~~
13 ~~trust, or to review an act or account of a prior fiduciary, or in~~
14 ~~proceedings that involve a creditor or another third party; and an~~

15 (E) AN order that binds a personal representative binds a
16 person interested in the undistributed assets of a decedent's
17 estate in an action or proceeding by or against the estate. ~~If~~
18 ~~there is no conflict of interest and a conservator or guardian has~~
19 ~~not been appointed, a parent may represent his or her minor child.~~

20 (F) AN ORDER THAT BINDS A PARENT WHO REPRESENTS HIS OR HER
21 MINOR OR UNBORN CHILD BINDS THAT MINOR OR UNBORN CHILD IF A
22 CONSERVATOR OR PLENARY GUARDIAN HAS NOT BEEN APPOINTED.

23 (iii) ~~An unborn or unascertained person who is not otherwise~~
24 ~~represented is bound by an order to the extent the person's~~
25 ~~interest is adequately represented by another party that has a~~
26 ~~substantially identical interest in the proceeding. A MINOR,~~
27 INCAPACITATED, OR UNBORN INDIVIDUAL OR A PERSON WHOSE IDENTITY OR

1 LOCATION IS UNKNOWN AND NOT REASONABLY ASCERTAINABLE AND WHO IS NOT
2 OTHERWISE REPRESENTED IS BOUND BY AN ORDER THAT BINDS ANOTHER PARTY
3 THAT HAS A SUBSTANTIALLY IDENTICAL INTEREST IN THE PROCEEDING, BUT
4 ONLY TO THE EXTENT THERE IS NO CONFLICT OF INTEREST BETWEEN THE
5 REPRESENTATION AND THE PERSON REPRESENTED.

6 (c) Notice is required as follows:

7 (i) Notice as prescribed by section 1401 shall be given to
8 every interested person or to one who can bind an interested person
9 as described in subdivision (b) (i) or (ii). Notice may be given both
10 to a person and to another who may bind the person.

11 (ii) Notice is given to an unborn or unascertained person, who
12 is not represented under subdivision (b) (i) or (ii), by giving notice
13 to all known persons whose interests in the proceedings are
14 substantially identical to those of the unborn or unascertained
15 person.

16 (d) At any point in a proceeding, the court may appoint a
17 guardian ad litem to represent the interest of a minor, an
18 incapacitated individual, an unborn or unascertained person, or a
19 person whose identity or address is unknown, if the court
20 determines that representation of the interest otherwise would be
21 inadequate. If not precluded by a conflict of interest, a guardian
22 ad litem may be appointed to represent several persons or
23 interests. The court shall set out the reasons for appointing a
24 guardian ad litem as a part of the record of the proceeding. If he
25 or she accepts the appointment, the guardian ad litem shall report
26 of his or her investigation and recommendation concerning the
27 matters for which he or she is appointed in writing or recorded

1 testimony. **IN MAKING RECOMMENDATIONS, A GUARDIAN AD LITEM MAY**
2 **CONSIDER THE GENERAL BENEFIT ACCRUING TO LIVING MEMBERS OF THE**
3 **INDIVIDUAL'S FAMILY.** After the attorney general files an appearance
4 as required by law in an estate proceeding on behalf of an unknown
5 or unascertained heir at law, the attorney general represents the
6 interest of the heir at law, and the court shall not appoint a
7 guardian ad litem. If a guardian ad litem was previously appointed
8 for the interest, the appointment of the guardian ad litem
9 terminates.

10 Sec. 1507. If a fiduciary estate has 2 or more beneficiaries,
11 the fiduciary shall act impartially in investing, ~~and managing,~~ **AND**
12 **DISTRIBUTING** the fiduciary assets, and shall take into account any
13 differing interests of the beneficiaries.

14 Sec. 2705. ~~A—THE MEANING AND LEGAL EFFECT OF A governing~~
15 ~~instrument's meaning and legal effect—~~ **INSTRUMENT OTHER THAN A TRUST**
16 are determined by the local law of the state selected in the
17 governing instrument, unless the application of that law is
18 contrary to the provisions relating to the elective share described
19 in part 2 of this article, the provisions relating to exempt
20 property and allowances described in part 4 of this article, or
21 another public policy of this state otherwise applicable to the
22 disposition.

23 Sec. 2722. (1) ~~Subject—~~ **EXCEPT AS PROVIDED BY ANOTHER STATUTE**
24 **AND SUBJECT** to subsection (3), if a trust is for a specific lawful
25 noncharitable purpose or for lawful noncharitable purposes to be
26 selected by the trustee, and if there is no definite or definitely
27 ascertainable beneficiary designated, the trust may be performed by

1 the trustee for 21 years, but no longer, whether or not the terms
2 of the trust contemplate a longer duration.

3 (2) Subject to this subsection and subsection (3), a trust for
4 the care of a designated domestic or pet animal is valid. The trust
5 terminates when no living animal is covered by the trust. A
6 governing instrument shall be liberally construed to bring the
7 transfer within this subsection, to presume against the merely
8 precatory or honorary nature of the disposition, and to carry out
9 the general intent of the transferor. Extrinsic evidence is
10 admissible in determining the transferor's intent.

11 (3) In addition to the provisions of subsection (1) or (2), a
12 trust covered by either of those subsections is subject to the
13 following provisions:

14 (a) Except as expressly provided otherwise in the ~~trust~~
15 ~~instrument~~ **TERMS OF THE TRUST**, no portion of the principal or
16 income may be converted to the use of the trustee or to a use other
17 than for the trust's purposes or for the benefit of a covered
18 animal.

19 (b) Upon termination, the trustee shall transfer the
20 unexpended trust property in the following order:

21 (i) As directed in the ~~trust instrument~~ **TERMS OF THE TRUST**.

22 **(ii) TO THE SETTLOR, IF THEN LIVING.**

23 **(iii)** ~~(ii)~~—If the trust was created in a nonresiduary clause in
24 the transferor's will or in a codicil to the transferor's will,
25 under the residuary clause in the transferor's will.

26 **(iv)** ~~(iii)~~—If no taker is produced by the application of
27 subparagraph (i), ~~or (ii)~~, **OR (iii)**, to the transferor's heirs under

1 section 2720.

2 (c) For the purposes of sections 2714 to 2716, the residuary
3 clause is treated as creating a future interest under the terms of
4 a trust.

5 (d) The intended use of the principal or income ~~can~~**MAY** be
6 enforced by an individual designated for that purpose in the ~~trust~~
7 ~~instrument~~**TERMS OF THE TRUST** or, if none, by an individual
8 appointed by a court upon petition to it by an individual. **A PERSON**
9 **HAVING AN INTEREST IN THE WELFARE OF THE ANIMAL MAY REQUEST THE**
10 **COURT TO APPOINT A PERSON TO ENFORCE THE TRUST OR REMOVE A PERSON**
11 **APPOINTED.**

12 (e) Except as ordered by the court or required by the ~~trust~~
13 ~~instrument~~**TERMS OF THE TRUST**, no filing, report, registration,
14 periodic accounting, separate maintenance of funds, appointment, or
15 fee is required by reason of the existence of the fiduciary
16 relationship of the trustee.

17 (f) The court may reduce the amount of the property
18 transferred if it determines that that amount substantially exceeds
19 the amount required for the intended use. The amount of the
20 reduction, if any, passes as unexpended trust property under
21 subdivision (b).

22 (g) If a trustee is not designated or no designated trustee is
23 willing or able to serve, the court shall name a trustee. The court
24 may order the transfer of the property to another trustee if the
25 transfer is necessary to ensure that the intended use is carried
26 out, and if a successor trustee is not designated in the ~~trust~~
27 ~~instrument~~**TERMS OF THE TRUST** or if no designated successor trustee

1 agrees to serve or is able to serve. The court may also make other
2 orders and determinations as are advisable to carry out the intent
3 of the transferor and the purpose of this section.

4 (h) The trust is not subject to the uniform statutory rule
5 against perpetuities, 1988 PA 418, MCL 554.71 to 554.78.

6 Sec. 2901. (1) This part shall be known and may be cited as
7 the "disclaimer of property interests law".

8 (2) As used in this part:

9 (a) "Agent" means an agent or attorney in fact acting under a
10 written power of attorney and within the scope of his, her, or its
11 authority.

12 (b) "Disclaimable interest" includes, but is not limited to,
13 property, the right to receive or control property, and a power of
14 appointment. Disclaimable interest does not include an interest
15 retained by or conferred upon the disclaimant by the disclaimant at
16 the creation of the interest. For purposes of this definition, the
17 survivorship interest in joint property is not considered to be an
18 interest retained or conferred upon the disclaimant even if the
19 disclaimant created the joint property.

20 (c) "Effective date of a governing instrument other than a
21 will or testamentary trust" means the date on which a property
22 right vests or a contract right arises, even though either right is
23 subject to divestment.

24 (d) "Fiduciary" includes, but is not limited to, an agent, a
25 conservator, a guardian if no conservator has been appointed, a
26 guardian ad litem, a personal representative, a trustee, a probate
27 court acting through a protective order under this act, and a

1 temporary, successor, or foreign fiduciary.

2 (e) "Fiduciary power" means a management power relating to the
3 administration or management of assets similar to those powers
4 granted to a personal representative in section 3715 and a trustee
5 in ~~section 7401~~ **SECTIONS 7816 AND 7817**, and granted by law to a
6 fiduciary or conferred upon a fiduciary in a governing instrument.

7 (f) "Governing instrument" means a deed, assignment, bill of
8 sale, will, trust, beneficiary designation, contract, instrument
9 creating or exercising a power of appointment or a power of
10 attorney, or another instrument under which property devolves, a
11 property right is created, or a contract right is created.
12 Governing instrument includes the provable terms of an oral
13 contract or arrangement under which property devolves or a property
14 right is created.

15 (g) "Joint property" means property that is owned by 2 or more
16 persons with rights of survivorship, and includes a tenancy by the
17 entireties in real property, a tenancy in personal property as
18 provided in section 1 of 1927 PA 212, MCL 557.151, a joint tenancy,
19 a joint tenancy with rights of survivorship, and a joint life
20 estate with contingent remainder in fee. For purposes of this part,
21 joint property is considered to consist of a present interest and a
22 future interest. The future interest is the right of survivorship.

23 (h) "Person" includes an entity and an individual, but does
24 not include a fiduciary, an estate, or a trust.

25 (i) "Property" means anything that may be the subject of
26 ownership. Property includes both real and personal property and an
27 interest in property, including a present interest; a future

1 interest; a legal interest; an equitable interest; an interest
2 acquired by testate succession, by intestate or other statutory
3 succession, by succession to a disclaimed interest, or by lapse or
4 release of a power of appointment; or an interest that may be
5 otherwise acquired under a governing instrument.

6 (j) "Trust" means a fiduciary relationship with respect to
7 property that subjects the person who holds title to the property
8 to equitable duties to deal with the property for the benefit of
9 another person, which fiduciary relationship arises as a result of
10 a manifestation of an intention to create it. Trust includes an
11 express trust, private or charitable, with additions to the trust,
12 whether created by will or other than by will, and includes a trust
13 created by statute, judgment, or decree under which the trust is to
14 be administered in the manner of an express trust. Trust does not
15 include a constructive trust or a resulting trust.

16 Sec. 3104. (1) Except as otherwise provided in subsection (2),
17 a proceeding to enforce a claim against a decedent's estate or the
18 decedent's successors shall not be revived or commenced before the
19 appointment of a personal representative. After the appointment and
20 until distribution, a proceeding or action to enforce a claim
21 against the estate is governed by the procedure prescribed by this
22 article. After distribution, a creditor whose claim has not been
23 barred may recover from the distributees as provided in section
24 3955 or from a former personal representative individually liable
25 as provided in section 3956.

26 (2) This act does not apply to a proceeding by a secured
27 creditor of the decedent to enforce the creditor's right to the

1 creditor's security except as provided in part 8 of article III and
2 part ~~5-6~~ of article VII.

3 Sec. 3403. (1) Upon commencement of a formal testacy
4 proceeding, the court shall fix a time and place of hearing. The
5 petitioner shall give notice in the manner prescribed by section
6 1401 to each of the following persons:

7 (a) The decedent's heirs.

8 (b) The devisees and personal representatives named in a will
9 that is being, or has been, probated or offered for informal or
10 formal probate in the county, or that is known by the petitioner to
11 have been probated or offered for informal or formal probate
12 elsewhere.

13 (c) A personal representative of the decedent whose
14 appointment has not been terminated.

15 (d) A person who has filed a demand for notice under section
16 3205.

17 (e) The trustee of a trust described in section ~~7501(1)~~
18 **7605(1)** as to which the decedent was settlor.

19 (2) Notice may be given to other persons. In addition, the
20 petitioner shall give notice by publication to each unknown person
21 and to each known person whose address is unknown who has an
22 interest in the matters being litigated. If the proceeding involves
23 a request for appointment of a personal representative and it
24 appears that the deceased died intestate without leaving a known
25 heir, the petitioner shall give notice to the attorney general,
26 public administration division.

27 (3) If it appears by the petition or otherwise that the fact

1 of the decedent's death may be in doubt, or on the written demand
2 of an interested person, a copy of the notice of the hearing on the
3 petition shall be sent by registered mail to the alleged decedent
4 at his or her last known address. The court shall direct the
5 petitioner to report the results of, or make and report back
6 concerning, a reasonably diligent search for the alleged decedent
7 in any manner that may seem advisable, including by any of the
8 following methods:

9 (a) Inserting in 1 or more suitable periodicals a notice
10 requesting information from anyone having knowledge of the alleged
11 decedent's whereabouts.

12 (b) Notifying law enforcement officials and public welfare
13 agencies in appropriate locations of the alleged decedent's
14 disappearance.

15 (c) Engaging an investigator's services.

16 (4) The costs of a search conducted under subsection (3) shall
17 be paid by the petitioner if there is no administration or by the
18 decedent's estate if there is administration.

19 Sec. 3703. (1) A personal representative is a fiduciary who
20 shall observe the standard of care applicable to a trustee as
21 described by section ~~7302~~ 7803. A personal representative is under
22 a duty to settle and distribute the decedent's estate in accordance
23 with the terms of a probated and effective will and this act, and
24 as expeditiously and efficiently as is consistent with the best
25 interests of the estate. The personal representative shall use the
26 authority conferred by this act, the terms of the will, if any, and
27 an order in a proceeding to which the personal representative is

1 party for the best interests of claimants whose claims have been
2 allowed and of successors to the estate.

3 (2) A personal representative shall not be surcharged for acts
4 of administration or distribution if the conduct in question was
5 authorized at the time. Subject to other obligations of
6 administration, an informally probated will is authority to
7 administer and distribute the estate according to the will's terms.
8 Whether issued in an informal or formal proceeding, an order of
9 appointment of a personal representative is authority to distribute
10 apparently intestate property to the decedent's heirs if, at the
11 time of distribution, the personal representative is not aware of a
12 pending testacy proceeding, a proceeding to vacate an order entered
13 in an earlier testacy proceeding, a formal proceeding questioning
14 the personal representative's appointment or fitness to continue,
15 or a supervised administration proceeding. Nothing in this section
16 affects the personal representative's duty to administer and
17 distribute the estate in accordance with the rights of a claimant
18 whose claim has been allowed, the surviving spouse, a minor or
19 dependent child, or a pretermitted child of the decedent as
20 described elsewhere in this act.

21 (3) Except as to a proceeding that does not survive the
22 decedent's death, a personal representative of a decedent domiciled
23 in this state at death has the same standing to sue and be sued in
24 the courts of this state and the courts of another jurisdiction as
25 the decedent had immediately prior to death.

26 (4) The personal representative shall keep each presumptive
27 distributee informed of the estate settlement. Until a

1 beneficiary's share is fully distributed, the personal
2 representative shall annually, and upon completion of the estate
3 settlement, account to each beneficiary by supplying a statement of
4 the activities of the estate and of the personal representative,
5 specifying all receipts and disbursements and identifying property
6 belonging to the estate.

7 Sec. 3705. (1) Not later than 28 days after a personal
8 representative's appointment or other time specified by court rule,
9 the personal representative, except a special personal
10 representative, shall give notice of the appointment to the
11 decedent's heirs and devisees, except those who have executed a
12 written waiver of notice, including, if there has been no formal
13 testacy proceeding and if the personal representative is appointed
14 on the assumption that the decedent died intestate, the devisees in
15 a will mentioned in the application for appointment of a personal
16 representative and to the trustee of a trust described in section
17 ~~7501(1)~~**7605(1)** as to which the decedent was settlor. The personal
18 representative shall give the notice by personal service or by
19 ordinary first-class mail to each person required to receive notice
20 under this subsection whose address is reasonably available to the
21 personal representative. However, the personal representative is
22 not required to notify a person who was adjudicated in a prior
23 formal testacy proceeding to have no interest in the estate. The
24 notice required under this subsection must be in a form approved by
25 the supreme court and must include all of the following
26 information:

27 (a) That the court will not supervise the personal

1 representative. This statement shall not be included if the
2 appointment is made in a supervised proceeding under part 5 of this
3 article.

4 (b) That, unless a person files a written objection to the
5 appointment of the person named as personal representative in the
6 notice or files a demand that bond or higher bond be posted, the
7 person named in the notice is the personal representative without
8 bond or with bond in the amount shown in the notice. This statement
9 shall not be included if the personal representative is appointed
10 in a formal appointment proceeding.

11 (c) The name and address of the person appointed as the
12 estate's personal representative.

13 (d) That, during the course of administering the estate, the
14 personal representative must provide all interested persons with
15 all of the following:

16 (i) A copy of the petition for the personal representative's
17 appointment and a copy of the will, if any, with the notice.

18 (ii) A copy of the inventory.

19 (iii) A copy of the settlement petition or of the closing
20 statement.

21 (iv) Unless waived, a copy of the account, including, but not
22 limited to, fiduciary fees and attorney fees charged to the estate.

23 (e) That an interested person may petition the court for a
24 court hearing on any matter at any time during the estate's
25 administration, including, but not limited to, distribution of
26 assets and expenses of administration.

27 (f) That federal and Michigan estate taxes, if any, must be

1 paid within 9 months after the date of the decedent's death or
2 another time period specified by law, to avoid penalties.

3 (g) That, if the estate is not settled within 1 year after the
4 personal representative's appointment, within 28 days after the
5 anniversary of the appointment, the personal representative must
6 file with the court and send to each interested person a notice
7 that the estate remains under administration and must specify the
8 reason for the continuation of settlement proceedings. If such a
9 notice is not received, an interested person may petition the court
10 for a hearing on the necessity for continued administration or for
11 closure of the estate.

12 (h) The identity and location of the court where papers
13 relating to the estate are on file.

14 (2) The personal representative's failure to give the
15 information required by subsection (1) is a breach of the personal
16 representative's duty to the persons concerned, but does not affect
17 the validity of the personal representative's appointment, powers,
18 or other duties. A personal representative may inform other persons
19 of the appointment by delivery or ordinary first-class mail.

20 (3) A personal representative shall also give notice that
21 includes the information described in subsection (1) to the
22 attorney general, public administration division, under any of the
23 following circumstances:

24 (a) It appears from the petition that the decedent died
25 intestate without leaving a known heir.

26 (b) In the administration of an intestate estate, it appears
27 that the decedent did not leave a known heir.

1 (c) In the administration of a testate estate, it appears that
2 devisees of the purported will would not be entitled to share in
3 the estate but for the terms of the will and that the decedent died
4 without leaving a known heir.

5 (4) If notice is required to be given to the attorney general
6 under subsection (3), the attorney general, representing ~~the~~**THIS**
7 state, has all the rights of an heir to be heard and to contest the
8 validity of a claim, the appointment of a personal representative,
9 an action of the personal representative, an order, an appointment,
10 or an instrument purporting to be a decedent's contract or will,
11 and has all the rights granted or accruing to an heir,
12 representative, or creditor by a law relating to the settlement of
13 a testate or intestate estate in court, or by way of rehearing or
14 appeal.

15 (5) Within 28 days after the personal representative's
16 appointment or another time specified by court rule, the personal
17 representative, except a special personal representative, shall
18 notify the decedent's surviving spouse, if any, of the spouse's
19 right to election under part 2 of article II and of the time within
20 which the election must be exercised.

21 (6) Except as otherwise provided in this subsection, at the
22 same time the notice required by subsection (1) is given, the
23 personal representative shall give notice to the friend of the
24 court for the county in which the estate is being administered,
25 which notice identifies the decedent's surviving spouse and the
26 individuals who are, for a testate estate, the devisees or, for an
27 intestate estate, the heirs. The personal representative is not

1 required to notify the friend of the court of a devise to a trustee
2 of an existing trust or to a trustee under the will. A personal
3 representative incurs no obligation or liability to the friend of
4 the court or to another person for an error or omission made in
5 good faith compliance with this subsection.

6 Sec. 3713. (1) A sale, ~~or encumbrance, to the personal~~
7 ~~representative, the personal representative's spouse, agent, or~~
8 ~~attorney, or a corporation or trust~~ **OR OTHER TRANSACTION INVOLVING**
9 **THE INVESTMENT OR MANAGEMENT OF ESTATE PROPERTY** in which the
10 personal representative has a substantial beneficial interest ~~, or~~
11 ~~a transaction that is OTHERWISE affected by a substantial conflict~~
12 ~~of interest on the part of the personal representative, BETWEEN THE~~
13 **PERSONAL REPRESENTATIVE'S FIDUCIARY AND PERSONAL INTERESTS** is
14 voidable by an interested person ~~except a person who consents after~~
15 ~~fair disclosure, unless any of the following are true:~~

16 (a) The will or a contract entered into by the decedent
17 expressly authorized the transaction.

18 (b) The transaction is approved by the court after notice to
19 interested persons.

20 (c) **THE TRANSACTION INVOLVES A CONTRACT ENTERED INTO OR CLAIM**
21 **ACQUIRED BY THE PERSONAL REPRESENTATIVE BEFORE THE PERSON BECAME OR**
22 **CONTEMPLATED BECOMING PERSONAL REPRESENTATIVE.**

23 (d) ~~(e)~~ The transaction is otherwise permitted by statute.

24 (2) **A SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING THE**
25 **INVESTMENT OR MANAGEMENT OF TRUST PROPERTY IS PRESUMED TO BE**
26 **AFFECTED BY A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF**
27 **IT IS ENTERED INTO BY THE PERSONAL REPRESENTATIVE WITH ANY OF THE**

1 FOLLOWING:

2 (A) THE PERSONAL REPRESENTATIVE'S SPOUSE.

3 (B) THE PERSONAL REPRESENTATIVE'S DESCENDANT, SIBLING, OR
4 PARENT OR THE SPOUSE OF THE PERSONAL REPRESENTATIVE'S DESCENDANT,
5 SIBLING, OR PARENT.

6 (C) AN AGENT OR ATTORNEY OF THE PERSONAL REPRESENTATIVE.

7 (D) A CORPORATION OR OTHER PERSON OR ENTERPRISE IN WHICH THE
8 PERSONAL REPRESENTATIVE, OR A PERSON THAT OWNS A SIGNIFICANT
9 INTEREST IN THE PERSONAL REPRESENTATIVE, HAS AN INTEREST THAT MIGHT
10 AFFECT THE PERSONAL REPRESENTATIVE'S BEST JUDGMENT.

11 (3) A TRANSACTION NOT CONCERNING ESTATE PROPERTY IN WHICH THE
12 PERSONAL REPRESENTATIVE ENGAGES IN THE PERSONAL REPRESENTATIVE'S
13 INDIVIDUAL CAPACITY INVOLVES A CONFLICT BETWEEN PERSONAL AND
14 FIDUCIARY INTERESTS IF THE TRANSACTION CONCERNS AN OPPORTUNITY
15 PROPERLY BELONGING TO THE ESTATE.

16 (4) AN INVESTMENT BY A PERSONAL REPRESENTATIVE IN SECURITIES
17 OF AN INVESTMENT COMPANY OR INVESTMENT TRUST TO WHICH THE PERSONAL
18 REPRESENTATIVE, OR ITS AFFILIATE, PROVIDES SERVICES IN A CAPACITY
19 OTHER THAN AS PERSONAL REPRESENTATIVE IS NOT PRESUMED TO BE
20 AFFECTED BY A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF
21 THE INVESTMENT OTHERWISE COMPLIES WITH THE MICHIGAN PRUDENT
22 INVESTOR RULE. IN ADDITION TO ITS COMPENSATION FOR ACTING AS
23 PERSONAL REPRESENTATIVE, THE PERSONAL REPRESENTATIVE MAY BE
24 COMPENSATED BY THE INVESTMENT COMPANY OR INVESTMENT TRUST FOR
25 PROVIDING THOSE SERVICES OUT OF FEES CHARGED TO THE ESTATE. IF THE
26 PERSONAL REPRESENTATIVE RECEIVES COMPENSATION FROM THE INVESTMENT
27 COMPANY OR INVESTMENT TRUST FOR PROVIDING INVESTMENT ADVISORY OR

1 INVESTMENT MANAGEMENT SERVICES, THE PERSONAL REPRESENTATIVE SHALL
2 AT LEAST ANNUALLY NOTIFY THE INTERESTED PERSONS OF THE RATE AND
3 METHOD BY WHICH THAT COMPENSATION WAS DETERMINED.

4 (5) IN VOTING SHARES OF STOCK OR IN EXERCISING POWERS OF
5 CONTROL OVER SIMILAR INTERESTS IN OTHER FORMS OF ENTERPRISE, THE
6 PERSONAL REPRESENTATIVE SHALL ACT IN THE BEST INTERESTS OF THE
7 BENEFICIARIES. IF THE ESTATE IS THE SOLE OWNER OF A CORPORATION OR
8 OTHER FORM OF ENTERPRISE, THE PERSONAL REPRESENTATIVE SHALL ELECT
9 OR APPOINT DIRECTORS OR OTHER MANAGERS TO MANAGE THE CORPORATION OR
10 ENTERPRISE IN THE BEST INTEREST OF THE BENEFICIARIES.

11 (6) THIS SECTION DOES NOT PRECLUDE THE FOLLOWING TRANSACTIONS,
12 IF FAIR TO THE BENEFICIARIES:

13 (A) AN AGREEMENT BETWEEN THE PERSONAL REPRESENTATIVE AND THE
14 INTERESTED PERSONS RELATING TO THE COMPENSATION OF THE PERSONAL
15 REPRESENTATIVE.

16 (B) PAYMENT OF REASONABLE COMPENSATION TO THE PERSONAL
17 REPRESENTATIVE.

18 (C) A TRANSACTION BETWEEN THE ESTATE AND ANOTHER TRUST OR
19 CONSERVATORSHIP OF WHICH THE PERSONAL REPRESENTATIVE IS A FIDUCIARY
20 OR IN WHICH A BENEFICIARY HAS AN INTEREST.

21 (D) A DEPOSIT OF TRUST MONEY IN A REGULATED FINANCIAL SERVICE
22 INSTITUTION OPERATED BY OR AFFILIATED WITH THE PERSONAL
23 REPRESENTATIVE.

24 (E) AN ADVANCE BY THE PERSONAL REPRESENTATIVE OF MONEY FOR THE
25 PROTECTION OF THE ESTATE.

26 Sec. 3715. Except as restricted or otherwise provided by the
27 will or by an order in a formal proceeding, and subject to the

1 priorities stated in section 3902, a personal representative,
2 acting reasonably for the benefit of interested persons, may
3 properly do any of the following:

4 (a) Retain property owned by the decedent pending distribution
5 or liquidation, including property in which the personal
6 representative is personally interested or that is otherwise
7 improper for trust investment.

8 (b) Receive property from a fiduciary or another source.

9 (c) Perform, compromise, or refuse performance of a contract
10 of the decedent that continues as an estate obligation, as the
11 personal representative determines under the circumstances. If the
12 contract is for a conveyance of land and requires the giving of
13 warranties, the personal representative shall include in the deed
14 or other instrument of conveyance the required warranties. The
15 warranties are binding on the estate as though the decedent made
16 them but do not bind the personal representative except in a
17 fiduciary capacity. In performing an enforceable contract by the
18 decedent to convey or lease land, the personal representative,
19 among other possible courses of action, may do any of the
20 following:

21 (i) Execute and deliver a deed of conveyance for cash payment
22 of the amount remaining due or for the purchaser's note for the
23 amount remaining due secured by a mortgage on the land.

24 (ii) Deliver a deed in escrow with directions that the
25 proceeds, when paid in accordance with the escrow agreement, be
26 paid to the decedent's successors, as designated in the escrow
27 agreement.

1 (d) If, in the judgment of the personal representative, the
2 decedent would have wanted the pledge satisfied under the
3 circumstances, satisfy a written charitable pledge of the decedent
4 irrespective of whether the pledge constitutes a binding obligation
5 of the decedent or is properly presented as a claim.

6 (e) If funds are not needed to meet a debt or expenses
7 currently payable and are not immediately distributable, deposit or
8 invest liquid assets of the estate, including funds received from
9 the sale of other property, in accordance with the Michigan prudent
10 investor rule.

11 (f) Acquire or dispose of property, including land in this or
12 another state, for cash or on credit, at public or private sale;
13 and manage, develop, improve, exchange, partition, change the
14 character of, or abandon estate property.

15 (g) Make an ordinary or extraordinary repair or alteration in
16 a building or other structure, demolish an improvement, or raze an
17 existing or erect a new party wall or building.

18 (h) Subdivide, develop, or dedicate land to public use, make
19 or obtain the vacation of a plat or adjust a boundary, adjust a
20 difference in valuation on exchange or partition by giving or
21 receiving consideration, or dedicate an easement to public use
22 without consideration.

23 (i) Enter into a lease as lessor or lessee for any purpose,
24 with or without an option to purchase or renew, for a term within
25 or extending beyond the period of administration.

26 (j) Enter into a lease or arrangement for exploration and
27 removal of minerals or another natural resource, or enter into a

1 pooling or unitization agreement.

2 (k) Abandon property when, in the opinion of the personal
3 representative, it is valueless, or is so encumbered or in such a
4 condition as to be of no benefit to the estate.

5 (l) Vote stocks or another security in person or by general or
6 limited proxy.

7 (m) Pay a call, assessment, or other amount chargeable or
8 accruing against or on account of a security, unless barred by a
9 provision relating to claims.

10 (n) Hold a security in the name of a nominee or in other form
11 without disclosure of the estate's interest. However, the personal
12 representative is liable for an act of the nominee in connection
13 with the security so held.

14 (o) Insure the estate property against damage, loss, and
15 liability and insure the personal representative against liability
16 as to third persons.

17 (p) Borrow ~~money~~**PROPERTY** with or without security to be
18 repaid from the estate property or otherwise, and advance money for
19 the estate's protection.

20 (q) Effect a fair and reasonable compromise with a debtor or
21 obligor, or extend, renew, or in any manner modify the terms of an
22 obligation owing to the estate. If the personal representative
23 holds a mortgage, pledge, or other lien upon another person's
24 property, the personal representative may, in lieu of foreclosure,
25 accept a conveyance or transfer of encumbered property from the
26 property's owner in satisfaction of the indebtedness secured by
27 lien.

1 (r) Pay a tax, an assessment, the personal representative's
2 compensation, or another expense incident to the estate's
3 administration.

4 (s) Sell or exercise a stock subscription or conversion right.

5 (t) Consent, directly or through a committee or other agent,
6 to the reorganization, consolidation, merger, dissolution, or
7 liquidation of a corporation or other business enterprise.

8 (u) Allocate items of income or expense to either estate
9 income or principal, as permitted or provided by law.

10 (v) Employ, and pay reasonable compensation for reasonably
11 necessary services performed by, a person, including, but not
12 limited to, an auditor, investment advisor, or agent, even if the
13 person is associated with the personal representative, to advise or
14 assist the personal representative in the performance of
15 administrative duties; act on such a person's recommendations
16 without independent investigation; and, instead of acting
17 personally, employ 1 or more agents to perform an act of
18 administration, whether or not discretionary.

19 (w) Employ an attorney to perform necessary legal services or
20 to advise or assist the personal representative in the performance
21 of the personal representative's administrative duties, even if the
22 attorney is associated with the personal representative, and act
23 without independent investigation upon the attorney's
24 recommendation. An attorney employed under this subdivision shall
25 receive reasonable compensation for his or her employment.

26 (x) Prosecute or defend a claim or proceeding in any
27 jurisdiction for the protection of the estate and of the personal

1 representative in the performance of the personal representative's
2 duties.

3 (y) Sell, mortgage, or lease estate property or an interest in
4 estate property for cash, credit, or part cash and part credit, and
5 with or without security for unpaid balances.

6 (z) Continue a business or venture in which the decedent was
7 engaged at the time of death as a sole proprietor or a general
8 partner, including continuation as a general partner by a personal
9 representative that is a corporation, in any of the following
10 manners:

11 (i) In the same business form for a period of not more than 4
12 months after the date of appointment of a general personal
13 representative if continuation is a reasonable means of preserving
14 the value of the business, including goodwill.

15 (ii) In the same business form for an additional period of time
16 if approved by court order in a formal proceeding to which the
17 persons interested in the estate are parties.

18 (iii) Throughout the period of administration if the personal
19 representative incorporates the business or converts the business
20 to a limited liability company and if none of the probable
21 distributees of the business who are competent adults object to its
22 incorporation or conversion and its retention in the estate.

23 (aa) Change the form of a business or venture in which the
24 decedent was engaged at the time of death through incorporation or
25 formation as a limited liability company or other entity offering
26 protection against or limiting exposure to liabilities.

27 (bb) Provide for the personal representative's exoneration

1 from personal liability in a contract entered into on the estate's
2 behalf.

3 (cc) Respond to an environmental concern or hazard affecting
4 estate property as provided in section 3722.

5 (dd) Satisfy and settle claims and distribute the estate as
6 provided in this act.

7 (ee) Make, revise, or revoke an available allocation, consent,
8 or election in connection with a tax matter as appropriate in order
9 to carry out the decedent's estate planning objectives and to
10 reduce the overall burden of taxation, both in the present and in
11 the future. This authority includes, but is not limited to, all of
12 the following:

13 (i) Electing to take expenses as estate tax or income tax
14 deductions.

15 (ii) Electing to allocate the exemption from the tax on
16 generation skipping transfers among transfers subject to estate or
17 gift tax.

18 (iii) Electing to have all or a portion of a transfer for a
19 spouse's benefit qualify for the marital deduction.

20 (iv) Electing the date of death or an alternate valuation date
21 for federal estate tax purposes.

22 (v) Excluding or including property from the gross estate for
23 federal estate tax purposes.

24 (vi) Valuing property for federal estate tax purposes.

25 (vii) Joining with the surviving spouse or the surviving
26 spouse's personal representative in the execution and filing of a
27 joint income tax return and consenting to a gift tax return filed

1 by the surviving spouse or the surviving spouse's personal
2 representative.

3 (ff) Divide portions of the estate, including portions to be
4 allocated into trust, into 2 or more separate portions or trusts
5 with substantially identical terms and conditions, and allocate
6 property between them, in order to simplify administration for
7 generation skipping transfer tax purposes, to segregate property
8 for management purposes, or to meet another estate or trust
9 objective.

10 Sec. 3801. (1) Unless notice has already been given, upon
11 appointment a personal representative shall publish, and a special
12 personal representative may publish, a notice as provided by
13 supreme court rule notifying estate creditors to present their
14 claims within 4 months after the date of the notice's publication
15 or be forever barred. A personal representative who has published
16 notice shall also send, within the time prescribed in subsection
17 (2), a copy of the notice or a similar notice to each estate
18 creditor whom the personal representative knows at the time of
19 publication or during the 4 months following publication and to the
20 trustee of a trust described in section ~~7501(1)~~**7605(1)** as to which
21 the decedent is settlor. For purposes of this section, the personal
22 representative knows a creditor of the decedent if the personal
23 representative has actual notice of the creditor or the creditor's
24 existence is reasonably ascertainable by the personal
25 representative based on an investigation of the decedent's
26 available records for the 2 years immediately preceding death and
27 mail following death.

1 (2) Notice to a known creditor of the estate shall be given
2 within the following time limits:

3 (a) Within 4 months after the date of the publication of
4 notice to creditors.

5 (b) If the personal representative first knows of an estate
6 creditor less than 28 days before the expiration of the time limit
7 in subdivision (a), within 28 days after the personal
8 representative first knows of the creditor.

9 (3) If the personal representative or the attorney for the
10 estate in good faith believes that notice to a creditor of the
11 estate is or may be required by this section, and if the personal
12 representative gives notice based on that belief, neither the
13 personal representative nor the attorney is liable to any person
14 for having given notice.

15 (4) If the personal representative or the attorney for the
16 estate in good faith believes that notice to a person is not
17 required by this section and if the personal representative fails
18 to give notice to that person based on that belief, neither the
19 personal representative nor the attorney is personally liable to
20 any person for the failure to give notice. Liability, if any, for
21 failure to give notice is on the estate.

22 Sec. 3803. (1) A claim against a decedent's estate that arose
23 before the decedent's death, including a claim of this state or a
24 subdivision of this state, whether due or to become due, absolute
25 or contingent, liquidated or unliquidated, or based on contract,
26 tort, or another legal basis, if not barred earlier by another
27 statute of limitations or nonclaim statute, is barred against the

1 estate, the personal representative, the decedent's heirs and
2 devisees, and nonprobate transferees of the decedent unless
3 presented within 1 of the following time limits:

4 (a) If notice is given in compliance with section 3801 or ~~7504~~
5 **7608**, within 4 months after the date of the publication of notice
6 to creditors, except that a claim barred by a statute at the
7 decedent's domicile before the publication for claims in this state
8 is also barred in this state.

9 (b) For a creditor known to the personal representative at the
10 time of publication or during the 4 months following publication,
11 within 1 month after the subsequent sending of notice or 4 months
12 after the date of the publication of notice to creditors, whichever
13 is later.

14 (c) If the notice requirements of section 3801 or ~~7504~~**7608**
15 have not been met, within 3 years after the decedent's death.

16 (2) A claim against a decedent's estate that arises at or
17 after the decedent's death, including a claim of this state or a
18 subdivision of this state, whether due or to become due, absolute
19 or contingent, liquidated or unliquidated, or based on contract,
20 tort, or another legal basis, is barred against the estate, the
21 personal representative, and the decedent's heirs and devisees,
22 unless presented within 1 of the following time limits:

23 (a) For a claim based on a contract with the personal
24 representative, within 4 months after performance by the personal
25 representative is due.

26 (b) For a claim to which subdivision (a) does not apply,
27 within 4 months after the claim arises or the time specified in

1 subsection (1)(a), whichever is later.

2 (3) This section does not affect or prevent any of the
3 following:

4 (a) A proceeding to enforce a mortgage, pledge, or other lien
5 on estate property.

6 (b) A proceeding to establish the decedent's or the personal
7 representative's liability for which the decedent or the personal
8 representative is protected by liability insurance to the insurance
9 protection limits only.

10 (c) Collection of compensation for services rendered and
11 reimbursement of expenses advanced by the personal representative
12 or by an attorney, auditor, investment adviser, or other
13 specialized agent or assistant for the personal representative of
14 the estate.

15 Sec. 3805. (1) If the applicable estate property is
16 insufficient to pay all claims and allowances in full, the personal
17 representative shall make payment in the following order of
18 priority:

19 (a) Costs and expenses of administration.

20 (b) Reasonable funeral and burial expenses.

21 (c) Homestead allowance.

22 (d) Family allowance.

23 (e) Exempt property.

24 (f) Debts and taxes with priority under federal law,
25 including, but not limited to, medical assistance payments that are
26 subject to adjustment or recovery from an estate under section 1917
27 of the social security act, 42 USC 1396p.

1 (g) Reasonable and necessary medical and hospital expenses of
2 the decedent's last illness, including a compensation of persons
3 attending the decedent.

4 (h) Debts and taxes with priority under other laws of this
5 state.

6 (i) All other claims.

7 (2) A preference shall not be given in the payment of a claim
8 over another claim of the same class, and a claim due and payable
9 is not entitled to a preference over a claim not due.

10 (3) If there are insufficient assets to pay all claims in full
11 or to satisfy homestead allowance, family allowance, and exempt
12 property, the personal representative shall certify the amount and
13 nature of the deficiency to the trustee of a trust described in
14 section ~~7501(1)~~ **7605(1)** for payment by the trustee in accordance
15 with section ~~7502~~ **7606**. If the personal representative is aware of
16 other nonprobate transfers that may be liable for claims and
17 allowances, then, unless the will provides otherwise, the personal
18 representative shall proceed to collect the deficiency in a manner
19 reasonable under the circumstances so that each nonprobate
20 transfer, including those made under a trust described in section
21 ~~7501(1)~~ **7605(1)**, bears a proportionate share or equitable share of
22 the total burden.

23 Sec. 3915. (1) Before distributing to a trustee, the personal
24 representative may require that the trust be registered if the
25 state in which it is to be administered provides for registration
26 and that the trustee inform the beneficiaries as provided in
27 section ~~7303~~ **7814**.

1 (2) If the ~~trust instrument does~~ **TERMS OF THE TRUST DO** not
2 excuse the trustee from giving bond, **OR IF THE TRUSTEE IS NOT A**
3 **REGULATED FINANCIAL SERVICE INSTITUTION QUALIFIED TO DO TRUST**
4 **BUSINESS IN THIS STATE**, the personal representative may petition
5 the appropriate court to require that the trustee post bond if the
6 personal representative ~~apprehends that distribution might~~
7 ~~jeopardize the interests of persons who are not able to protect~~
8 ~~themselves, and the~~ **REASONABLY BELIEVES THAT A BOND IS NEEDED TO**
9 **PROTECT THE INTERESTS OF THE BENEFICIARIES.** A personal
10 representative may withhold distribution until the court acts **ON**
11 **THE PETITION.**

12 (3) An inference of negligence on the personal
13 representative's part shall not be drawn from failure to exercise
14 the authority conferred by subsections (1) and (2).

15 (4) If it becomes necessary or convenient in the settlement or
16 distribution of a decedent's estate to appoint a trustee to take
17 charge of or invest and distribute a portion of the estate, the
18 court may appoint a trustee upon the request of the personal
19 representative or another interested person.

20 Sec. 5407. (1) The court shall exercise the authority
21 conferred in this part to encourage the development of maximum
22 self-reliance and independence of a protected individual and shall
23 make protective orders only to the extent necessitated by the
24 protected individual's mental and adaptive limitations and other
25 conditions warranting the procedure. Accordingly, the court may
26 authorize a protected individual to function without the consent or
27 supervision of the individual's conservator in handling part of his

1 or her money or property, including authorizing the individual to
2 maintain an account with a financial institution. To the extent the
3 individual is authorized to function autonomously, a person may
4 deal with the individual as though the individual is mentally
5 competent.

6 (2) The court has the following powers that may be exercised
7 directly or through a conservator in respect to a protected
8 individual's estate and business affairs:

9 (a) While a petition for a conservator's appointment or
10 another protective order is pending and after preliminary hearing
11 and without notice to others, the court has the power to preserve
12 and apply property of the individual to be protected as may be
13 required for the support of the individual or the individual's
14 dependents.

15 (b) After hearing and upon determining that a basis for an
16 appointment or other protective order exists with respect to a
17 minor without other disability, the court has all those powers over
18 the minor's estate and business affairs that are or may be
19 necessary for the best interests of the minor and members of the
20 minor's immediate family.

21 (c) After hearing and upon determining that a basis for an
22 appointment or other protective order exists with respect to an
23 individual for a reason other than minority, the court, for the
24 benefit of the individual and members of the individual's immediate
25 family, has all the powers over the estate and business affairs
26 that the individual could exercise if present and not under
27 disability, except the power to make a will. Those powers include,

1 but are not limited to, all of the following:

2 (i) To make gifts.

3 (ii) To convey or release a contingent or expectant interest in
4 property including marital property rights and a right of
5 survivorship incident to joint tenancy or tenancy by the entirety.

6 (iii) To exercise or release a power held by the protected
7 individual as ~~trustee~~, personal representative, custodian for a
8 minor, conservator, or donee of a power of appointment.

9 (iv) To enter into a contract.

10 (v) To create a revocable or irrevocable trust of estate
11 property that may extend beyond the disability or life of the
12 protected individual.

13 (vi) To exercise an option of the protected individual to
14 purchase securities or other property.

15 (vii) To exercise a right to elect an option and change a
16 beneficiary under an insurance or annuity policy and to surrender
17 the policy for its cash value.

18 (viii) To exercise a right to an elective share in the estate of
19 the individual's deceased spouse.

20 (ix) To renounce or disclaim an interest by testate or
21 intestate succession or by inter vivos transfer.

22 (3) The court may exercise or direct the exercise of the
23 following powers only if satisfied, after the notice and hearing,
24 that it is in the protected individual's best interests and that
25 the individual either is incapable of consenting or has consented
26 to the proposed exercise of the power:

27 (a) To exercise or release a power of appointment of which the

1 protected individual is donee.

2 (b) To renounce or disclaim an interest.

3 (c) To make a gift in trust or otherwise exceeding 20% of a
4 year's income of the estate.

5 (d) To change a beneficiary under an insurance and annuity
6 policy.

7 (4) A determination that a basis for a conservator's
8 appointment or another protective order exists has no effect on the
9 protected individual's capacity.

10 Sec. 5421. (1) A sale, ~~or encumbrance, to a conservator, to~~
11 ~~the conservator's spouse, agent, or attorney, or to a corporation,~~
12 ~~trust, or other organization~~ **OR OTHER TRANSACTION INVOLVING THE**
13 **INVESTMENT OR MANAGEMENT OF ESTATE PROPERTY** in which the
14 conservator has a substantial beneficial interest, ~~or a~~
15 ~~transaction involving the estate being administered by the~~
16 ~~conservator that~~ **OR THAT** is **OTHERWISE** affected by a substantial
17 conflict between **THE CONSERVATOR'S** fiduciary and personal
18 interests, is voidable unless ~~the~~ **ANY OF THE FOLLOWING ARE TRUE:**

19 (A) **THE** transaction is approved by the court after notice as
20 directed by the court.

21 (B) **THE TRANSACTION INVOLVES A CONTRACT ENTERED INTO OR CLAIM**
22 **ACQUIRED BY THE CONSERVATOR BEFORE THE PERSON BECAME OR**
23 **CONTEMPLATED BECOMING CONSERVATOR.**

24 (C) **THE TRANSACTION IS OTHERWISE PERMITTED BY STATUTE.**

25 (2) **A SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING THE**
26 **INVESTMENT OR MANAGEMENT OF TRUST PROPERTY IS PRESUMED TO BE**
27 **AFFECTED BY A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF**

1 IT IS ENTERED INTO BY THE CONSERVATOR WITH ANY OF THE FOLLOWING:

2 (A) THE CONSERVATOR'S SPOUSE.

3 (B) THE CONSERVATOR'S DESCENDANT, SIBLING, OR PARENT OR THE
4 SPOUSE OF THE CONSERVATOR'S DESCENDANT, SIBLING, OR PARENT.

5 (C) AN AGENT OR ATTORNEY OF THE CONSERVATOR.

6 (D) A CORPORATION OR OTHER PERSON OR ENTERPRISE IN WHICH THE
7 CONSERVATOR, OR A PERSON THAT OWNS A SIGNIFICANT INTEREST IN THE
8 CONSERVATOR, HAS AN INTEREST THAT MIGHT AFFECT THE CONSERVATOR'S
9 BEST JUDGMENT.

10 (3) A TRANSACTION NOT CONCERNING ESTATE PROPERTY IN WHICH THE
11 CONSERVATOR ENGAGES IN THE CONSERVATOR'S INDIVIDUAL CAPACITY
12 INVOLVES A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF THE
13 TRANSACTION CONCERNS AN OPPORTUNITY PROPERLY BELONGING TO THE
14 ESTATE.

15 (4) AN INVESTMENT BY A CONSERVATOR IN SECURITIES OF AN
16 INVESTMENT COMPANY OR INVESTMENT TRUST TO WHICH THE CONSERVATOR, OR
17 ITS AFFILIATE, PROVIDES SERVICES IN A CAPACITY OTHER THAN AS
18 CONSERVATOR IS NOT PRESUMED TO BE AFFECTED BY A CONFLICT BETWEEN
19 PERSONAL AND FIDUCIARY INTERESTS IF THE INVESTMENT OTHERWISE
20 COMPLIES WITH THE MICHIGAN PRUDENT INVESTOR RULE. IN ADDITION TO
21 ITS COMPENSATION FOR ACTING AS CONSERVATOR, THE CONSERVATOR MAY BE
22 COMPENSATED BY THE INVESTMENT COMPANY OR INVESTMENT TRUST FOR
23 PROVIDING THOSE SERVICES OUT OF FEES CHARGED TO THE ESTATE. IF THE
24 CONSERVATOR RECEIVES COMPENSATION FROM THE INVESTMENT COMPANY OR
25 INVESTMENT TRUST FOR PROVIDING INVESTMENT ADVISORY OR INVESTMENT
26 MANAGEMENT SERVICES, THE CONSERVATOR SHALL AT LEAST ANNUALLY NOTIFY
27 THE INTERESTED PERSONS OF THE RATE AND METHOD BY WHICH THAT

1 COMPENSATION WAS DETERMINED.

2 (5) IN VOTING SHARES OF STOCK OR IN EXERCISING POWERS OF
3 CONTROL OVER SIMILAR INTERESTS IN OTHER FORMS OF ENTERPRISE, THE
4 CONSERVATOR SHALL ACT IN THE BEST INTERESTS OF THE ESTATE. IF THE
5 ESTATE IS THE SOLE OWNER OF A CORPORATION OR OTHER FORM OF
6 ENTERPRISE, THE CONSERVATOR SHALL ELECT OR APPOINT DIRECTORS OR
7 OTHER MANAGERS TO MANAGE THE CORPORATION OR ENTERPRISE IN THE BEST
8 INTEREST OF THE ESTATE.

9 (6) THIS SECTION DOES NOT PRECLUDE THE FOLLOWING TRANSACTIONS,
10 IF FAIR TO THE ESTATE:

11 (A) AN AGREEMENT RELATING TO THE COMPENSATION OF THE
12 CONSERVATOR.

13 (B) PAYMENT OF REASONABLE COMPENSATION TO THE CONSERVATOR.

14 (C) A TRANSACTION BETWEEN THE ESTATE AND ANOTHER TRUST OR
15 CONSERVATORSHIP OF WHICH THE CONSERVATOR IS A FIDUCIARY OR IN WHICH
16 THE ESTATE OR PROTECTED INDIVIDUAL HAS AN INTEREST.

17 (D) A DEPOSIT OF TRUST MONEY IN A REGULATED FINANCIAL SERVICE
18 INSTITUTION OPERATED BY OR AFFILIATED WITH THE CONSERVATOR.

19 (E) AN ADVANCE BY THE CONSERVATOR OF MONEY FOR THE PROTECTION
20 OF THE ESTATE.

21 ARTICLE VII

22 ~~TRUST ADMINISTRATION MICHIGAN TRUST CODE~~

23 PART 1

24 ~~TRUST REGISTRATION~~

25 Sec. 7101. ~~(1) The trustee of a trust having its principal~~
26 ~~place of administration in this state may register the trust in the~~
27 ~~court at the place designated in the trust instrument or, if none~~

1 is designated, then at the principal place of administration. The
 2 principal place of the trust's administration is the trustee's
 3 usual place of business where the records pertaining to the trust
 4 are kept or the trustee's residence if the trustee does not have
 5 such a place of business. For a corporate trustee, the usual place
 6 of business is the business location of the primary trust officer
 7 for the trust.

8 ——— (2) For cotrustees, if not designated in the trust instrument,
 9 the principal place of administration is 1 of the following:

10 ——— (a) If there is only 1 corporate cotrustee, the corporate
 11 trustee's usual place of business.

12 ——— (b) If there is only 1 professional fiduciary who is an
 13 individual and no corporate trustee, the professional fiduciary's
 14 usual place of business or residence.

15 ——— (c) If (a) or (b) does not apply, the usual place of business
 16 or residence of any of the cotrustees as agreed upon by them. **THIS**
 17 **ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "MICHIGAN TRUST**
 18 **CODE".**

19 Sec. 7102. (1) A trust is registered by the filing of a
 20 statement that states the trustee's name and address and in which
 21 the trustee acknowledges the trusteeship. The statement must
 22 indicate if the trust has been registered elsewhere. The statement
 23 must identify the trust in 1 of the following manners:

24 ——— (a) For a testamentary trust, by the name of the testator and
 25 the date and place of domiciliary probate.

26 ——— (b) For a written inter vivos trust, by the name of each
 27 settlor and the original trustee and the date of the trust

1 ~~instrument and all amendments existing on the date of registration.~~
2 ~~—— (c) For an oral trust, by information identifying the settlor~~
3 ~~or other source of money and describing the trust's time and manner~~
4 ~~of creation and the trust's terms, including the subject matter,~~
5 ~~beneficiaries, and time of performance.~~

6 ~~—— (2) The trust instrument and amendments are not required to be~~
7 ~~filed with the court as part of the trust registration. If a trust~~
8 ~~is registered elsewhere, registration in this state is ineffective~~
9 ~~until the earlier registration is released by order of the court~~
10 ~~where that registration occurred or by an instrument executed by~~
11 ~~the trustee and all beneficiaries. The order or instrument shall be~~
12 ~~filed with the registration in this state. THIS ARTICLE APPLIES TO~~
13 ~~TRUSTS AS DEFINED IN SECTION 1107.~~

14 Sec. 7103. ~~(1) By registering a trust or accepting the~~
15 ~~trusteeship of a registered trust, the trustee submits personally~~
16 ~~to the court's jurisdiction in a proceeding under section 7201~~
17 ~~relating to the trust that is initiated by an interested person~~
18 ~~while the trust remains registered. Notice of a proceeding must be~~
19 ~~given to the trustee in accordance with section 1401 at the~~
20 ~~trustee's address as stated in the registration or as reported to~~
21 ~~the court and to the trustee's address then known to the~~
22 ~~petitioner.~~

23 ~~—— (2) To the extent of all beneficial interests in the trust and~~
24 ~~if notice is given in accordance with section 1401, each~~
25 ~~beneficiary of a trust properly registered in this state is subject~~
26 ~~to the jurisdiction of the court of registration for the purposes~~
27 ~~of a proceeding under section 7201. AS USED IN THIS ARTICLE:~~

1 (A) "ACTION", WITH RESPECT TO A TRUSTEE OR A TRUST PROTECTOR,
2 INCLUDES AN ACT OR A FAILURE TO ACT.

3 (B) "ASCERTAINABLE STANDARD" MEANS A STANDARD RELATING TO AN
4 INDIVIDUAL'S HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE WITHIN THE
5 MEANING OF SECTION 2041(B)(1)(A) OR 2514(C)(1) OF THE INTERNAL
6 REVENUE CODE, 26 USC 2041 AND 2514.

7 (C) "CHARITABLE TRUST" MEANS A TRUST, OR PORTION OF A TRUST,
8 CREATED FOR A CHARITABLE PURPOSE DESCRIBED IN SECTION 7405(1).

9 (D) "DISCRETIONARY TRUST PROVISION" MEANS A PROVISION IN A
10 TRUST, REGARDLESS OF WHETHER THE TERMS OF THE TRUST PROVIDE A
11 STANDARD FOR THE EXERCISE OF THE TRUSTEE'S DISCRETION AND
12 REGARDLESS OF WHETHER THE TRUST CONTAINS A SPENDTHRIFT PROVISION,
13 THAT PROVIDES THAT THE TRUSTEE HAS DISCRETION, OR WORDS OF SIMILAR
14 IMPORT, TO DETERMINE 1 OR MORE OF THE FOLLOWING:

15 (i) WHETHER TO DISTRIBUTE TO OR FOR THE BENEFIT OF AN
16 INDIVIDUAL OR A CLASS OF BENEFICIARIES THE INCOME OR PRINCIPAL OR
17 BOTH OF THE TRUST.

18 (ii) THE AMOUNT, IF ANY, OF THE INCOME OR PRINCIPAL OR BOTH OF
19 THE TRUST TO DISTRIBUTE TO OR FOR THE BENEFIT OF AN INDIVIDUAL OR A
20 CLASS OF BENEFICIARIES.

21 (iii) WHO, IF ANY, AMONG A CLASS OF BENEFICIARIES WILL RECEIVE
22 INCOME OR PRINCIPAL OR BOTH OF THE TRUST.

23 (iv) WHETHER THE DISTRIBUTION OF TRUST PROPERTY IS FROM INCOME
24 OR PRINCIPAL OR BOTH OF THE TRUST.

25 (v) WHEN TO PAY INCOME OR PRINCIPAL, EXCEPT THAT A POWER TO
26 DETERMINE WHEN TO DISTRIBUTE INCOME OR PRINCIPAL WITHIN OR WITH
27 RESPECT TO A CALENDAR OR TAXABLE YEAR OF THE TRUST IS NOT A

1 DISCRETIONARY TRUST PROVISION IF THE DISTRIBUTION MUST BE MADE.

2 (E) "INTERESTS OF THE TRUST BENEFICIARIES" MEANS THE
3 BENEFICIAL INTERESTS PROVIDED IN THE TERMS OF THE TRUST.

4 (F) "POWER OF WITHDRAWAL" MEANS A PRESENTLY EXERCISABLE
5 GENERAL POWER OF APPOINTMENT OTHER THAN A POWER THAT IS EITHER OF
6 THE FOLLOWING:

7 (i) EXERCISABLE BY A TRUSTEE AND LIMITED BY AN ASCERTAINABLE
8 STANDARD.

9 (ii) EXERCISABLE BY ANOTHER PERSON ONLY UPON CONSENT OF THE
10 TRUSTEE OR A PERSON HOLDING AN ADVERSE INTEREST.

11 (G) "QUALIFIED TRUST BENEFICIARY" MEANS A TRUST BENEFICIARY TO
12 WHOM 1 OR MORE OF THE FOLLOWING APPLY ON THE DATE THE TRUST
13 BENEFICIARY'S QUALIFICATION IS DETERMINED:

14 (i) THE TRUST BENEFICIARY IS A DISTRIBUTEE OR PERMISSIBLE
15 DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL.

16 (ii) THE TRUST BENEFICIARY WOULD BE A DISTRIBUTEE OR
17 PERMISSIBLE DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL IF THE
18 INTERESTS OF THE DISTRIBUTEES UNDER THE TRUST DESCRIBED IN
19 SUBPARAGRAPH (i) TERMINATED ON THAT DATE WITHOUT CAUSING THE TRUST
20 TO TERMINATE.

21 (iii) THE TRUST BENEFICIARY WOULD BE A DISTRIBUTEE OR
22 PERMISSIBLE DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL IF THE TRUST
23 TERMINATED ON THAT DATE.

24 (H) "REVOCABLE", AS APPLIED TO A TRUST, MEANS REVOCABLE BY THE
25 SETTLOR WITHOUT THE CONSENT OF THE TRUSTEE OR A PERSON HOLDING AN
26 ADVERSE INTEREST. A TRUST'S CHARACTERIZATION AS REVOCABLE IS NOT
27 AFFECTED BY THE SETTLOR'S LACK OF CAPACITY TO EXERCISE THE POWER OF

1 REVOCATION, REGARDLESS OF WHETHER AN AGENT OF THE SETTLOR UNDER A
2 DURABLE POWER OF ATTORNEY, A CONSERVATOR OF THE SETTLOR, OR A
3 PLENARY GUARDIAN OF THE SETTLOR IS SERVING.

4 (I) "SETTLOR" MEANS A PERSON, INCLUDING A TESTATOR, WHO
5 CREATES A TRUST. IF MORE THAN 1 PERSON CREATES A TRUST, EACH PERSON
6 IS A SETTLOR OF THE PORTION OF THE TRUST PROPERTY ATTRIBUTABLE TO
7 THAT PERSON'S CONTRIBUTION. THE LAPSE, RELEASE, OR WAIVER OF A
8 POWER OF APPOINTMENT SHALL NOT CAUSE THE HOLDER OF A POWER OF
9 APPOINTMENT TO BE TREATED AS A SETTLOR OF THE TRUST.

10 (J) "SPENDTHRIFT PROVISION" MEANS A TERM OF A TRUST THAT
11 RESTRAINS EITHER THE VOLUNTARY OR INVOLUNTARY TRANSFER OF A TRUST
12 BENEFICIARY'S INTEREST.

13 (K) "SUPPORT PROVISION" MEANS A PROVISION IN A TRUST THAT
14 PROVIDES THE TRUSTEE SHALL DISTRIBUTE INCOME OR PRINCIPAL OR BOTH
15 FOR THE HEALTH, EDUCATION, MAINTENANCE, OR SUPPORT OF A TRUST
16 BENEFICIARY, OR LANGUAGE OF SIMILAR IMPORT. A PROVISION IN A TRUST
17 THAT PROVIDES A TRUSTEE HAS DISCRETION WHETHER TO DISTRIBUTE INCOME
18 OR PRINCIPAL OR BOTH FOR THESE PURPOSES OR TO SELECT FROM AMONG A
19 CLASS OF BENEFICIARIES TO RECEIVE DISTRIBUTIONS PURSUANT TO THE
20 TRUST PROVISION IS NOT A SUPPORT PROVISION, BUT RATHER IS A
21 DISCRETIONARY TRUST PROVISION.

22 (l) "TRUST BENEFICIARY" MEANS A PERSON TO WHOM 1 OR BOTH OF THE
23 FOLLOWING APPLY:

24 (i) THE PERSON HAS A PRESENT OR FUTURE BENEFICIAL INTEREST IN A
25 TRUST, VESTED OR CONTINGENT.

26 (ii) THE PERSON HOLDS A POWER OF APPOINTMENT OVER TRUST
27 PROPERTY IN A CAPACITY OTHER THAN THAT OF TRUSTEE.

1 (M) "TRUST INSTRUMENT" MEANS A GOVERNING INSTRUMENT THAT
2 CONTAINS THE TERMS OF THE TRUST, INCLUDING ANY AMENDMENT TO A TERM
3 OF THE TRUST.

4 (N) "TRUST PROTECTOR" MEANS A PERSON OR COMMITTEE OF PERSONS
5 APPOINTED PURSUANT TO THE TERMS OF THE TRUST WHO HAS THE POWER TO
6 DIRECT CERTAIN ACTIONS WITH RESPECT TO THE TRUST. TRUST PROTECTOR
7 DOES NOT INCLUDE EITHER OF THE FOLLOWING:

8 (i) THE SETTLOR OF A TRUST THAT IS CURRENTLY REVOCABLE BY THE
9 SETTLOR.

10 (ii) THE HOLDER OF A POWER OF APPOINTMENT.

11 ~~Sec. 7104. For purposes of a proceeding commenced by a trust~~
12 ~~beneficiary before registration, a trustee of a trust that is not~~
13 ~~registered in a proper place is subject to the personal~~
14 ~~jurisdiction of a court in which the trust could have been~~
15 ~~registered. In addition, a trustee who, within 28 days after~~
16 ~~receipt of a written demand by a trust settlor or beneficiary,~~
17 ~~fails to register a trust as required by the trust instrument is~~
18 ~~subject to removal and denial of compensation or to surcharge as~~
19 ~~the court may direct.~~

20 (1) SUBJECT TO SUBSECTION (2), A PERSON HAS KNOWLEDGE OF A
21 FACT IF 1 OR MORE OF THE FOLLOWING APPLY:

22 (A) THE PERSON HAS ACTUAL KNOWLEDGE OF IT.

23 (B) THE PERSON HAS RECEIVED A NOTICE OR NOTIFICATION OF IT.

24 (C) FROM ALL THE FACTS AND CIRCUMSTANCES KNOWN TO THE PERSON
25 AT THE TIME IN QUESTION, THE PERSON HAS REASON TO KNOW IT.

26 (2) AN ORGANIZATION THAT CONDUCTS ACTIVITIES THROUGH EMPLOYEES
27 HAS NOTICE OR KNOWLEDGE OF A FACT INVOLVING A TRUST ONLY FROM THE

1 TIME THE INFORMATION WAS RECEIVED BY AN EMPLOYEE HAVING
2 RESPONSIBILITY TO ACT FOR THE TRUST OR FROM THE TIME THE
3 INFORMATION WOULD HAVE BEEN BROUGHT TO THE EMPLOYEE'S ATTENTION IF
4 THE ORGANIZATION HAD EXERCISED REASONABLE DILIGENCE. AN
5 ORGANIZATION EXERCISES REASONABLE DILIGENCE IF IT MAINTAINS
6 REASONABLE ROUTINES FOR COMMUNICATING SIGNIFICANT INFORMATION TO
7 THE EMPLOYEE HAVING RESPONSIBILITY TO ACT FOR THE TRUST AND THERE
8 IS REASONABLE COMPLIANCE WITH THE ROUTINES. REASONABLE DILIGENCE
9 DOES NOT REQUIRE AN EMPLOYEE OF THE ORGANIZATION TO COMMUNICATE
10 INFORMATION UNLESS THE COMMUNICATION IS PART OF THE INDIVIDUAL'S
11 REGULAR DUTIES OR THE INDIVIDUAL KNOWS A MATTER INVOLVING THE TRUST
12 WOULD BE MATERIALLY AFFECTED BY THE INFORMATION.

13 Sec. 7105. ~~A foreign corporate trustee is required to qualify
14 as a foreign corporation doing business in this state if it
15 maintains a trust's principal place of administration within the
16 state. A foreign cotrustee is not required to qualify in this state
17 solely because its cotrustee maintains the principal place of
18 administration in this state. Unless otherwise doing business in
19 this state, local qualification by a foreign trustee, corporate or
20 individual, is not required for the trustee to receive distribution
21 from a local estate, to hold, invest in, manage, or acquire
22 property located in this state, or to maintain litigation. This
23 section does not affect a determination of what other acts require
24 qualification as doing business in this state.~~

25 (1) EXCEPT AS OTHERWISE PROVIDED IN THE TERMS OF THE TRUST,
26 THIS ARTICLE GOVERNS THE DUTIES AND POWERS OF A TRUSTEE, RELATIONS
27 AMONG TRUSTEES, AND THE RIGHTS AND INTERESTS OF A TRUST

1 BENEFICIARY.

2 (2) THE TERMS OF A TRUST PREVAIL OVER ANY PROVISION OF THIS
3 ARTICLE EXCEPT THE FOLLOWING:

4 (A) THE REQUIREMENTS UNDER SECTION 7401 FOR CREATING A TRUST.

5 (B) THE DUTY OF A TRUSTEE TO ADMINISTER A TRUST IN ACCORDANCE
6 WITH SECTION 7801.

7 (C) THE REQUIREMENT UNDER SECTION 7404 THAT THE TRUST HAVE A
8 PURPOSE THAT IS LAWFUL, NOT CONTRARY TO PUBLIC POLICY, AND POSSIBLE
9 TO ACHIEVE.

10 (D) THE POWER OF THE COURT TO MODIFY OR TERMINATE A TRUST
11 UNDER SECTIONS 7410, 7412(1) TO (3), 7414(2), 7415, AND 7416.

12 (E) THE EFFECT OF A SPENDTHRIFT PROVISION, A SUPPORT
13 PROVISION, AND A DISCRETIONARY TRUST PROVISION ON THE RIGHTS OF
14 CERTAIN CREDITORS AND ASSIGNEES TO REACH A TRUST AS PROVIDED IN
15 PART 5.

16 (F) THE POWER OF THE COURT UNDER SECTION 7702 TO REQUIRE,
17 DISPENSE WITH, OR MODIFY OR TERMINATE A BOND.

18 (G) THE POWER OF THE COURT UNDER SECTION 7708(2) TO ADJUST A
19 TRUSTEE'S COMPENSATION SPECIFIED IN THE TERMS OF THE TRUST THAT IS
20 UNREASONABLY LOW OR HIGH.

21 (H) THE DUTY UNDER SECTION 7814(2)(A) TO (C) TO PROVIDE
22 BENEFICIARIES WITH THE TERMS OF THE TRUST AND INFORMATION ABOUT THE
23 TRUST'S PROPERTY, AND TO NOTIFY QUALIFIED TRUST BENEFICIARIES OF AN
24 IRREVOCABLE TRUST OF THE EXISTENCE OF THE TRUST AND THE IDENTITY OF
25 THE TRUSTEE.

26 (I) THE EFFECT OF AN EXCULPATORY TERM UNDER SECTION 7908.

27 (J) THE RIGHTS UNDER SECTIONS 7910 TO 7913 OF A PERSON OTHER

1 THAN A TRUSTEE OR BENEFICIARY.

2 (K) PERIODS OF LIMITATION UNDER THIS ARTICLE FOR COMMENCING A
3 JUDICIAL PROCEEDING.

4 (L) THE POWER OF THE COURT TO TAKE ACTION AND EXERCISE
5 JURISDICTION.

6 (M) THE SUBJECT-MATTER JURISDICTION OF THE COURT AND VENUE FOR
7 COMMENCING A PROCEEDING AS PROVIDED IN SECTIONS 7203 AND 7204.

8 (N) THE POWER OF THE COURT TO ORDER THE TRUSTEE TO PROVIDE
9 STATEMENTS OF ACCOUNT AND OTHER INFORMATION PURSUANT TO SECTION
10 7814(4).

11 SEC. 7107. THE MEANING AND EFFECT OF THE TERMS OF A TRUST ARE
12 DETERMINED BY THE FOLLOWING:

13 (A) THE LAW OF THE JURISDICTION DESIGNATED IN THE TERMS OF THE
14 TRUST UNLESS THE DESIGNATION OF THAT JURISDICTION'S LAW IS CONTRARY
15 TO A STRONG PUBLIC POLICY OF THE JURISDICTION HAVING THE MOST
16 SIGNIFICANT RELATIONSHIP TO THE MATTER AT ISSUE.

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

20 SEC. 7108. (1) WITHOUT PRECLUDING OTHER MEANS FOR ESTABLISHING
21 A SUFFICIENT CONNECTION WITH THE DESIGNATED JURISDICTION, TERMS OF
22 A TRUST DESIGNATING THE PRINCIPAL PLACE OF ADMINISTRATION ARE VALID
23 AND CONTROLLING IF EITHER OF THE FOLLOWING APPLIES:

24 (A) A TRUSTEE'S PRINCIPAL PLACE OF BUSINESS IS LOCATED IN OR A
25 TRUSTEE IS A RESIDENT OF THE DESIGNATED JURISDICTION.

26 (B) ALL OR PART OF THE ADMINISTRATION OCCURS IN THE DESIGNATED
27 JURISDICTION.

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

4 (3) WITHOUT PRECLUDING THE RIGHT OF THE COURT TO ORDER,
5 APPROVE, OR DISAPPROVE A TRANSFER, THE TRUSTEE, IN FURTHERANCE OF
6 THE DUTY PRESCRIBED BY SUBSECTION (2), MAY TRANSFER THE TRUST'S
7 PRINCIPAL PLACE OF ADMINISTRATION TO ANOTHER STATE OR TO A
8 JURISDICTION OUTSIDE OF THE UNITED STATES.

9 (4) THE TRUSTEE SHALL NOTIFY THE QUALIFIED TRUST BENEFICIARIES
10 OF A PROPOSED TRANSFER OF A TRUST'S PRINCIPAL PLACE OF
11 ADMINISTRATION NOT LESS THAN 63 DAYS BEFORE INITIATING THE
12 TRANSFER. THE NOTICE OF PROPOSED TRANSFER SHALL INCLUDE ALL OF THE
13 FOLLOWING:

14 (A) THE NAME OF THE JURISDICTION TO WHICH THE PRINCIPAL PLACE
15 OF ADMINISTRATION IS TO BE TRANSFERRED.

16 (B) THE ADDRESS AND TELEPHONE NUMBER AT THE NEW LOCATION AT
17 WHICH THE TRUSTEE CAN BE CONTACTED.

18 (C) AN EXPLANATION OF THE REASONS FOR THE PROPOSED TRANSFER.

19 (D) THE DATE ON WHICH THE PROPOSED TRANSFER IS ANTICIPATED TO
20 OCCUR.

21 (E) IN A CONSPICUOUS MANNER, THE DATE, NOT LESS THAN 63 DAYS
22 AFTER THE GIVING OF THE NOTICE, BY WHICH A QUALIFIED TRUST
23 BENEFICIARY MUST COMMENCE A PROCEEDING IN COURT TO DISAPPROVE THE
24 PROPOSED TRANSFER OR BE BARRED FROM DOING SO.

25 (5) IN CONNECTION WITH A TRANSFER OF THE TRUST'S PRINCIPAL
26 PLACE OF ADMINISTRATION, THE TRUSTEE MAY TRANSFER SOME OR ALL OF
27 THE TRUST PROPERTY TO A SUCCESSOR TRUSTEE DESIGNATED IN THE TERMS

1 OF THE TRUST OR APPOINTED PURSUANT TO SECTION 7704.

2 SEC. 7109. (1) NOTICE TO A PERSON UNDER THIS ARTICLE OR THE
3 SENDING OF A DOCUMENT TO A PERSON UNDER THIS ARTICLE SHALL BE
4 ACCOMPLISHED IN A MANNER REASONABLY SUITABLE UNDER THE
5 CIRCUMSTANCES AND LIKELY TO RESULT IN RECEIPT OF THE NOTICE OR
6 DOCUMENT. PERMISSIBLE METHODS OF NOTICE OR FOR SENDING A DOCUMENT
7 INCLUDE FIRST-CLASS MAIL, PERSONAL DELIVERY, DELIVERY TO THE
8 PERSON'S LAST KNOWN PLACE OF RESIDENCE OR PLACE OF BUSINESS, OR A
9 PROPERLY DIRECTED AND IDENTIFIED FACSIMILE OR ELECTRONIC MESSAGE.

10 (2) NOTICE OTHERWISE REQUIRED UNDER THIS ARTICLE OR A DOCUMENT
11 OTHERWISE REQUIRED TO BE SENT UNDER THIS ARTICLE NEED NOT BE
12 PROVIDED TO A PERSON WHOSE IDENTITY OR LOCATION IS UNKNOWN TO AND
13 NOT REASONABLY ASCERTAINABLE BY THE TRUSTEE.

14 (3) NOTICE UNDER THIS ARTICLE OR THE SENDING OF A DOCUMENT
15 UNDER THIS ARTICLE MAY BE WAIVED IN WRITING BY THE PERSON TO BE
16 NOTIFIED OR SENT THE DOCUMENT.

17 (4) NOTICE OF A JUDICIAL PROCEEDING SHALL BE GIVEN AS PROVIDED
18 IN SECTIONS 1401 TO 1403 AND AS OTHERWISE PROVIDED IN THE
19 APPLICABLE RULES OF CIVIL PROCEDURE.

20 SEC. 7110. (1) A CHARITABLE ORGANIZATION EXPRESSLY NAMED IN
21 THE TERMS OF A TRUST TO RECEIVE DISTRIBUTIONS UNDER THE TERMS OF A
22 CHARITABLE TRUST HAS THE RIGHTS OF A QUALIFIED TRUST BENEFICIARY
23 UNDER THIS ARTICLE IF 1 OR MORE OF THE FOLLOWING ARE APPLICABLE TO
24 THE CHARITABLE ORGANIZATION ON THE DATE THE CHARITABLE
25 ORGANIZATION'S QUALIFICATION IS BEING DETERMINED:

26 (A) THE CHARITABLE ORGANIZATION IS A DISTRIBUTEE OR
27 PERMISSIBLE DISTRIBUTEE OF TRUST INCOME OR PRINCIPAL.

1 (B) THE CHARITABLE ORGANIZATION WOULD BE A DISTRIBUTE OR
2 PERMISSIBLE DISTRIBUTE OF TRUST INCOME OR PRINCIPAL ON THE
3 TERMINATION OF THE INTERESTS OF OTHER DISTRIBUTEES OR PERMISSIBLE
4 DISTRIBUTEES THEN RECEIVING OR ELIGIBLE TO RECEIVE DISTRIBUTIONS.

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

8 (2) A PERSON APPOINTED TO ENFORCE A TRUST CREATED FOR THE CARE
9 OF AN ANIMAL OR ANOTHER NONCHARITABLE PURPOSE AS PROVIDED IN
10 SECTION 2722 HAS THE RIGHTS OF A QUALIFIED TRUST BENEFICIARY UNDER
11 THIS ARTICLE.

12 (3) THE ATTORNEY GENERAL OF THIS STATE HAS THE RIGHTS PROVIDED
13 IN THE SUPERVISION OF TRUSTEES FOR CHARITABLE PURPOSES ACT, 1961 PA
14 101, MCL 14.251 TO 14.266, WITH RESPECT TO A CHARITABLE TRUST
15 HAVING ITS PRINCIPAL PLACE OF ADMINISTRATION IN THIS STATE, BUT
16 DOES NOT HAVE THE RIGHTS OF A QUALIFIED TRUST BENEFICIARY.

17 SEC. 7111. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),
18 INTERESTED PERSONS MAY ENTER INTO A BINDING NONJUDICIAL SETTLEMENT
19 AGREEMENT WITH RESPECT TO ANY MATTER INVOLVING A TRUST.

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

24 (3) MATTERS THAT MAY BE RESOLVED BY A NONJUDICIAL SETTLEMENT
25 AGREEMENT INCLUDE ALL OF THE FOLLOWING:

26 (A) THE INTERPRETATION OR CONSTRUCTION OF THE TERMS OF THE
27 TRUST.

1 (B) THE APPROVAL OF A TRUSTEE'S REPORT OR ACCOUNTING.

2 (C) DIRECTION TO A TRUSTEE TO PERFORM OR TO REFRAIN FROM
3 PERFORMING A PARTICULAR ACT OR TO GRANT TO OR TO WITHHOLD FROM A
4 TRUSTEE ANY POWER.

5 (D) THE RESIGNATION OR APPOINTMENT OF A TRUSTEE AND THE
6 DETERMINATION OF A TRUSTEE'S COMPENSATION.

7 (E) TRANSFER OF A TRUST'S PRINCIPAL PLACE OF ADMINISTRATION.

8 (F) LIABILITY OF A TRUSTEE FOR AN ACTION RELATING TO THE
9 TRUST.

10 (4) ANY INTERESTED PERSON OR TRUSTEE MAY REQUEST THE COURT TO
11 APPROVE OR DISAPPROVE A NONJUDICIAL SETTLEMENT AGREEMENT. ON A
12 DETERMINATION THAT THE REPRESENTATION AS PROVIDED IN PART 3 WAS
13 ADEQUATE, THAT THE AGREEMENT DOES NOT VIOLATE A MATERIAL PURPOSE OF
14 THE TRUST, AND THAT THE AGREEMENT CONTAINS TERMS AND CONDITIONS THE
15 COURT COULD HAVE PROPERLY APPROVED, THE COURT SHALL ENTER AN ORDER
16 APPROVING THE AGREEMENT.

17 (5) AS USED IN THIS SECTION, "INTERESTED PERSONS" MEANS
18 PERSONS WHOSE CONSENT WOULD BE REQUIRED IN ORDER TO ACHIEVE A
19 BINDING SETTLEMENT WERE THE SETTLEMENT TO BE APPROVED BY THE COURT.

20 SEC. 7112. THE RULES OF CONSTRUCTION IN SECTIONS 2605, 2606,
21 2607, AND 2608 THAT APPLY IN THIS STATE TO THE INTERPRETATION OF
22 AND DISPOSITION OF PROPERTY BY WILL ALSO APPLY AS APPROPRIATE TO
23 THE INTERPRETATION OF THE TERMS OF A TRUST AND THE DISPOSITION OF
24 THE TRUST PROPERTY.

25 SEC. 7113. A PROVISION IN A TRUST THAT PURPORTS TO PENALIZE AN
26 INTERESTED PERSON FOR CONTESTING THE TRUST OR INSTITUTING ANOTHER
27 PROCEEDING RELATING TO THE TRUST SHALL NOT BE GIVEN EFFECT IF

1 PROBABLE CAUSE EXISTS FOR INSTITUTING A PROCEEDING CONTESTING THE
2 TRUST OR ANOTHER PROCEEDING RELATING TO THE TRUST.

3 PART 2

4 ~~COURT JURISDICTION CONCERNING TRUSTS~~

5 Sec. 7201. ~~(1) The court has exclusive jurisdiction of~~
6 ~~proceedings concerning trusts as provided in section 1302(b) and~~
7 ~~(d) and concurrent jurisdiction regarding matters affecting trusts~~
8 ~~as provided in section 1303.~~

9 ~~— (2) Neither registration of a trust nor another proceeding~~
10 ~~concerning a trust results in continuing supervisory proceedings.~~
11 ~~Subject to court jurisdiction as invoked by an interested person or~~
12 ~~as otherwise exercised as provided by law, the management and~~
13 ~~distribution of a trust estate, submission of an account or report~~
14 ~~to beneficiaries, payment of a trustee's fees and other trust~~
15 ~~obligations, acceptance and change of trusteeship, and any other~~
16 ~~aspect of trust administration shall proceed expeditiously~~
17 ~~consistent with the terms of the trust, free of judicial~~
18 ~~intervention, and without court order or approval, or other court~~
19 ~~action.~~

20 (1) A COURT OF THIS STATE MAY INTERVENE IN THE ADMINISTRATION
21 OF A TRUST TO THE EXTENT ITS JURISDICTION IS INVOKED BY AN
22 INTERESTED PERSON OR AS PROVIDED BY LAW.

23 (2) A TRUST IS NOT SUBJECT TO CONTINUING JUDICIAL SUPERVISION
24 UNLESS ORDERED BY THE COURT. REGISTRATION OF A TRUST OR ANOTHER
25 PROCEEDING CONCERNING A TRUST DOES NOT RESULT IN CONTINUING
26 JUDICIAL SUPERVISION UNLESS ORDERED BY THE COURT. SUBJECT TO COURT
27 JURISDICTION AS INVOKED BY AN INTERESTED PERSON OR AS OTHERWISE

1 EXERCISED AS PROVIDED BY LAW, THE MANAGEMENT AND DISTRIBUTION OF A
2 TRUST ESTATE, SUBMISSION OF AN ACCOUNT OR REPORT TO BENEFICIARIES,
3 PAYMENT OF A TRUSTEE'S FEES AND OTHER TRUST OBLIGATIONS, ACCEPTANCE
4 AND CHANGE OF TRUSTEESHIP, AND ANY OTHER ASPECT OF TRUST
5 ADMINISTRATION SHALL PROCEED EXPEDITIOUSLY CONSISTENT WITH THE
6 TERMS OF THE TRUST, FREE OF JUDICIAL INTERVENTION, AND WITHOUT
7 COURT ORDER OR APPROVAL OR OTHER COURT ACTION.

8 (3) A PROCEEDING INVOLVING A TRUST MAY RELATE TO ANY MATTER
9 INVOLVING THE TRUST'S ADMINISTRATION, INCLUDING A REQUEST FOR
10 INSTRUCTIONS AND A DETERMINATION REGARDING THE VALIDITY, INTERNAL
11 AFFAIRS, OR SETTLEMENT OF A TRUST; THE ADMINISTRATION,
12 DISTRIBUTION, MODIFICATION, REFORMATION, OR TERMINATION OF A TRUST;
13 OR THE DECLARATION OF RIGHTS THAT INVOLVE A TRUST, TRUSTEE, OR
14 TRUST BENEFICIARY, INCLUDING PROCEEDINGS TO DO ANY OF THE
15 FOLLOWING:

16 (A) APPOINT OR REMOVE A TRUSTEE.

17 (B) REVIEW THE FEES OF A TRUSTEE.

18 (C) REQUIRE, HEAR, AND SETTLE INTERIM OR FINAL ACCOUNTS.

19 (D) ASCERTAIN BENEFICIARIES.

20 (E) DETERMINE A QUESTION THAT ARISES IN THE ADMINISTRATION OR
21 DISTRIBUTION OF A TRUST, INCLUDING A QUESTION OF CONSTRUCTION OF A
22 TRUST.

23 (F) INSTRUCT A TRUSTEE AND DETERMINE RELATIVE TO A TRUSTEE THE
24 EXISTENCE OR NONEXISTENCE OF AN IMMUNITY, POWER, PRIVILEGE, DUTY,
25 OR RIGHT.

26 (G) RELEASE REGISTRATION OF A TRUST.

27 (H) DETERMINE AN ACTION OR PROCEEDING THAT INVOLVES SETTLEMENT

1 OF AN IRREVOCABLE TRUST.

2 Sec. 7202. ~~Venue for a proceeding under section 7201 involving~~
3 ~~a registered trust is in the place of registration. Venue for a~~
4 ~~proceeding under section 7201 involving a trust not registered in~~
5 ~~this state is in any place where the trust properly could have been~~
6 ~~registered and as otherwise specified by the rules of civil~~
7 ~~procedure.~~

8 (1) BY REGISTERING A TRUST OR ACCEPTING THE TRUSTEESHIP OF A
9 REGISTERED TRUST OR A TRUST HAVING ITS PRINCIPAL PLACE OF
10 ADMINISTRATION IN THIS STATE OR BY MOVING THE PRINCIPAL PLACE OF
11 ADMINISTRATION TO THIS STATE, THE TRUSTEE SUBMITS PERSONALLY TO THE
12 JURISDICTION OF THE COURTS OF THIS STATE REGARDING ANY MATTER
13 INVOLVING THE TRUST. NOTICE OF A PROCEEDING SHALL BE GIVEN TO THE
14 TRUSTEE IN ACCORDANCE WITH SECTION 1401 AT THE TRUSTEE'S ADDRESS AS
15 STATED IN THE REGISTRATION OR AS REPORTED TO THE COURT AND TO THE
16 TRUSTEE'S ADDRESS THEN KNOWN TO THE PETITIONER.

17 (2) FOR PURPOSES OF A PROCEEDING COMMENCED BY A TRUST
18 BENEFICIARY BEFORE REGISTRATION, A TRUSTEE OF A TRUST THAT IS NOT
19 REGISTERED IN A PROPER PLACE IS SUBJECT TO THE PERSONAL
20 JURISDICTION OF A COURT IN WHICH THE TRUST COULD HAVE BEEN
21 REGISTERED. IN ADDITION, A TRUSTEE WHO, WITHIN 28 DAYS AFTER
22 RECEIPT OF A WRITTEN DEMAND BY A TRUST SETTLOR OR BENEFICIARY,
23 FAILS TO REGISTER A TRUST AS REQUIRED BY THE TERMS OF THE TRUST IS
24 SUBJECT TO REMOVAL AND DENIAL OF COMPENSATION OR TO SURCHARGE AS
25 THE COURT MAY DIRECT.

26 (3) WITH RESPECT TO THEIR INTERESTS IN THE TRUST, THE
27 BENEFICIARIES OF A TRUST HAVING ITS PRINCIPAL PLACE OF

1 ADMINISTRATION OR HAVING BEEN PROPERLY REGISTERED IN THIS STATE ARE
2 SUBJECT TO THE JURISDICTION OF THE COURTS OF THIS STATE REGARDING
3 ANY MATTER INVOLVING THE TRUST. BY ACCEPTING A DISTRIBUTION FROM
4 SUCH A TRUST, THE RECIPIENT SUBMITS PERSONALLY TO THE JURISDICTION
5 OF THE COURTS OF THIS STATE REGARDING ANY MATTER INVOLVING THE
6 TRUST.

7 (4) THIS SECTION DOES NOT PRECLUDE OTHER METHODS OF OBTAINING
8 JURISDICTION OVER A TRUSTEE, BENEFICIARY, OR OTHER PERSON WHO
9 RECEIVES PROPERTY FROM THE TRUST.

10 Sec. 7203. ~~(1) If a party objects, the court shall not~~
11 ~~entertain a proceeding under section 7201 involving a trust~~
12 ~~registered or having its principal place of administration in~~
13 ~~another state, unless either of the following applies:~~

14 ~~—— (a) All appropriate parties could not be bound by litigation~~
15 ~~in the courts of the state where the trust is registered or has its~~
16 ~~principal place of administration.~~

17 ~~—— (b) If the interests of justice would otherwise seriously be~~
18 ~~impaired.~~

19 ~~—— (2) The court may condition a stay or dismissal of a~~
20 ~~proceeding under this section on the consent of a party to~~
21 ~~jurisdiction of the state in which the trust is registered or has~~
22 ~~its principal place of business, or the court may grant a~~
23 ~~continuance or enter another appropriate order.~~

24 (1) THE COURT HAS EXCLUSIVE JURISDICTION OF PROCEEDINGS IN
25 THIS STATE BROUGHT BY A TRUSTEE OR BENEFICIARY THAT CONCERN THE
26 ADMINISTRATION OF A TRUST AS PROVIDED IN SECTION 1302(B) AND (D).

27 (2) THE COURT HAS CONCURRENT JURISDICTION WITH OTHER COURTS OF

1 THIS STATE OF OTHER PROCEEDINGS THAT INVOLVE A TRUST AS PROVIDED IN
2 SECTION 1303.

3 Sec. 7204. ~~The court where a trust is registered has~~
4 ~~concurrent jurisdiction with other courts of this state of an~~
5 ~~action or proceeding to determine the existence or nonexistence of~~
6 ~~the trust if created other than by will, of an action or proceeding~~
7 ~~against a creditor or debtor of the trust, and of another action or~~
8 ~~proceeding involving a trustee and a third party. Venue is~~
9 ~~determined by the rules generally applicable to civil actions.~~

10 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2), VENUE FOR
11 A PROCEEDING INVOLVING A TRUST IS AS FOLLOWS:

12 (A) FOR A PROCEEDING UNDER SECTION 7203 INVOLVING A REGISTERED
13 TRUST, IN THE PLACE OF REGISTRATION.

14 (B) FOR A PROCEEDING UNDER SECTION 7203 INVOLVING A TRUST NOT
15 REGISTERED IN THIS STATE, IN ANY PLACE WHERE THE TRUST PROPERLY
16 COULD BE REGISTERED AND, IF THE TRUST IS CREATED BY WILL AND THE
17 ESTATE IS NOT YET CLOSED, IN THE COUNTY IN WHICH THE DECEDENT'S
18 ESTATE IS BEING ADMINISTERED.

19 (C) AS OTHERWISE SPECIFIED BY THE RULES OF CIVIL PROCEDURE.

20 (2) IF A TRUST HAS NO TRUSTEE AND HAS NOT BEEN REGISTERED,
21 VENUE FOR A JUDICIAL PROCEEDING FOR THE APPOINTMENT OF A TRUSTEE IS
22 IN A COUNTY OF THIS STATE IN WHICH A TRUST BENEFICIARY RESIDES, IN
23 A COUNTY IN WHICH ANY TRUST PROPERTY IS LOCATED, AND IF THE TRUST
24 IS CREATED BY WILL, IN THE COUNTY IN WHICH THE DECEDENT'S ESTATE
25 WAS OR IS BEING ADMINISTERED.

26 Sec. 7205. ~~On petition of an interested person, after notice~~
27 ~~to all interested persons, the court may review the propriety of~~

1 ~~employment of a person by a trustee including an attorney, auditor,~~
2 ~~investment advisor, or other specialized agent or assistant, and~~
3 ~~the reasonableness of the compensation of a person so employed and~~
4 ~~the reasonableness of the compensation determined by the trustee~~
5 ~~for the trustee's own services. The court may order a person who~~
6 ~~receives excessive compensation from a trust to make an appropriate~~
7 ~~refund.~~

8 (1) IF A PARTY OBJECTS, THE COURT SHALL NOT ENTERTAIN A
9 PROCEEDING UNDER SECTION 7203 THAT INVOLVES A TRUST THAT IS
10 REGISTERED OR THAT HAS ITS PRINCIPAL PLACE OF ADMINISTRATION IN
11 ANOTHER STATE, UNLESS EITHER OF THE FOLLOWING APPLIES:

12 (A) ALL APPROPRIATE PARTIES COULD NOT BE BOUND BY LITIGATION
13 IN THE COURTS OF THE STATE WHERE THE TRUST IS REGISTERED OR HAS ITS
14 PRINCIPAL PLACE OF ADMINISTRATION.

15 (B) THE INTERESTS OF JUSTICE WOULD OTHERWISE BE SERIOUSLY
16 IMPAIRED.

17 (2) THE COURT MAY CONDITION A STAY OR DISMISSAL OF A
18 PROCEEDING UNDER THIS SECTION ON THE CONSENT OF A PARTY TO
19 JURISDICTION OF THE STATE IN WHICH THE TRUST IS REGISTERED OR HAS
20 ITS PRINCIPAL PLACE OF BUSINESS, GRANT A CONTINUANCE, OR ENTER
21 ANOTHER APPROPRIATE ORDER.

22 Sec. 7206. ~~A proceeding under section 7201 is initiated by~~
23 ~~filing a petition in the court and giving notice to interested~~
24 ~~persons as provided in section 1401. The court may order~~
25 ~~notification of additional persons. A judgment or order binds each~~
26 ~~person who is given notice of the proceeding even if not all~~
27 ~~interested persons are notified. THE COURT WHERE A TRUST IS~~

1 REGISTERED HAS CONCURRENT JURISDICTION WITH OTHER COURTS OF THIS
2 STATE OF AN ACTION OR PROCEEDING TO DETERMINE THE EXISTENCE OR
3 NONEXISTENCE OF THE TRUST IF CREATED OTHER THAN BY WILL, OF AN
4 ACTION OR PROCEEDING AGAINST A CREDITOR OR DEBTOR OF THE TRUST, AND
5 OF ANOTHER ACTION OR PROCEEDING THAT INVOLVES A TRUSTEE AND A THIRD
6 PARTY.

7 Sec. 7207. ~~(1) On petition of an interested person, the court~~
8 ~~may approve an interpretation, construction, modification, or other~~
9 ~~settlement that is agreed upon in writing by all presently~~
10 ~~identified and competent beneficiaries whose interests in the trust~~
11 ~~may be affected to resolve a contest, controversy, or question of~~
12 ~~construction or interpretation concerning the existence,~~
13 ~~administration, or termination of an irrevocable trust.~~

14 ~~—— (2) If the present or future interest of an unborn,~~
15 ~~unascertained, missing, or disappeared person; of a trustee or a~~
16 ~~trust beneficiary described in the trust document but not yet~~
17 ~~established; or of a minor or other person without legal capacity~~
18 ~~is not represented or is not represented adequately under the~~
19 ~~provisions of section 1209 or section 1403, the court may appoint 1~~
20 ~~or more guardians ad litem to represent the interest or interests.~~

21 ~~—— (3) The court shall approve an agreement described in~~
22 ~~subsection (1) if it appears to have been reached in good faith and~~
23 ~~its effects are just and reasonable under all of the relevant facts~~
24 ~~and circumstances.~~

25 ~~—— (4) The order in response to a petition under subsection (1)~~
26 ~~is binding on each party who is represented in the proceeding and~~
27 ~~on others in accordance with section 1403(b). After issuance of the~~

1 ~~order, the agreement as approved by the court shall be considered a~~
2 ~~part of the governing instrument of the trust.~~ ON PETITION OF AN
3 INTERESTED PERSON, AFTER NOTICE TO ALL OTHER INTERESTED PERSONS,
4 THE COURT MAY REVIEW THE PROPRIETY OF THE EMPLOYMENT OF A PERSON BY
5 A TRUSTEE INCLUDING AN ATTORNEY, AUDITOR, INVESTMENT ADVISOR, OR
6 OTHER SPECIALIZED AGENT OR ASSISTANT AND THE REASONABLENESS OF THE
7 COMPENSATION OF THE PERSON SO EMPLOYED OR THE REASONABLENESS OF THE
8 COMPENSATION DETERMINED BY THE TRUSTEE FOR THE TRUSTEE'S OWN
9 SERVICES. THE COURT MAY ORDER A PERSON WHO RECEIVES EXCESSIVE
10 COMPENSATION FROM A TRUST TO MAKE AN APPROPRIATE REFUND.

11 SEC. 7208. A PROCEEDING UNDER SECTION 7203 IS INITIATED BY
12 FILING A PETITION IN THE COURT AND GIVING NOTICE TO INTERESTED
13 PERSONS AS PROVIDED IN SECTION 1401. THE COURT MAY ORDER
14 NOTIFICATION OF ADDITIONAL PERSONS. A JUDGMENT OR ORDER BINDS EACH
15 PERSON WHO IS GIVEN NOTICE OF THE PROCEEDING EVEN IF NOT ALL
16 INTERESTED PERSONS ARE NOTIFIED.

17 SEC. 7209. (1) THE TRUSTEE OF A TRUST THAT HAS ITS PRINCIPAL
18 PLACE OF ADMINISTRATION IN THIS STATE MAY REGISTER THE TRUST IN THE
19 COURT AT THE PLACE DESIGNATED IN THE TERMS OF THE TRUST OR, IF NONE
20 IS DESIGNATED, THEN AT THE PRINCIPAL PLACE OF ADMINISTRATION. FOR
21 PURPOSES OF THIS ARTICLE, THE PRINCIPAL PLACE OF THE TRUST'S
22 ADMINISTRATION IS THE TRUSTEE'S USUAL PLACE OF BUSINESS WHERE THE
23 RECORDS PERTAINING TO THE TRUST ARE KEPT OR THE TRUSTEE'S RESIDENCE
24 IF THE TRUSTEE DOES NOT HAVE SUCH A PLACE OF BUSINESS. FOR A
25 CORPORATE TRUSTEE, THE USUAL PLACE OF BUSINESS IS THE BUSINESS
26 LOCATION OF THE PRIMARY TRUST OFFICER FOR THE TRUST.

27 (2) FOR COTRUSTEES, IF NOT DESIGNATED IN THE TERMS OF THE

1 TRUST, THE PRINCIPAL PLACE OF ADMINISTRATION IS 1 OF THE FOLLOWING:

2 (A) IF THERE IS ONLY 1 CORPORATE COTRUSTEE, THE CORPORATE
3 TRUSTEE'S USUAL PLACE OF BUSINESS.

4 (B) IF THERE IS ONLY 1 PROFESSIONAL FIDUCIARY WHO IS AN
5 INDIVIDUAL AND NO CORPORATE TRUSTEE, THE PROFESSIONAL FIDUCIARY'S
6 USUAL PLACE OF BUSINESS OR RESIDENCE.

7 (C) IF NEITHER SUBDIVISION (A) NOR (B) APPLIES, THE USUAL
8 PLACE OF BUSINESS OR RESIDENCE OF ANY OF THE COTRUSTEES AS AGREED
9 UPON BY THEM.

10 SEC. 7210. (1) A TRUST IS REGISTERED BY THE FILING OF A
11 STATEMENT THAT STATES THE TRUSTEE'S NAME AND ADDRESS AND IN WHICH
12 THE TRUSTEE ACKNOWLEDGES THE TRUSTEESHIP. THE STATEMENT SHALL
13 INDICATE IF THE TRUST HAS BEEN REGISTERED ELSEWHERE. THE STATEMENT
14 SHALL IDENTIFY THE TRUST IN 1 OF THE FOLLOWING MANNERS:

15 (A) FOR A TESTAMENTARY TRUST, BY THE NAME OF THE TESTATOR AND
16 THE DATE AND PLACE OF DOMICILIARY PROBATE.

17 (B) FOR A WRITTEN INTER-VIVOS TRUST, BY THE NAME OF EACH
18 SETTLOR AND THE ORIGINAL TRUSTEE AND THE DATE OF THE TRUST
19 INSTRUMENT AND ALL AMENDMENTS EXISTING ON THE DATE OF REGISTRATION.

20 (C) FOR AN ORAL TRUST, BY INFORMATION IDENTIFYING THE SETTLOR
21 OR OTHER SOURCE OF PROPERTY AND DESCRIBING THE TRUST'S TIME AND
22 MANNER OF CREATION AND THE TERMS OF THE TRUST, INCLUDING THE
23 SUBJECT MATTER, BENEFICIARIES, AND TIME OF PERFORMANCE.

24 (2) THE TRUST INSTRUMENT IS NOT REQUIRED TO BE FILED WITH THE
25 COURT AS PART OF THE REGISTRATION OF A TRUST. IF A TRUST IS
26 REGISTERED ELSEWHERE, REGISTRATION IN THIS STATE IS INEFFECTIVE
27 UNTIL THE EARLIER REGISTRATION IS RELEASED BY ORDER OF THE COURT

1 WHERE THAT REGISTRATION OCCURRED OR BY AN INSTRUMENT EXECUTED BY
2 THE TRUSTEE AND ALL QUALIFIED TRUST BENEFICIARIES. THE ORDER OR
3 INSTRUMENT SHALL BE FILED WITH THE REGISTRATION IN THIS STATE.

4 SEC. 7211. A FOREIGN CORPORATE TRUSTEE IS REQUIRED TO QUALIFY
5 AS A FOREIGN CORPORATION DOING BUSINESS IN THIS STATE IF IT
6 MAINTAINS A TRUST'S PRINCIPAL PLACE OF ADMINISTRATION IN THIS
7 STATE. A FOREIGN COTRUSTEE IS NOT REQUIRED TO QUALIFY IN THIS STATE
8 SOLELY BECAUSE ITS COTRUSTEE MAINTAINS THE PRINCIPAL PLACE OF
9 ADMINISTRATION IN THIS STATE. UNLESS OTHERWISE DOING BUSINESS IN
10 THIS STATE, LOCAL QUALIFICATION BY A FOREIGN TRUSTEE, CORPORATE OR
11 INDIVIDUAL, IS NOT REQUIRED FOR THE TRUSTEE TO RECEIVE DISTRIBUTION
12 FROM A LOCAL ESTATE, TO HOLD, INVEST IN, MANAGE, OR ACQUIRE
13 PROPERTY LOCATED IN THIS STATE, OR TO MAINTAIN LITIGATION. THIS
14 SECTION DOES NOT AFFECT A DETERMINATION OF WHAT OTHER ACTS REQUIRE
15 QUALIFICATION AS DOING BUSINESS IN THIS STATE.

16 PART 3

17 ~~DUTIES AND LIABILITIES OF TRUSTEES~~

18 Sec. 7301. ~~Except as specifically provided, the general duty~~
19 ~~of a trustee to administer a trust expeditiously for the benefit of~~
20 ~~the beneficiaries is not altered by this act.~~

21 (1) NOTICE TO A PERSON WHO MAY REPRESENT AND BIND ANOTHER
22 PERSON UNDER THIS PART HAS THE SAME EFFECT AS IF NOTICE WERE GIVEN
23 DIRECTLY TO THE OTHER PERSON.

24 (2) THE CONSENT OF A PERSON WHO MAY REPRESENT AND BIND ANOTHER
25 PERSON UNDER THIS PART IS BINDING ON THE PERSON REPRESENTED UNLESS
26 THE PERSON REPRESENTED OBJECTS TO THE REPRESENTATION BEFORE THE
27 CONSENT WOULD OTHERWISE HAVE BECOME EFFECTIVE.

1 (3) EXCEPT AS OTHERWISE PROVIDED IN SECTION 7602, A PERSON WHO
2 UNDER THIS PART MAY REPRESENT A SETTLOR WHO LACKS CAPACITY MAY
3 RECEIVE NOTICE AND FOR PURPOSES OF SECTION 7602 MAY GIVE A BINDING
4 CONSENT ON THE SETTLOR'S BEHALF.

5 (4) A SETTLOR MAY NOT REPRESENT OR BIND A TRUST BENEFICIARY
6 UNDER THIS PART WITH RESPECT TO THE TERMINATION OR MODIFICATION OF
7 A TRUST UNDER SECTION 7411(1).

8 Sec. 7302. ~~Except as otherwise provided by the terms of the~~
9 ~~trust, the trustee shall act as would a prudent person in dealing~~
10 ~~with the property of another, including following the standards of~~
11 ~~the Michigan prudent investor rule. If the trustee has special~~
12 ~~skills or is named trustee on the basis of representation of~~
13 ~~special skills or expertise, the trustee is under a duty to use~~
14 ~~these skills.~~ THE HOLDER OF A POWER OF REVOCATION OR AMENDMENT OR A
15 PRESENTLY EXERCISABLE OR TESTAMENTARY GENERAL OR SPECIAL POWER OF
16 APPOINTMENT MAY REPRESENT AND BIND A PERSON WHOSE INTEREST, AS A
17 PERMISSIBLE APPOINTEE, TAKER IN DEFAULT, OR OTHERWISE, IS SUBJECT
18 TO THE POWER. FOR THE PURPOSE, HOWEVER, OF GRANTING CONSENT OR
19 APPROVAL TO MODIFICATION OR TERMINATION OF A TRUST OR TO DEVIATION
20 FROM ITS TERMS, INCLUDING CONSENT OR APPROVAL TO A SETTLEMENT
21 AGREEMENT DESCRIBED IN SECTION 7111, ONLY THE HOLDER OF A PRESENTLY
22 EXERCISABLE OR TESTAMENTARY GENERAL POWER OF APPOINTMENT MAY
23 REPRESENT AND BIND SUCH A PERSON.

24 Sec. 7303. ~~(1) Subject to subsection (2), the trustee of a~~
25 ~~revocable trust shall keep the settlor reasonably informed of the~~
26 ~~trust and its administration. Unless otherwise provided in the~~
27 ~~trust instrument, the trustee of a revocable trust does not have a~~

~~1 duty to inform a trust beneficiary of the trust and its
2 administration, other than the settlor or, if the settlor is an
3 incapacitated person, the settlor's designated agent.~~

~~4 ——— (2) Unless otherwise provided in the trust instrument, if the
5 trustee reasonably believes the settlor of a revocable trust is an
6 incapacitated person and has no designated agent, the trustee shall
7 keep each beneficiary, who, if the settlor were then deceased,
8 would be a current trust beneficiary, reasonably informed of the
9 trust and its administration. Notwithstanding the provisions of the
10 trust instrument, upon good cause shown, the court may order the
11 trustee to keep other beneficiaries reasonably informed of the
12 trust and its administration.~~

~~13 ——— (3) For a revocable trust, within 28 days after acceptance of
14 trust or the death of the settlor, whichever is later, and for all
15 other trusts, within 28 days after acceptance of the trust, the
16 trustee shall inform in writing each interested trust beneficiary
17 of the trust's existence, of the court in which the trust is
18 registered, if it is registered, of the trustee's name and address,
19 and of the interested trust beneficiary's right to request and
20 receive both a copy of the trust's terms that describe or affect
21 the interested trust beneficiary's interest and relevant
22 information about the trust property. In addition, all of the
23 following apply:~~

~~24 ——— (a) Upon reasonable request, the trustee shall provide a
25 beneficiary with a copy of the trust's terms that describe or
26 affect the beneficiary's interest and with relevant information
27 about the trust property.~~

1 ~~—— (b) Unless the settlor directs or requests in the trust~~
2 ~~instrument that the trustee provide accounts to less than all~~
3 ~~interested trust beneficiaries, all of the following apply:~~

4 ~~—— (i) At least annually and on termination of the trust or a~~
5 ~~change of the trustee, the trustee shall provide a statement of~~
6 ~~account to each current trust beneficiary and shall keep each~~
7 ~~current trust beneficiary informed of the trust and its~~
8 ~~administration.~~

9 ~~—— (ii) Upon reasonable request, the trustee shall provide a~~
10 ~~statement of account to each interested trust beneficiary who is~~
11 ~~not also a current trust beneficiary and shall keep each of those~~
12 ~~persons reasonably informed of the trust and its administration.~~

13 ~~—— (iii) The trustee shall provide a statement of account and other~~
14 ~~information to a beneficiary as the court directs.~~

15 ~~—— (iv) In the trustee's discretion, the trustee may provide a~~
16 ~~statement of account and other information to any beneficiary.~~

17 ~~—— (c) If the settlor requests or directs the trustee in the~~
18 ~~trust instrument to provide accounts and information to less than~~
19 ~~all interested trust beneficiaries, the trustee shall provide~~
20 ~~statements of account and information as provided in the trust~~
21 ~~instrument. At the court's direction, the trustee shall provide~~
22 ~~statements of account and other information to persons excluded by~~
23 ~~the settlor's request or direction to the extent and in the manner~~
24 ~~the court directs.~~

25 ~~—— (d) A statement of account under this section is a report by~~
26 ~~the trustee that shall, at a minimum, list the trust assets, if~~
27 ~~feasible giving their market values, the trust liabilities,~~

1 ~~receipts, and disbursements, and state the source and amount of the~~
2 ~~trustee's compensation. A particular format or formality is not~~
3 ~~required for a report or statement of account under this section~~
4 ~~unless a court specifies its content and manner of presentation. TO~~

5 THE EXTENT THERE IS NO CONFLICT OF INTEREST BETWEEN THE
6 REPRESENTATIVE AND THE PERSON REPRESENTED OR AMONG THOSE BEING
7 REPRESENTED WITH RESPECT TO A PARTICULAR QUESTION OR DISPUTE, ALL
8 OF THE FOLLOWING APPLY:

9 (A) A CONSERVATOR, PLENARY GUARDIAN, OR PARTIAL GUARDIAN MAY
10 REPRESENT AND BIND THE ESTATE THAT THE CONSERVATOR, PLENARY
11 GUARDIAN, OR PARTIAL GUARDIAN CONTROLS.

12 (B) AN AGENT UNDER A DURABLE POWER OF ATTORNEY HAVING
13 AUTHORITY TO ACT MAY REPRESENT AND BIND THE PRINCIPAL IF A
14 CONSERVATOR, PLENARY GUARDIAN, OR PARTIAL GUARDIAN HAS NOT BEEN
15 APPOINTED.

16 (C) A GUARDIAN HAVING AUTHORITY TO ACT WITH RESPECT TO THE
17 TRUST MAY REPRESENT AND BIND THE WARD IF A CONSERVATOR OF THE
18 WARD'S ESTATE HAS NOT BEEN APPOINTED AND NO AGENT UNDER A DURABLE
19 POWER HAS AUTHORITY TO ACT.

20 (D) A TRUSTEE MAY REPRESENT AND BIND THE BENEFICIARIES OF THE
21 TRUST.

22 (E) A PERSONAL REPRESENTATIVE OF A DECEDENT'S ESTATE MAY
23 REPRESENT AND BIND PERSONS INTERESTED IN THE ESTATE.

24 (F) A PARENT MAY REPRESENT AND BIND THE PARENT'S MINOR OR
25 UNBORN CHILD IF A CONSERVATOR, PLENARY GUARDIAN, OR PARTIAL
26 GUARDIAN HAS NOT BEEN APPOINTED.

27 Sec. 7304. ~~A trustee need not provide bond to secure~~

1 ~~performance of the trustee's duties unless required by the terms of~~
2 ~~the trust, reasonably requested by a beneficiary, or found by the~~
3 ~~court to be necessary to protect the interests of the beneficiaries~~
4 ~~who are not able to protect themselves and whose interests are not~~
5 ~~otherwise adequately represented. On petition of the trustee or an~~
6 ~~interested person, the court may excuse a requirement of bond,~~
7 ~~reduce the amount of the bond, release the surety, or permit the~~
8 ~~substitution of another bond with the same or different sureties.~~
9 ~~If bond is required, the bond shall be filed in the court of~~
10 ~~registration or another appropriate court in an amount and with the~~
11 ~~sureties and liabilities as provided in sections 3604 and 3606~~
12 ~~relating to the bond of a personal representative. UNLESS OTHERWISE~~
13 ~~REPRESENTED, A MINOR, INCAPACITATED, OR UNBORN INDIVIDUAL, OR A~~
14 ~~PERSON WHOSE IDENTITY OR LOCATION IS UNKNOWN AND NOT REASONABLY~~
15 ~~ASCERTAINABLE, MAY BE REPRESENTED BY AND BOUND BY ANOTHER HAVING A~~
16 ~~SUBSTANTIALLY IDENTICAL INTEREST WITH RESPECT TO THE PARTICULAR~~
17 ~~QUESTION OR DISPUTE, BUT ONLY TO THE EXTENT THERE IS NO CONFLICT OF~~
18 ~~INTEREST BETWEEN THE REPRESENTATIVE AND THE PERSON REPRESENTED.~~

19 Sec. 7305. ~~A trustee is under a continuing duty to administer~~
20 ~~the trust at a place appropriate to the purposes of the trust and~~
21 ~~to its sound, efficient management. If the principal place of~~
22 ~~administration becomes inappropriate for any reason, the court may~~
23 ~~enter an order furthering efficient administration and the~~
24 ~~interests of beneficiaries, including, if appropriate, release of~~
25 ~~registration, removal of the trustee, and appointment of a trustee~~
26 ~~in another state. A trust provision relating to the place of~~
27 ~~administration, to changes in the place of administration, or to~~

1 ~~change of trustee controls unless compliance would be contrary to~~
2 ~~efficient administration or the purposes of the trust. The view of~~
3 ~~an adult beneficiary shall be given weight in determining the~~
4 ~~suitability of the trustee and the place of administration.~~

5 (1) IF THE COURT DETERMINES THAT AN INTEREST IS NOT
6 REPRESENTED UNDER THIS PART, OR THAT THE OTHERWISE AVAILABLE
7 REPRESENTATION MIGHT BE INADEQUATE, THE COURT MAY APPOINT A
8 GUARDIAN AD LITEM TO RECEIVE NOTICE, GIVE CONSENT, AND OTHERWISE
9 REPRESENT, BIND, AND ACT ON BEHALF OF A MINOR, INCAPACITATED, OR
10 UNBORN INDIVIDUAL, OR A PERSON WHOSE IDENTITY OR LOCATION IS
11 UNKNOWN. A GUARDIAN AD LITEM MAY BE APPOINTED TO REPRESENT SEVERAL
12 PERSONS OR INTERESTS.

13 (2) A GUARDIAN AD LITEM MAY ACT ON BEHALF OF THE INDIVIDUAL
14 REPRESENTED WITH RESPECT TO ANY MATTER ARISING UNDER THIS ARTICLE,
15 WHETHER OR NOT A JUDICIAL PROCEEDING CONCERNING THE TRUST IS
16 PENDING.

17 (3) IN MAKING DECISIONS, A GUARDIAN AD LITEM MAY CONSIDER THE
18 GENERAL BENEFIT ACCRUING TO THE LIVING MEMBERS OF THE INDIVIDUAL'S
19 FAMILY.

20 PART 4

21 ~~POWERS OF TRUSTEES~~

22 Sec. 7401. ~~(1) A trustee has the power to perform in a~~
23 ~~reasonable and prudent manner every act that a reasonable and~~
24 ~~prudent person would perform incident to the collection,~~
25 ~~preservation, management, use, and distribution of the trust~~
26 ~~property to accomplish the desired result of administering the~~
27 ~~trust legally and in the trust beneficiaries' best interest.~~

1 ~~—— (2) Subject to the standards described in subsection (1) and~~
2 ~~except as otherwise provided in the trust instrument, a trustee~~
3 ~~possesses all of the following specific powers:~~

4 ~~—— (a) To take possession, custody, or control of property~~
5 ~~transferred to the trust.~~

6 ~~—— (b) To retain property that the trustee receives, including~~
7 ~~property in which the trustee is personally interested, in~~
8 ~~accordance with the Michigan prudent investor rule.~~

9 ~~—— (c) To receive property from a fiduciary or another source~~
10 ~~that is acceptable to the trustee.~~

11 ~~—— (d) To perform, compromise, or refuse to perform a contract of~~
12 ~~the settlor that is an obligation of the trust, as the trustee may~~
13 ~~determine under the circumstances. In performing an enforceable~~
14 ~~contract by the settlor to convey or lease land, if the contract~~
15 ~~for a conveyance requires the giving of a warranty, the deed or~~
16 ~~other instrument of conveyance to be given by the trustee must~~
17 ~~contain the warranty required. The warranty is binding on the trust~~
18 ~~as though made by the settlor, but does not bind the trustee except~~
19 ~~in the trustee's fiduciary capacity. The trustee, among other~~
20 ~~possible courses of action, may do either of the following:~~

21 ~~—— (i) Execute and deliver a deed of conveyance for cash payment~~
22 ~~of money remaining due or the purchaser's note for the money~~
23 ~~remaining due secured by a mortgage on the land.~~

24 ~~—— (ii) Deliver a deed in escrow with directions that the~~
25 ~~proceeds, when paid in accordance with the escrow agreement, be~~
26 ~~paid to the trustee, as designated in the escrow agreement.~~

27 ~~—— (e) To satisfy a settlor's written charitable pledge~~

1 ~~irrespective of whether the pledge constitutes a binding obligation~~
2 ~~of the settlor or was properly presented as a claim, if in the~~
3 ~~trustee's judgment the settlor would have wanted the pledge~~
4 ~~completed under the circumstances.~~

5 ~~—— (f) To deposit trust money in a bank, including a bank~~
6 ~~operated by the trustee and to invest and reinvest trust property~~
7 ~~as would a prudent investor acting in accordance with the Michigan~~
8 ~~prudent investor rule.~~

9 ~~—— (g) To acquire property, including property in this or another~~
10 ~~state or country, in any manner for cash or on credit, at public or~~
11 ~~private sale; and to manage, develop, improve, exchange, partition,~~
12 ~~or change the character of trust property.~~

13 ~~—— (h) To make an ordinary or extraordinary repair or alteration~~
14 ~~in a building or another structure, to demolish an improvement, or~~
15 ~~to raze an existing or erect a new party wall or building.~~

16 ~~—— (i) To subdivide, develop, or dedicate land to public use; to~~
17 ~~make or obtain the vacation of a plat or adjust a boundary; to~~
18 ~~adjust a difference in valuation on exchange or partition by giving~~
19 ~~or receiving consideration; or to dedicate an easement to public~~
20 ~~use without consideration.~~

21 ~~—— (j) To enter for any purpose into a lease as lessor or lessee,~~
22 ~~with or without an option to purchase or renew, for any term.~~

23 ~~—— (k) To enter into a lease or arrangement for exploration and~~
24 ~~removal of minerals or another natural resource or to enter into a~~
25 ~~pooling or unitization agreement.~~

26 ~~—— (l) To abandon property if, in the trustee's opinion, the~~
27 ~~property is valueless, or is so encumbered or in such a condition~~

1 ~~that it is of no benefit to the trust.~~

2 ~~—— (m) To vote a stock or other security in person, by general or~~
3 ~~limited proxy, or in another manner provided by law.~~

4 ~~—— (n) To pay a call, assessment, or other amount chargeable or~~
5 ~~accruing against or on account of a security.~~

6 ~~—— (o) To hold property in the name of a nominee or in another~~
7 ~~form without disclosure of the interest of the trust. However, the~~
8 ~~trustee is liable for an act of the nominee in connection with the~~
9 ~~property so held.~~

10 ~~—— (p) To insure the trust property against damage, loss, or~~
11 ~~liability and to insure the trustee against liability as to a third~~
12 ~~person.~~

13 ~~—— (q) To borrow money for any purpose from the trustee or others~~
14 ~~and to mortgage or pledge trust property.~~

15 ~~—— (r) To effect a fair and reasonable compromise with a debtor~~
16 ~~or obligor, or extend, renew, or in any manner modify the terms of~~
17 ~~an obligation owing to the trust. If the trustee holds a mortgage,~~
18 ~~pledge, or another lien on property of another person, the trustee~~
19 ~~may, instead of foreclosure, accept a conveyance or transfer of~~
20 ~~encumbered property from the property's owner in satisfaction of~~
21 ~~the indebtedness secured by a lien.~~

22 ~~—— (s) To pay a tax, an assessment, the trustee's compensation,~~
23 ~~or another expense incident to the administration of the trust.~~

24 ~~—— (t) To sell or exercise a subscription or conversion right or~~
25 ~~to consent, directly or through a committee or another agent, to~~
26 ~~the reorganization, consolidation, merger, dissolution, or~~
27 ~~liquidation of a business enterprise.~~

1 ~~—— (u) To allocate an item of income or expense to either trust~~
2 ~~income or principal, as permitted or provided by law.~~

3 ~~—— (v) To employ, and pay reasonable compensation for services~~
4 ~~performed by, a person, including an auditor, investment advisor,~~
5 ~~accountant, appraiser, broker, custodian, rental agent, realtor, or~~
6 ~~agent, even if the person is associated with the trustee, for the~~
7 ~~purpose of advising or assisting the trustee in the performance of~~
8 ~~an administrative duty; to act without independent investigation~~
9 ~~upon such a person's recommendation; and, instead of acting~~
10 ~~personally, to employ 1 or more agents to perform an act of~~
11 ~~administration, whether or not discretionary.~~

12 ~~—— (w) To employ an attorney to perform necessary legal services~~
13 ~~or to advise or assist the trustee in the performance of the~~
14 ~~trustee's administrative duties, even if the attorney is associated~~
15 ~~with the trustee, and to act without independent investigation upon~~
16 ~~the attorney's recommendation. An attorney employed under this~~
17 ~~subdivision shall receive reasonable compensation for his or her~~
18 ~~employment.~~

19 ~~—— (x) To prosecute, defend, arbitrate, settle, release,~~
20 ~~compromise, or agree to indemnify a claim or proceeding in any~~
21 ~~jurisdiction or under an alternative dispute resolution procedure.~~
22 ~~The trustee may act under this subsection for the trustee's~~
23 ~~protection in the performance of the trustee's duties.~~

24 ~~—— (y) To sell, exchange, partition, or otherwise dispose of, or~~
25 ~~grant an option with respect to, trust property for any purpose~~
26 ~~upon any terms or conditions.~~

27 ~~—— (z) To continue or participate in a business or venture in any~~

- 1 manner, in any form, and for any length of time.
- 2 ~~—— (aa) To change the form, in any manner, of a business or~~
3 ~~venture in which the settlor was engaged at the time of death.~~
- 4 ~~—— (bb) To provide for exoneration of the trustee from personal~~
5 ~~liability in a contract entered into on behalf of the trust.~~
- 6 ~~—— (cc) To respond to environmental concerns and hazards~~
7 ~~affecting trust property as provided in section 7407.~~
- 8 ~~—— (dd) To collect, pay, contest, settle, release, agree to~~
9 ~~indemnify against, compromise, or abandon a claim of or against the~~
10 ~~trust, including a claim against the trust by the trustee.~~
- 11 ~~—— (ee) To respond to a tax matter as provided in section 7408.~~
- 12 ~~—— (ff) To divide trust property into 2 or more separate portions~~
13 ~~or trusts with substantially identical terms and conditions and to~~
14 ~~allocate property between them, in order to simplify administration~~
15 ~~for generation skipping transfer tax purposes, to segregate~~
16 ~~property for management purposes, or to meet another trust~~
17 ~~objective.~~
- 18 ~~—— (gg) To make a payment of money, or other property instead of~~
19 ~~money, to or for a minor or incapacitated individual as provided in~~
20 ~~section 7409.~~
- 21 ~~—— (hh) To make a distribution or division of trust property in~~
22 ~~cash or in kind, or both; to allot a different kind or~~
23 ~~disproportionate portion of, or an undivided interest in, trust~~
24 ~~property among beneficiaries and determine the value of allotted~~
25 ~~trust property; or to distribute an unclaimed share as described in~~
26 ~~section 3916.~~
- 27 ~~—— (ii) To transfer the property of a trust to another~~

1 ~~jurisdiction and appoint, compensate, or remove a successor~~
 2 ~~trustee, individual or corporate, for trust property in another~~
 3 ~~jurisdiction, with any trust powers set out in this part that the~~
 4 ~~trustee delegates to the successor trustee.~~

5 ~~—— (jj) To execute and deliver an instrument that accomplishes or~~
 6 ~~facilitates the exercise of a power vested in the trustee.~~

7 ~~—— (3) A trust that contains substantially identical provisions~~
 8 ~~as another trust established for the same beneficiary or~~
 9 ~~beneficiaries may be consolidated and administered as 1 trust. If~~
 10 ~~the rule against perpetuities speaks from different dates with~~
 11 ~~reference to the trusts or if there are other variations in terms,~~
 12 ~~consolidation may still take place, but the property of the trusts~~
 13 ~~shall be maintained in separate accounts if necessary to recognize~~
 14 ~~and give effect to the differences.~~

15 (1) A TRUST MAY BE CREATED BY ANY OF THE FOLLOWING:

16 (A) TRANSFER OF PROPERTY TO ANOTHER PERSON AS TRUSTEE DURING
 17 THE SETTLOR'S LIFETIME OR BY WILL OR OTHER DISPOSITION TAKING
 18 EFFECT UPON THE SETTLOR'S DEATH.

19 (B) DECLARATION BY THE OWNER OF PROPERTY THAT THE OWNER HOLDS
 20 IDENTIFIABLE PROPERTY AS TRUSTEE.

21 (C) EXERCISE OF A POWER OF APPOINTMENT IN FAVOR OF A TRUSTEE.

22 (D) A PROMISE BY 1 PERSON TO ANOTHER PERSON, WHOSE RIGHTS
 23 UNDER THE PROMISE ARE TO BE HELD IN TRUST FOR A THIRD PERSON.

24 (2) THE INSTRUMENT ESTABLISHING THE TERMS OF A TRUST IS NOT
 25 RENDERED INVALID BECAUSE PROPERTY OR AN INTEREST IN PROPERTY IS NOT
 26 TRANSFERRED TO THE TRUSTEE OR MADE SUBJECT TO THE TERMS OF THE
 27 TRUST CONCURRENTLY WITH THE SIGNING OF THE INSTRUMENT. UNTIL

1 PROPERTY OR AN INTEREST IN PROPERTY IS TRANSFERRED TO THE TRUSTEE
2 OR MADE SUBJECT TO THE TERMS OF THE TRUST, THE PERSON NOMINATED AS
3 TRUSTEE HAS NO FIDUCIARY OR OTHER OBLIGATIONS UNDER THE INSTRUMENT
4 ESTABLISHING THE TERMS OF THE TRUST EXCEPT AS MAY HAVE BEEN
5 SPECIFICALLY AGREED BY THE SETTLOR AND THE NOMINATED TRUSTEE.

6 ~~Sec. 7402. For cause shown and on the petition of the trustee~~
7 ~~or an affected beneficiary and on appropriate notice to the~~
8 ~~affected parties, the court may relieve a trustee from a~~
9 ~~restriction on the trustee's powers that would otherwise be placed~~
10 ~~on the trustee by the trust instrument or by this part.~~

11 (1) A TRUST IS CREATED ONLY IF ALL OF THE FOLLOWING APPLY:

12 (A) THE SETTLOR HAS CAPACITY TO CREATE A TRUST.

13 (B) THE SETTLOR INDICATES AN INTENTION TO CREATE THE TRUST.

14 (C) THE TRUST HAS A DEFINITE BENEFICIARY OR IS EITHER OF THE
15 FOLLOWING:

16 (i) A CHARITABLE TRUST.

17 (ii) A TRUST FOR A NONCHARITABLE PURPOSE OR FOR THE CARE OF AN
18 ANIMAL, AS PROVIDED IN SECTION 2722.

19 (D) THE TRUSTEE HAS DUTIES TO PERFORM.

20 (E) THE SAME PERSON IS NOT THE SOLE TRUSTEE AND SOLE
21 BENEFICIARY.

22 (2) A TRUST BENEFICIARY IS DEFINITE IF THE TRUST BENEFICIARY
23 CAN BE ASCERTAINED NOW OR IN THE FUTURE, SUBJECT TO ANY APPLICABLE
24 RULE AGAINST PERPETUITIES.

25 (3) A POWER IN A TRUSTEE TO SELECT A TRUST BENEFICIARY FROM AN
26 INDEFINITE CLASS IS VALID ONLY IN A CHARITABLE TRUST.

27 ~~Sec. 7403. (1) If the trustee's duty and the trustee's~~

1 ~~individual interest or the trustee's interest as a trustee of~~
2 ~~another trust conflict in the exercise of a trust power, the power~~
3 ~~may be exercised if any of the following are true:~~

4 ~~—— (a) The trust agreement expressly authorizes the transaction.~~

5 ~~—— (b) The transaction is approved by the court after notice to~~
6 ~~interested persons.~~

7 ~~—— (c) The transaction is otherwise permitted by statute.~~

8 ~~—— (2) Under this section, personal profit or advantage to an~~
9 ~~affiliated or subsidiary company or association is personal profit~~
10 ~~to a corporate trustee. A TRUST NOT CREATED BY WILL IS VALIDLY~~
11 ~~CREATED IF ITS CREATION COMPLIES WITH THE LAW OF THE JURISDICTION~~
12 ~~IN WHICH THE TRUST INSTRUMENT WAS EXECUTED OR THE LAW OF A~~
13 ~~JURISDICTION TO WHICH, AT THE TIME OF CREATION, ANY OF THE~~
14 ~~FOLLOWING APPLIED:~~

15 (A) THE SETTLOR WAS DOMICILED, HAD A PLACE OF ABODE, OR WAS A
16 NATIONAL IN THE JURISDICTION.

17 (B) A TRUSTEE WAS DOMICILED OR HAD A PLACE OF BUSINESS IN THE
18 JURISDICTION.

19 (C) ANY TRUST PROPERTY WAS LOCATED IN THE JURISDICTION.

20 Sec. 7404. ~~With respect to a third person dealing with a~~
21 ~~trustee or assisting a trustee in the conduct of a transaction, the~~
22 ~~existence of a trust power and its proper exercise by the trustee~~
23 ~~may be assumed without inquiry. The third person is not bound to~~
24 ~~inquire whether the trustee may act or is properly exercising the~~
25 ~~power. A third person, without actual knowledge that the trustee is~~
26 ~~exceeding a trust power or improperly exercising it, is fully~~
27 ~~protected in dealing with the trustee as if the trustee possessed~~

1 ~~and properly exercised the power the trustee purports to exercise.~~
2 ~~A third person is not bound to assure the proper application of~~
3 ~~trust property paid or delivered to the trustee. A TRUST MAY BE~~
4 **CREATED ONLY TO THE EXTENT ITS PURPOSES ARE LAWFUL, NOT CONTRARY TO**
5 **PUBLIC POLICY, AND POSSIBLE TO ACHIEVE.**

6 ~~Sec. 7405. Unless otherwise provided in the trust instrument,~~
7 ~~if 1 of several trustees dies, resigns, or is removed, the~~
8 ~~remaining trustees have all rights, title, and powers of all~~
9 ~~previous trustees. If the trust instrument provides that a~~
10 ~~successor trustee be appointed to fill a vacancy, the remaining~~
11 ~~trustees may exercise the powers of all previous trustees until the~~
12 ~~successor is appointed.~~

13 **(1) A CHARITABLE TRUST MAY BE CREATED FOR THE RELIEF OF**
14 **POVERTY, THE ADVANCEMENT OF EDUCATION OR RELIGION, THE PROMOTION OF**
15 **HEALTH, SCIENTIFIC, LITERARY, BENEVOLENT, GOVERNMENTAL, OR**
16 **MUNICIPAL PURPOSES, OR OTHER PURPOSES THE ACHIEVEMENT OF WHICH IS**
17 **BENEFICIAL TO THE COMMUNITY.**

18 **(2) IF THE TERMS OF A CHARITABLE TRUST DO NOT INDICATE A**
19 **PARTICULAR CHARITABLE PURPOSE OR BENEFICIARY, THE COURT MAY SELECT**
20 **1 OR MORE CHARITABLE PURPOSES OR BENEFICIARIES. THE SELECTION SHALL**
21 **BE CONSISTENT WITH THE SETTLOR'S INTENTION TO THE EXTENT IT CAN BE**
22 **ASCERTAINED.**

23 **(3) THE SETTLOR OR A NAMED BENEFICIARY OF A CHARITABLE TRUST,**
24 **OR THE ATTORNEY GENERAL OF THIS STATE, MAY MAINTAIN A PROCEEDING TO**
25 **ENFORCE THE TRUST. THE RIGHT OF THE SETTLOR OF A CHARITABLE TRUST**
26 **TO ENFORCE THE TRUST IS PERSONAL TO THE SETTLOR AND MAY NOT BE**
27 **EXERCISED BY ANY OF THE FOLLOWING:**

1 (A) THE SETTLOR'S HEIRS.

2 (B) THE SETTLOR'S FIDUCIARY, OTHER THAN THE TRUSTEE OF THE
3 CHARITABLE TRUST THE ENFORCEMENT OF WHICH IS BEING SOUGHT.

4 (C) AN AGENT OF THE SETTLOR ACTING PURSUANT TO A DURABLE POWER
5 OF ATTORNEY, UNLESS THE RIGHT TO ENFORCE THE TRUST IS EXPRESSLY
6 CONFERRED ON THE AGENT BY THE POWER OF ATTORNEY.

7 Sec. 7406. ~~(1) If there are 2 or more trustees and the trust
8 instrument expressly makes provision for the execution of any of
9 the trustees' powers by both or all of them or by any 1 or more of
10 them, the provisions of the trust instrument govern.~~

11 ~~—— (2) If there is no governing provision in the trust
12 instrument, cotrustees may provide, by written agreement signed by
13 all of them and filed with and approved by the court where the
14 trust would be registered, as determined in accordance with section
15 7101, that any 1 or more of the powers designated in section 7401
16 may be exercised by any designated 1 or more of the trustees.~~

17 ~~—— (3) Subject to subsection (1), if 2 or more trustees own
18 securities, their acts with respect to voting have 1 of the
19 following effects:~~

20 ~~—— (a) If only 1 trustee votes, in person or by proxy, that
21 trustee's act binds all of the trustees.~~

22 ~~—— (b) If more than 1 trustee votes, in person or by proxy, the
23 act of the majority so voting binds all of the trustees.~~

24 ~~—— (c) If more than 1 trustee votes, in person or by proxy, but
25 the vote is evenly split on a particular matter, each faction is
26 entitled to vote the securities proportionately.~~

27 ~~—— (4) Subject to subsections (1) to (3), all other acts and~~

1 ~~duties shall be performed by both of the trustees if there are 2 or~~
2 ~~by a majority of the trustees if there are more than 2. A trustee~~
3 ~~who has not joined in exercising a power is not liable to a~~
4 ~~beneficiary or another person for the consequences of the exercise~~
5 ~~of that power. A dissenting trustee is not liable for the~~
6 ~~consequences of an act in which the dissenting trustee joins at the~~
7 ~~direction of the other trustees, if the dissenting trustee~~
8 ~~expressed dissent in writing to a cotrustee at or before the time~~
9 ~~of joinder.~~

10 ~~—— (5) A trustee is not relieved of liability by entering into an~~
11 ~~agreement under this section. **A TRUST IS VOID TO THE EXTENT ITS**~~
12 ~~**CREATION WAS INDUCED BY FRAUD, DURESS, OR UNDUE INFLUENCE.**~~

13 ~~Sec. 7407. (1) In connection with an environmental concern or~~
14 ~~hazard, a trustee may do any of the following:~~

15 ~~—— (a) Inspect property or the operation of a business activity~~
16 ~~on property, including property held in or operated by a sole~~
17 ~~proprietorship, partnership, corporation, or limited liability~~
18 ~~company or any other type of entity, for the purpose of determining~~
19 ~~compliance with environmental law affecting the property and to~~
20 ~~respond to an actual or threatened violation of an environmental~~
21 ~~law affecting property held or tendered to the trustee.~~

22 ~~—— (b) Take action necessary to prevent, abate, or otherwise~~
23 ~~remedy an actual or threatened violation of an environmental law~~
24 ~~affecting property held by the trustee, either before or after a~~
25 ~~governmental body initiates an enforcement action.~~

26 ~~—— (c) Refuse to accept property in trust if the trustee~~
27 ~~determines that the property to be transferred to the trust either~~

1 ~~is or may be contaminated by a hazardous substance or has been or~~
2 ~~is being used for an activity directly or indirectly involving a~~
3 ~~hazardous substance that could result in liability to the trust or~~
4 ~~otherwise impair the value of the trust property.~~

5 ~~—— (d) Settle or compromise at any time a claim against the trust~~
6 ~~that a governmental body or private party may assert involving the~~
7 ~~alleged violation of an environmental law affecting property held~~
8 ~~in the trust.~~

9 ~~—— (e) Disclaim a power granted by a document, statute, or rule~~
10 ~~of law that, in the sole discretion of the trustee, may cause the~~
11 ~~trustee to incur personal liability under an environmental law.~~

12 ~~—— (f) Decline to serve or resign as a trustee if the trustee~~
13 ~~reasonably believes that there is or may be a conflict of interest~~
14 ~~between it in its fiduciary capacity and in its individual capacity~~
15 ~~because of a potential claim or liability that may be asserted~~
16 ~~against the trustee on the trust's behalf because of the type or~~
17 ~~condition of property held in trust.~~

18 ~~—— (g) Appoint an independent special trustee to hold title to,~~
19 ~~and take a reasonably required action, as provided in this section,~~
20 ~~relating to environmental law in regard to, property tendered to~~
21 ~~the trust, until the time that the trustee determines no~~
22 ~~substantial risk exists if the tendered property becomes part of~~
23 ~~the trust property or abandons the tendered property.~~

24 ~~—— (h) Charge the cost of an inspection, review, abatement,~~
25 ~~response, cleanup, settlement of claim, or remedial action~~
26 ~~authorized by this section against the trust property.~~

27 ~~—— (2) A trustee is not personally liable to a beneficiary or~~

1 ~~other party for a decrease in value of trust property by reason of~~
2 ~~the trustee's compliance with an environmental law, specifically~~
3 ~~including a reporting requirement under that law. The trustee's~~
4 ~~acceptance of property or failure to inspect property or a business~~
5 ~~operation does not create an inference that there is or may be~~
6 ~~liability under an environmental law with respect to the property~~
7 ~~or business operation. The authority granted by this section is~~
8 ~~solely to facilitate the administration and protection of trust~~
9 ~~property and is not to impose greater responsibility or liability~~
10 ~~on the trustee than imposed by law absent this section. EXCEPT AS~~
11 ~~REQUIRED BY A STATUTE OTHER THAN THIS ARTICLE, A TRUST NEED NOT BE~~
12 ~~EVIDENCED BY A TRUST INSTRUMENT, BUT THE CREATION OF AN ORAL TRUST~~
13 ~~AND ITS TERMS MAY BE ESTABLISHED ONLY BY CLEAR AND CONVINCING~~
14 ~~EVIDENCE.~~

15 ~~Sec. 7410. Unless the distribution or payment can no longer be~~
16 ~~questioned because of adjudication, estoppel, or other limitation,~~
17 ~~a distributee or claimant that receives property that is improperly~~
18 ~~distributed or paid from a trust shall return the property and any~~
19 ~~income and gain from the property since distribution, if the~~
20 ~~recipient has the property. If the recipient does not have the~~
21 ~~property, the recipient shall pay the value of the property as of~~
22 ~~the date of distribution or payment and any income and gain from~~
23 ~~the property since distribution.~~

24 ~~(1) IN ADDITION TO THE METHODS OF TERMINATION PRESCRIBED BY~~
25 ~~SECTIONS 7411 THROUGH 7414, A TRUST TERMINATES TO THE EXTENT THE~~
26 ~~TRUST IS REVOKED OR EXPIRES PURSUANT TO ITS TERMS, NO PURPOSE OF~~
27 ~~THE TRUST REMAINS TO BE ACHIEVED, OR THE PURPOSES OF THE TRUST HAVE~~

1 BECOME IMPOSSIBLE TO ACHIEVE OR ARE FOUND BY A COURT TO BE UNLAWFUL
2 OR CONTRARY TO PUBLIC POLICY.

3 (2) A PROCEEDING TO CONFIRM THE TERMINATION OF A TRUST UNDER
4 SUBSECTION (1) OR TO APPROVE OR DISAPPROVE A PROPOSED MODIFICATION
5 OR TERMINATION UNDER SECTIONS 7411 TO 7416 OR TRUST COMBINATION OR
6 DIVISION UNDER SECTION 7417 MAY BE COMMENCED BY A TRUSTEE OR
7 BENEFICIARY. A PROCEEDING TO MODIFY A CHARITABLE TRUST UNDER
8 SECTION 7413 MAY BE COMMENCED BY THE PERSONS WITH THE POWER TO
9 ENFORCE THE TERMS OF A CHARITABLE TRUST PURSUANT TO SECTION 7405.

10 SEC. 7411. (1) SUBJECT TO SUBSECTION (2), A NONCHARITABLE
11 IRREVOCABLE TRUST MAY BE MODIFIED OR TERMINATED IN ANY OF THE
12 FOLLOWING WAYS:

13 (A) BY THE COURT UPON THE CONSENT OF THE TRUSTEE AND THE
14 QUALIFIED TRUST BENEFICIARIES, IF THE COURT CONCLUDES THAT THE
15 MODIFICATION OR TERMINATION OF THE TRUST IS CONSISTENT WITH THE
16 MATERIAL PURPOSES OF THE TRUST OR THAT CONTINUANCE OF THE TRUST IS
17 NOT NECESSARY TO ACHIEVE ANY MATERIAL PURPOSE OF THE TRUST.

18 (B) UPON THE CONSENT OF THE QUALIFIED TRUST BENEFICIARIES AND
19 A TRUST PROTECTOR WHO IS GIVEN THE POWER UNDER THE TERMS OF THE
20 TRUST TO GRANT, VETO, OR WITHHOLD APPROVAL OF TERMINATION OR
21 MODIFICATION OF THE TRUST.

22 (C) BY A TRUSTEE OR TRUST PROTECTOR TO WHOM A POWER TO DIRECT
23 THE TERMINATION OR MODIFICATION OF THE TRUST HAS BEEN GIVEN BY THE
24 TERMS OF A TRUST.

25 (2) SUBSECTION (1) DOES NOT APPLY TO IRREVOCABLE TRUSTS
26 CREATED BEFORE OR TO REVOCABLE TRUSTS THAT BECOME IRREVOCABLE
27 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS

1 SECTION.

2 (3) NOTICE OF ANY PROCEEDING TO TERMINATE OR MODIFY A TRUST
3 SHALL BE GIVEN TO THE SETTLOR, OR THE SETTLOR'S REPRESENTATIVE IF
4 THE PETITIONER HAS A REASONABLE BASIS TO BELIEVE THE SETTLOR IS AN
5 INCAPACITATED INDIVIDUAL, THE TRUST PROTECTOR, IF ANY, THE TRUSTEE,
6 AND ANY OTHER PERSON NAMED IN THE TERMS OF THE TRUST TO RECEIVE
7 NOTICE OF SUCH A PROCEEDING.

8 (4) UPON TERMINATION OF A TRUST UNDER SUBSECTION (1), THE
9 TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY AS AGREED BY THE
10 QUALIFIED TRUST BENEFICIARIES.

11 (5) IF THE TRUSTEE FAILS OR REFUSES TO CONSENT, OR FEWER THAN
12 ALL OF THE QUALIFIED TRUST BENEFICIARIES CONSENT, TO A PROPOSED
13 MODIFICATION OR TERMINATION OF THE TRUST UNDER SUBSECTION (1), THE
14 MODIFICATION OR TERMINATION MAY BE APPROVED BY THE COURT IF THE
15 COURT IS SATISFIED THAT BOTH OF THE FOLLOWING APPLY:

16 (A) IF THE TRUSTEE AND ALL OF THE QUALIFIED TRUST
17 BENEFICIARIES HAD CONSENTED, THE TRUST COULD HAVE BEEN MODIFIED OR
18 TERMINATED UNDER THIS SECTION.

19 (B) THE INTERESTS OF A QUALIFIED TRUST BENEFICIARY WHO DOES
20 NOT CONSENT WILL BE ADEQUATELY PROTECTED.

21 (6) AS USED IN THIS SECTION, "SETTLOR'S REPRESENTATIVE" MEANS
22 THE SETTLOR'S AGENT UNDER A DURABLE POWER OF ATTORNEY, IF THE
23 ATTORNEY IN FACT IS KNOWN TO THE PETITIONER, OR, IF AN AGENT HAS
24 NOT BEEN APPOINTED, THE SETTLOR'S CONSERVATOR, PLENARY GUARDIAN, OR
25 PARTIAL GUARDIAN.

26 SEC. 7412. (1) THE COURT MAY MODIFY THE ADMINISTRATIVE TERMS
27 OF A TRUST IF CONTINUATION OF THE TRUST ON ITS EXISTING TERMS WOULD

1 BE IMPRACTICABLE OR WASTEFUL OR IMPAIR THE TRUST'S ADMINISTRATION.

2 (2) THE COURT MAY MODIFY THE ADMINISTRATIVE OR DISPOSITIVE
3 TERMS OF A TRUST OR TERMINATE THE TRUST IF, BECAUSE OF
4 CIRCUMSTANCES NOT ANTICIPATED BY THE SETTLOR, MODIFICATION OR
5 TERMINATION WILL FURTHER THE SETTLOR'S STATED PURPOSE OR, IF THERE
6 IS NO STATED PURPOSE, THE SETTLOR'S PROBABLE INTENTION.

7 (3) IF A TRUST IS TERMINATED UNDER THIS SECTION, THE TRUSTEE
8 SHALL DISTRIBUTE THE TRUST PROPERTY AS ORDERED BY THE COURT.

9 (4) NOTICE OF ANY PROCEEDING TO TERMINATE OR MODIFY A TRUST
10 SHALL BE GIVEN IN THE MANNER DESCRIBED IN SECTION 7411(3).

11 SEC. 7413. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (2)
12 OR (3), IF A PARTICULAR CHARITABLE PURPOSE BECOMES UNLAWFUL,
13 IMPRACTICABLE, OR IMPOSSIBLE TO ACHIEVE, NO ALTERNATIVE TAKER IS
14 NAMED OR PROVIDED FOR, AND THE COURT FINDS THE SETTLOR HAD A
15 GENERAL, RATHER THAN A SPECIFIC, CHARITABLE INTENT, ALL OF THE
16 FOLLOWING APPLY:

17 (A) THE TRUST DOES NOT FAIL, IN WHOLE OR IN PART.

18 (B) THE TRUST PROPERTY DOES NOT REVERT TO THE SETTLOR OR THE
19 SETTLOR'S SUCCESSORS IN INTEREST.

20 (C) THE COURT MAY APPLY CY PRES TO MODIFY OR TERMINATE THE
21 TRUST BY DIRECTING THAT THE TRUST PROPERTY BE APPLIED OR
22 DISTRIBUTED, IN WHOLE OR IN PART, IN A MANNER CONSISTENT WITH THE
23 SETTLOR'S GENERAL CHARITABLE INTENT.

24 (2) IF THE TERMS OF A CHARITABLE TRUST CONFER A POWER ON THE
25 TRUSTEE, OR ANOTHER PERSON DESIGNATED IN THE TRUST OR GIFT, TO
26 MODIFY OR TERMINATE EITHER THE CHARITABLE TRUST, A CHARITABLE GIFT
27 TO THAT TRUST, OR THE CHARITABLE PURPOSE OF SUCH TRUST OR GIFT, THE

1 TERMS OF THE TRUST PREVAIL OVER THE POWER OF THE COURT, UNDER
2 SUBSECTION (1), TO APPLY CY PRES TO MODIFY OR TERMINATE THE TRUST.

3 (3) A PROVISION IN THE TERMS OF A CHARITABLE TRUST THAT WOULD
4 RESULT IN DISTRIBUTION OF THE TRUST PROPERTY TO A NONCHARITABLE
5 BENEFICIARY PREVAILS OVER THE POWER OF THE COURT UNDER SUBSECTION
6 (1) TO APPLY CY PRES TO MODIFY OR TERMINATE THE TRUST ONLY IF, WHEN
7 THE PROVISION TAKES EFFECT, EITHER OF THE FOLLOWING APPLIES:

8 (A) THE TRUST PROPERTY IS TO REVERT TO THE SETTLOR AND THE
9 SETTLOR IS STILL LIVING.

10 (B) LESS THAN 90 YEARS, OR SUCH OTHER TIME, INCLUDING
11 PERPETUITY, AS IS SET FORTH IN THE TERMS OF THE TRUST, HAS ELAPSED
12 SINCE THE DATE OF THE TRUST'S CREATION.

13 SEC. 7414. (1) AFTER 63 DAYS AFTER NOTICE TO THE QUALIFIED
14 TRUST BENEFICIARIES, THE TRUSTEE OF A TRUST CONSISTING OF TRUST
15 PROPERTY HAVING A TOTAL VALUE LESS THAN \$50,000.00 MAY TERMINATE
16 THE TRUST IF THE TRUSTEE CONCLUDES THAT THE VALUE OF THE TRUST
17 PROPERTY IS INSUFFICIENT TO JUSTIFY THE COST OF ADMINISTRATION. THE
18 \$50,000.00 AMOUNT EXPRESSED IN THIS SECTION SHALL BE ADJUSTED EACH
19 YEAR AS PROVIDED IN SECTION 1210.

20 (2) THE COURT MAY MODIFY OR TERMINATE A TRUST OR REMOVE THE
21 TRUSTEE AND APPOINT A DIFFERENT TRUSTEE IF IT DETERMINES THAT THE
22 VALUE OF THE TRUST PROPERTY IS INSUFFICIENT TO JUSTIFY THE COST OF
23 ADMINISTRATION.

24 (3) UPON TERMINATION OF A TRUST UNDER THIS SECTION, THE
25 TRUSTEE SHALL DISTRIBUTE THE TRUST PROPERTY IN THE MANNER PROVIDED
26 FOR IN THE TERMS OF THE TRUST, IF ANY, AND OTHERWISE TO THE CURRENT
27 INCOME BENEFICIARIES OR, IF THERE ARE NO CURRENT INCOME

1 BENEFICIARIES, IN THE MANNER DIRECTED BY THE COURT.

2 (4) THIS SECTION DOES NOT APPLY TO AN EASEMENT FOR
3 CONSERVATION OR PRESERVATION.

4 SEC. 7415. THE COURT MAY REFORM THE TERMS OF A TRUST, EVEN IF
5 UNAMBIGUOUS, TO CONFORM THE TERMS TO THE SETTLOR'S INTENTION IF IT
6 IS PROVED BY CLEAR AND CONVINCING EVIDENCE THAT BOTH THE SETTLOR'S
7 INTENT AND THE TERMS OF THE TRUST WERE AFFECTED BY A MISTAKE OF
8 FACT OR LAW, WHETHER IN EXPRESSION OR INDUCEMENT.

9 SEC. 7416. TO ACHIEVE THE SETTLOR'S TAX OBJECTIVES, THE COURT
10 MAY MODIFY THE TERMS OF A TRUST IN A MANNER THAT IS NOT CONTRARY TO
11 THE SETTLOR'S PROBABLE INTENTION. THE COURT MAY PROVIDE THAT THE
12 MODIFICATION HAS RETROACTIVE EFFECT.

13 SEC. 7417. (1) AFTER NOTICE TO THE QUALIFIED TRUST
14 BENEFICIARIES AND TO THE HOLDERS OF POWERS OF APPOINTMENT, A
15 TRUSTEE MAY DIVIDE TRUST PROPERTY INTO 2 OR MORE SEPARATE PORTIONS
16 OR TRUSTS AND ALLOCATE PROPERTY BETWEEN THEM IF THE TRUSTS HAVE
17 SUBSTANTIALLY IDENTICAL TERMS AND CONDITIONS OR IF THE RESULT DOES
18 NOT IMPAIR RIGHTS OF ANY BENEFICIARY OR ADVERSELY AFFECT
19 ACHIEVEMENT OF THE PURPOSES OF THE TRUST.

20 (2) AFTER NOTICE TO THE QUALIFIED TRUST BENEFICIARIES AND TO
21 THE HOLDERS OF POWERS OF APPOINTMENT, A TRUSTEE MAY CONSOLIDATE 2
22 OR MORE TRUSTS AND ADMINISTER THEM AS 1 TRUST IF THE TRUSTS HAVE
23 SUBSTANTIALLY IDENTICAL TERMS AND CONDITIONS OR IF THE RESULT DOES
24 NOT IMPAIR RIGHTS OF ANY BENEFICIARY OR ADVERSELY AFFECT
25 ACHIEVEMENT OF THE PURPOSES OF THE TRUST. IF THE RULE AGAINST
26 PERPETUITIES SPEAKS FROM DIFFERENT DATES WITH REFERENCE TO THE
27 TRUSTS OR IF THERE ARE OTHER VARIATIONS IN TERMS, CONSOLIDATION MAY

1 STILL TAKE PLACE, BUT THE PROPERTY OF THE TRUSTS SHALL BE
2 MAINTAINED IN SEPARATE ACCOUNTS IF NECESSARY TO RECOGNIZE AND GIVE
3 EFFECT TO THE DIFFERENCES.

4 PART 5

5 ~~CLAIMS AGAINST A DECEDENT'S REVOCABLE TRUST~~

6 Sec. 7501. ~~(1) The property of a trust over which the settlor~~
7 ~~has the right without regard to the settlor's mental capacity, at~~
8 ~~his or her death, either alone or in conjunction with another~~
9 ~~person, to revoke the trust and revest principal in himself or~~
10 ~~herself is subject to all of the following, but only to the extent~~
11 ~~that the settlor's property subject to probate administration is~~
12 ~~insufficient to satisfy the following expenses, claims, and~~
13 ~~allowances:~~

14 ~~—— (a) The administration expenses of the settlor's estate.~~

15 ~~—— (b) An enforceable and timely presented claim of a creditor of~~
16 ~~the settlor, including a claim for the settlor's funeral and burial~~
17 ~~expenses.~~

18 ~~—— (c) Homestead, family, and exempt property allowances.~~

19 ~~—— (2) A trust established as part of, and all payments from, an~~
20 ~~employee annuity described in section 403 of the internal revenue~~
21 ~~code, an individual retirement account described in section 408 of~~
22 ~~the internal revenue code, a Keogh (HR 10 plan), or a retirement or~~
23 ~~other plan that is qualified under section 401 of the internal~~
24 ~~revenue code shall not be considered to be a trust described in~~
25 ~~subsection (1).~~

26 ~~—— (3) This section does not impair a right that an individual~~
27 ~~has under a qualified domestic relations order as that term is~~

1 ~~defined in section 414(p) of the internal revenue code.~~

2 ~~—— (4) For purposes of this section, property held or received by~~
3 ~~a trust to the extent that the property would not have been subject~~
4 ~~to a claim against the settlor's estate if it had been paid~~
5 ~~directly to a trust created under the settlor's will or other than~~
6 ~~to the settlor's estate, or property received from a trust other~~
7 ~~than a trust described in this section, shall not be considered~~
8 ~~trust property available for the payment of the administration~~
9 ~~expenses, a claim against the settlor's estate, or an allowance~~
10 ~~described in subsection (1). THIS PART APPLIES TO A CREDITOR'S OR~~
11 ~~TRANSFeree'S CLAIMS WITH RESPECT TO SPENDTHRIFT, SUPPORT, AND~~
12 ~~DISCRETIONARY TRUSTS.~~

13 Sec. 7502. ~~(1) A trustee of a trust described in section~~
14 ~~7501(1) shall pay to the personal representative of the settlor's~~
15 ~~estate the amount from time to time that the personal~~
16 ~~representative certifies in writing to the trustee is required to~~
17 ~~pay the administration expenses of the settlor's estate; an~~
18 ~~enforceable and timely presented claim of a creditor of the~~
19 ~~settlor, including a claim for the settlor's funeral and burial~~
20 ~~expenses; and homestead, family, and exempt property allowances.~~
21 ~~Without liability to a trust beneficiary or another party, the~~
22 ~~trustee may rely on the certificate of the personal representative.~~
23 ~~In the event there is no personal representative appointed for the~~
24 ~~settlor's estate, the trustee shall pay directly to the creditor an~~
25 ~~enforceable and timely served claim of a creditor of the settlor,~~
26 ~~including a claim for the settlor's funeral and burial expenses. If~~
27 ~~a personal representative is not appointed for the settlor's estate~~

1 within 4 months after the date of the publication of notice to
2 creditors, a trust described in section 7501(1) is not liable for
3 payment of homestead, family, or exempt property allowances. A
4 payment made by a trustee is subject to this section, but the
5 payment shall be made exclusively out of property, or the proceeds
6 of property, that is includable in the settlor's gross estate for
7 federal estate tax purposes, other than assets described in section
8 7501(2), (3), and (4).

9 ——— (2) Unless a settlor provides in his or her will or, in the
10 absence of such a provision, designates in the trust the money or
11 property passing under a trust to be used as described in section
12 7501, the administration expenses of the settlor's estate; an
13 enforceable and timely filed claim of a creditor of the settlor,
14 including a claim for the settlor's funeral and burial expenses; or
15 homestead, family, and exempt property allowances, to be paid in
16 accordance with subsection (1), shall be paid from the property of
17 the trust in the following order:

18 ——— (a) Property of the trust residue remaining after all
19 distributions that are to be satisfied by reference to a specific
20 property or type of property, fund, money, or statutory amount.

21 ——— (b) Property that is not to be distributed out of specified or
22 identified property or a specified or identified item of property.

23 ——— (c) Property that is to be distributed out of specified or
24 identified property or a specified or identified item of property.

25 (1) A SPENDTHRIFT PROVISION IS VALID AND ENFORCEABLE.

26 (2) A TERM OF A TRUST PROVIDING THAT THE INTEREST OF A TRUST
27 BENEFICIARY IS HELD SUBJECT TO A "SPENDTHRIFT TRUST," OR WORDS OF

1 SIMILAR IMPORT, RESTRAINS BOTH VOLUNTARY AND INVOLUNTARY TRANSFER
2 OF THE TRUST BENEFICIARY'S INTEREST.

3 (3) EXCEPT AS PROVIDED IN SECTIONS 7504, 7506, AND 7507, THE
4 TRUST BENEFICIARY'S INTEREST IN A TRUST MAY NOT BE TRANSFERRED IN
5 VIOLATION OF A VALID SPENDTHRIFT PROVISION AND TRUST PROPERTY IS
6 NOT SUBJECT TO ENFORCEMENT OF A JUDGMENT UNTIL DISTRIBUTED DIRECTLY
7 TO THE TRUST BENEFICIARY.

8 (4) NOTWITHSTANDING THE EXISTENCE OF A SPENDTHRIFT PROVISION
9 IN THE TERMS OF THE TRUST, A TRUSTEE IS NOT LIABLE TO THE
10 BENEFICIARIES OF THE TRUST FOR MAKING A DISTRIBUTION TO WHICH A
11 TRUST BENEFICIARY IS OTHERWISE ENTITLED PURSUANT TO THE DIRECTION
12 OF THE TRUST BENEFICIARY.

13 Sec. 7503. ~~(1) The following rules apply to section 7502(2):~~

14 ~~—— (a) Upon the failure or insufficiency of money or property out~~
15 ~~of which payment should be made, to the extent of the~~
16 ~~insufficiency, a distribution of property from the trust that is to~~
17 ~~be satisfied out of specified or identified property shall be~~
18 ~~classed as a distribution to be satisfied out of the general trust~~
19 ~~property not otherwise disposed of in the trust instrument.~~

20 ~~—— (b) A distribution of property from the trust given for~~
21 ~~valuable consideration shall abate with other distributions of the~~
22 ~~same class only to the extent of the excess over the amount of the~~
23 ~~value of the consideration until all others of the same class are~~
24 ~~exhausted.~~

25 ~~—— (c) Except as otherwise provided in this section,~~
26 ~~distributions of property from the trust shall abate equally and~~
27 ~~ratably and without preference or priority as between real and~~

1 ~~personal property.~~

2 ~~—— (d) If a specified or identified item of property that has~~
3 ~~been designated for distribution in the trust instrument or that is~~
4 ~~charged with a distribution is sold or taken by the trustee, other~~
5 ~~beneficiaries shall contribute according to their respective~~
6 ~~interests to the beneficiary whose property is sold or taken, and~~
7 ~~before distribution, the trustee shall determine the amounts of the~~
8 ~~respective contributions, which shall be paid or withheld before~~
9 ~~distribution is made.~~

10 ~~—— (2) Costs and expenses of trust administration, including~~
11 ~~trustee compensation and attorney fees, shall be paid by the~~
12 ~~trustee before and in preference to the administration costs and~~
13 ~~expenses of the settlor's estate, an enforceable and timely filed~~
14 ~~claim of a creditor of the settlor, and homestead, family, and~~
15 ~~exempt property allowances. If, after paying costs and expenses of~~
16 ~~trust administration, the trust property is insufficient to pay in~~
17 ~~full all charges for which the trust is liable under section~~
18 ~~7501(1), the trustee shall make payment in the following order of~~
19 ~~priority:~~

20 ~~—— (a) Costs and expenses of administration of the decedent's~~
21 ~~estate.~~

22 ~~—— (b) Reasonable funeral and burial expenses.~~

23 ~~—— (c) Homestead allowance.~~

24 ~~—— (d) Family allowance.~~

25 ~~—— (e) Exempt property.~~

26 ~~—— (f) Debts and taxes with priority under federal law.~~

27 ~~—— (g) Reasonable and necessary medical and hospital expenses of~~

1 ~~the decedent's last illness, including compensation of a person~~
 2 ~~attending the decedent.~~

3 ~~—— (h) Debts and taxes with priority under other laws of this~~
 4 ~~state.~~

5 ~~—— (i) All other claims.~~

6 ~~—— (3) A preference shall not be given in the payment of a charge~~
 7 ~~over another charge of the same class under subsection (2), and a~~
 8 ~~charge due and payable is not entitled to a preference over a~~
 9 ~~charge not due.~~

10 ~~—— (4) If the decedent was the settlor of more than 1 trust~~
 11 ~~described in section 7501(1), the charges described in that section~~
 12 ~~are payable pro rata from those trusts, based on the gross values~~
 13 ~~of the respective trusts on the date of the decedent's death. Each~~
 14 ~~trustee is entitled to right of contribution as necessary to effect~~
 15 ~~the pro rata liability. The allocation and contribution, however,~~
 16 ~~are subject to provisions in the trusts regarding the allocation~~
 17 ~~and burden of the charges. If there is conflict between the~~
 18 ~~governing instruments regarding the allocation and burden of the~~
 19 ~~charges, the decedent's will controls. EXCEPT AS PROVIDED IN~~
 20 ~~SECTIONS 7504, 7506, AND 7507, THE FOLLOWING SHALL NOT BE~~
 21 ~~TRANSFERRED AND ARE NOT SUBJECT TO THE ENFORCEMENT OF A JUDGMENT:~~

22 ~~(A) THE INTEREST OF A TRUST BENEFICIARY THAT IS SUBJECT TO A~~
 23 ~~SUPPORT PROVISION, WITH THE FOLLOWING EXCEPTIONS:~~

24 ~~(i) THE INTEREST MAY BE TRANSFERRED AND IS SUBJECT TO THE~~
 25 ~~ENFORCEMENT OF A JUDGMENT AFTER INCOME OR PRINCIPAL, OR BOTH, IS~~
 26 ~~DISTRIBUTED DIRECTLY TO THE TRUST BENEFICIARY.~~

27 ~~(ii) THE INTEREST MAY BE TRANSFERRED AND IS SUBJECT TO THE~~

1 ENFORCEMENT OF A JUDGMENT TO THE EXTENT THAT THE INCOME OR
2 PRINCIPAL, OR BOTH, IS NOT NECESSARY FOR THE HEALTH, EDUCATION,
3 MAINTENANCE, OR SUPPORT OF THE TRUST BENEFICIARY.

4 (B) THE USE OR ENJOYMENT OF TRUST PROPERTY BY A TRUST
5 BENEFICIARY WHOSE INTEREST IS SUBJECT TO A SUPPORT PROVISION.

6 ~~Sec. 7504. If there is no personal representative of the~~
7 ~~settlor's estate to whom letters of administration have been issued~~
8 ~~so that the publication and notice requirements of section 3801~~
9 ~~have not been discharged, then each trustee of a trust described in~~
10 ~~section 7501(1) must cause a notice to creditors to be published~~
11 ~~and served in the same manner, with the same duties, and with the~~
12 ~~same protection for the trustee and the attorney for the trustee as~~
13 ~~described in section 3801 for a personal representative. The notice~~
14 ~~must comply with an applicable court rule and contain the name of~~
15 ~~the trust's deceased settlor; the trust's name or other~~
16 ~~designation, if any; the date the trust was established; the name~~
17 ~~and address of each trustee serving at the time of or as a result~~
18 ~~of the settlor's death; and the name and address of the trustee's~~
19 ~~attorney, if any. The notice must state the date of publication.~~

20 (1) THE INTEREST OF A TRUST BENEFICIARY THAT IS SUBJECT TO A
21 SPENDTHRIFT PROVISION, A SUPPORT PROVISION, OR BOTH MAY BE REACHED
22 IN SATISFACTION OF AN ENFORCEABLE CLAIM AGAINST THE TRUST
23 BENEFICIARY BY EITHER OF THE FOLLOWING:

24 (A) A TRUST BENEFICIARY'S CHILD OR FORMER SPOUSE WHO HAS A
25 JUDGMENT OR COURT ORDER AGAINST THE TRUST BENEFICIARY FOR SUPPORT
26 OR MAINTENANCE.

27 (B) A JUDGMENT CREDITOR WHO HAS PROVIDED SERVICES THAT

1 ENHANCE, PRESERVE, OR PROTECT A TRUST BENEFICIARY'S INTEREST IN THE
2 TRUST.

3 (2) THE COURT SHALL ORDER THE TRUSTEE TO SATISFY ALL OR PART
4 OF A JUDGMENT DESCRIBED IN SUBSECTION (1) ONLY OUT OF ALL OR PART
5 OF DISTRIBUTIONS OF INCOME OR PRINCIPAL AS THEY BECOME DUE.

6 (3) NOTWITHSTANDING THAT THE TERMS OF THE TRUST INCLUDE A
7 SPENDTHRIFT PROVISION, THIS SECTION DOES NOT APPLY TO THE INTEREST
8 OF A TRUST BENEFICIARY THAT IS SUBJECT TO A DISCRETIONARY TRUST
9 PROVISION.

10 (4) AS USED IN THIS SECTION, "CHILD" INCLUDES ANY PERSON FOR
11 WHOM AN ORDER OR JUDGMENT FOR CHILD SUPPORT HAS BEEN ENTERED IN
12 THIS OR ANOTHER STATE.

13 Sec. 7505. ~~(1) If notice to claimants is given by a trustee as~~
14 ~~provided in section 7504, a claimant shall present a claim against~~
15 ~~a trust described in section 7501(1) in either of the following~~
16 ~~ways:~~

17 ~~—— (a) The claimant may mail or deliver to the trustee a written~~
18 ~~statement of the claim indicating its basis, the name and address~~
19 ~~of the claimant, and the amount claimed. The claim is considered~~
20 ~~presented on the trustee's receipt of the claim. If a claim is not~~
21 ~~yet due, the date when it will become due must be stated. If the~~
22 ~~claim is contingent or unliquidated, the nature of the uncertainty~~
23 ~~must be stated. If the claim is secured, the security must be~~
24 ~~described. Failure to describe correctly the security, the nature~~
25 ~~of any uncertainty, and the due date of a claim not yet due does~~
26 ~~not invalidate a claim's presentation.~~

27 ~~—— (b) The claimant may commence a proceeding to obtain payment~~

1 of a claim against the trust in a court where the trustee is
2 subject to jurisdiction. The commencement of the proceeding must
3 occur within the time limit for presenting the claim. Presentation
4 of a claim is not required in regard to matters claimed in
5 proceedings against the trust or settlor that were pending at the
6 time of the settlor's death.

7 ——— (2) If a personal representative is appointed for the
8 settlor's estate, presentation of a claim against the settlor's
9 estate must be made in the manner described in section 3804, and
10 such a presentation is sufficient to assert liability against a
11 trust described in section 7501(1) without an additional
12 presentation of the claim against the trustee. **THE TRANSFEREE OR
13 CREDITOR OF THE BENEFICIARY OF A DISCRETIONARY TRUST PROVISION DOES
14 NOT HAVE A RIGHT TO ANY AMOUNT OF TRUST INCOME OR PRINCIPAL THAT
15 MAY BE DISTRIBUTED ONLY IN THE EXERCISE OF THE TRUSTEE'S
16 DISCRETION, AND TRUST PROPERTY IS NOT SUBJECT TO THE ENFORCEMENT OF
17 A JUDGMENT UNTIL INCOME OR PRINCIPAL, OR BOTH, IS DISTRIBUTED
18 DIRECTLY TO THE TRUST BENEFICIARY.**

19 Sec. 7506. (1) If not barred earlier by another statute of
20 limitations, a claim against the settlor of a trust described in
21 section 7501(1) that arose at or before the settlor's death that a
22 person seeks to recover from the trust is barred against the trust,
23 each trustee of the trust, and a trust beneficiary, unless
24 presented within 1 of the following times:

25 ——— (a) If notice is given in compliance either with section 3801
26 or section 7504, within 4 months after the date of publication of
27 notice to creditors.

~~1 (b) For a creditor known to the personal representative at the
2 time of publication or during the 4 months following publication,
3 or known to the trustee at or during such a time if publication
4 occurred under section 7504, within 28 days after the subsequent
5 sending of notice or 4 months after the date of publication of
6 notice to creditors, whichever is later.~~

~~7 (c) If the notice requirements of either section 3801 or
8 section 7504 are not met, within 3 years after the settlor's death.~~

~~9 (2) This section does not affect or prevent any of the
10 following:~~

~~11 (a) A proceeding to enforce a mortgage, pledge, or other lien
12 upon property held in the trust.~~

~~13 (b) A proceeding to establish the settlor's or the trustee's
14 liability for which the settlor or the trustee is protected by
15 liability insurance to the limits of the insurance protection only.~~

~~16 (c) Collection of compensation for services rendered and
17 reimbursement of expenses advanced by the trustee or by an
18 attorney, auditor, investment adviser, or other specialized agent
19 or assistant for the trustee.~~

**20 (1) WHETHER OR NOT THE TERMS OF A TRUST CONTAIN A SPENDTHRIFT
21 PROVISION, THE FOLLOWING RULES APPLY:**

**22 (A) DURING THE LIFETIME OF THE SETTLOR, THE PROPERTY OF A
23 REVOCABLE TRUST IS SUBJECT TO CLAIMS OF THE SETTLOR'S CREDITORS.**

**24 (B) AFTER THE DEATH OF A SETTLOR, AND SUBJECT TO THE SETTLOR'S
25 RIGHT TO DIRECT THE SOURCE FROM WHICH LIABILITIES WILL BE PAID, THE
26 PROPERTY OF A TRUST THAT AT THE SETTLOR'S DEATH WAS REVOCABLE BY
27 THE SETTLOR, EITHER ALONE OR IN CONJUNCTION WITH ANOTHER PERSON, IS**

1 SUBJECT TO EXPENSES, CLAIMS, AND ALLOWANCES AS PROVIDED IN SECTION
2 7605.

3 (C) WITH RESPECT TO AN IRREVOCABLE TRUST, A CREDITOR OR
4 ASSIGNEE OF THE SETTLOR MAY REACH NO MORE THAN THE LESSER OF THE
5 FOLLOWING:

6 (i) THE CLAIM OF THE CREDITOR OR ASSIGNEE.

7 (ii) THE MAXIMUM AMOUNT THAT CAN BE DISTRIBUTED TO OR FOR THE
8 SETTLOR'S BENEFIT EXCLUSIVE OF SUMS TO PAY THE SETTLOR'S TAXES
9 DURING THE SETTLOR'S LIFETIME.

10 (2) IF A TRUST HAS MORE THAN 1 SETTLOR, THE AMOUNT A CREDITOR
11 OR ASSIGNEE OF A PARTICULAR SETTLOR MAY REACH UNDER SUBSECTION
12 (1)(C) SHALL NOT EXCEED THE SETTLOR'S INTEREST IN THE PORTION OF
13 THE TRUST ATTRIBUTABLE TO THAT SETTLOR'S CONTRIBUTION.

14 (3) A TRUST BENEFICIARY IS NOT CONSIDERED A SETTLOR MERELY
15 BECAUSE OF A LAPSE, WAIVER, OR RELEASE OF A POWER OF WITHDRAWAL
16 OVER THE TRUST PROPERTY.

17 (4) AN INDIVIDUAL WHO CREATES A TRUST SHALL NOT BE CONSIDERED
18 A SETTLOR WITH REGARD TO THE INDIVIDUAL'S RETAINED BENEFICIAL
19 INTEREST IN THE TRUST THAT FOLLOWS THE TERMINATION OF THE
20 INDIVIDUAL'S SPOUSE'S PRIOR BENEFICIAL INTEREST IN THE TRUST IF ALL
21 OF THE FOLLOWING APPLY:

22 (A) THE INDIVIDUAL CREATES, OR HAS CREATED, THE TRUST FOR THE
23 BENEFIT OF THE INDIVIDUAL'S SPOUSE.

24 (B) THE TRUST IS TREATED AS QUALIFIED TERMINABLE INTEREST
25 PROPERTY UNDER SECTION 2523(F) OF THE INTERNAL REVENUE CODE, 26 USC
26 2523.

27 (C) THE INDIVIDUAL RETAINS A BENEFICIAL INTEREST IN THE TRUST

1 INCOME, TRUST PRINCIPAL, OR BOTH, WHICH BENEFICIAL INTEREST FOLLOWS
2 THE TERMINATION OF THE INDIVIDUAL'S SPOUSE'S PRIOR BENEFICIAL
3 INTEREST IN THE TRUST.

4 Sec. 7507. ~~If there is no personal representative appointed~~
5 ~~for the settlor's estate and notice is given in accordance with~~
6 ~~section 7504, the allowance or disallowance of a claim presented in~~
7 ~~the manner described in section 7505(1) and within a time period~~
8 ~~described in section 7506 is governed by the following provisions:~~

9 ~~—— (a) The trustee may deliver or mail a notice to the claimant~~
10 ~~stating that the claim has been disallowed in whole or in part. If,~~
11 ~~after allowing or disallowing a claim, the trustee changes a~~
12 ~~decision concerning the claim, the trustee shall notify the~~
13 ~~claimant. The trustee shall not change a decision disallowing a~~
14 ~~claim if the time for the claimant to commence a proceeding for~~
15 ~~allowance expires or if the time to commence a proceeding on the~~
16 ~~claim expires and the claim has been barred. A claim that is~~
17 ~~disallowed in whole or in part by the trustee is barred to the~~
18 ~~extent not allowed unless the claimant commences a proceeding~~
19 ~~against the trustee not later than 63 days after the mailing of the~~
20 ~~notice of disallowance or partial allowance if the notice warns the~~
21 ~~claimant of the impending bar. Failure by the trustee to deliver or~~
22 ~~mail to a claimant notice of action on the claim within 63 days~~
23 ~~after the time for the claim's presentation has expired constitutes~~
24 ~~a notice of allowance.~~

25 ~~—— (b) After allowing or disallowing a claim, the trustee may~~
26 ~~change the allowance or disallowance as provided in this~~
27 ~~subdivision. Before payment, the trustee may change the allowance~~

1 ~~to a disallowance in whole or in part, but not after allowance by a~~
 2 ~~court order or judgment, or an order directing payment of the~~
 3 ~~claim. The trustee shall notify the claimant of the change to~~
 4 ~~disallowance, and the disallowed claim is then subject to bar as~~
 5 ~~provided in subdivision (a). The trustee may change a disallowance~~
 6 ~~to an allowance, in whole or in part, until it is barred under~~
 7 ~~subdivision (a). After a claim is barred, it may be allowed and~~
 8 ~~paid only if the trust is solvent and all whose interests would be~~
 9 ~~affected consent.~~

10 ~~—— (c) Upon the trustee's or a claimant's commencement of a~~
 11 ~~proceeding, the court may allow in whole or in part a claim~~
 12 ~~properly presented in due time and not barred by subdivision (a).~~

13 ~~—— (d) A judgment in a proceeding in another court against a~~
 14 ~~trustee to enforce a claim against a decedent's estate constitutes~~
 15 ~~an allowance of the claim.~~

16 ~~—— (e) Unless otherwise provided in a judgment in another court~~
 17 ~~entered against the trustee, an allowed claim bears interest at a~~
 18 ~~rate determined under section 6013 of the revised judicature act of~~
 19 ~~1961, MCL 600.6013, for the period commencing 63 days after the~~
 20 ~~time for original presentation of the claim has expired, unless~~
 21 ~~based on a contract that provides for interest, in which case the~~
 22 ~~claim bears interest in accordance with the contract.~~

23 **(1) WHETHER OR NOT A TRUST CONTAINS A SPENDTHRIFT PROVISION, A**
 24 **CREDITOR OR ASSIGNEE OF A TRUST BENEFICIARY MAY REACH A MANDATORY**
 25 **DISTRIBUTION OF INCOME OR PRINCIPAL, INCLUDING A DISTRIBUTION UPON**
 26 **TERMINATION OF THE TRUST, IF THE TRUSTEE HAS NOT MADE THE**
 27 **DISTRIBUTION TO THE TRUST BENEFICIARY WITHIN A REASONABLE TIME**

1 AFTER THE DESIGNATED DISTRIBUTION DATE.

2 (2) AS USED IN THIS SECTION, "MANDATORY DISTRIBUTION" MEANS A
3 DISTRIBUTION OF INCOME OR PRINCIPAL THAT THE TRUSTEE IS REQUIRED TO
4 MAKE TO A TRUST BENEFICIARY UNDER THE TERMS OF THE TRUST, INCLUDING
5 A DISTRIBUTION UPON TERMINATION OF THE TRUST. MANDATORY
6 DISTRIBUTION DOES NOT INCLUDE A DISTRIBUTION SUBJECT TO THE
7 EXERCISE OF THE TRUSTEE'S DISCRETION EVEN IF EITHER OF THE
8 FOLLOWING APPLIES:

9 (A) THE DIRECTION IS EXPRESSED IN THE FORM OF A STANDARD OF
10 DISTRIBUTION.

11 (B) THE TERMS OF THE TRUST AUTHORIZING A DISTRIBUTION USE
12 LANGUAGE OF DISCRETION AND LANGUAGE OF DIRECTION.

13 Sec. 7508. ~~(1) Upon the expiration of 4 months after the date~~
14 ~~of the publication of the notice to creditors, the trustee shall~~
15 ~~proceed to pay the claims allowed against the trust in the order of~~
16 ~~priority prescribed in section 7503(2)(f) to (g), after making~~
17 ~~provision for costs and expenses of trust administration, for~~
18 ~~reasonable funeral and burial expenses, for each claim already~~
19 ~~presented that is not yet allowed or whose allowance is appealed,~~
20 ~~and for each unbarred claim that may yet be presented. A claimant~~
21 ~~whose claim is allowed, but not paid as provided in this section,~~
22 ~~may petition the court to secure an order directing the trustee to~~
23 ~~pay the claim to the extent that money of the trust is available~~
24 ~~for the payment.~~

25 ~~—— (2) At any time, the trustee may pay a claim that is not~~
26 ~~barred, with or without formal presentation, but is individually~~
27 ~~liable to another claimant whose claim is allowed and who is~~

1 ~~injured by the payment if either of the following occurs:~~

2 ~~—— (a) Payment is made before the expiration of the time limit~~
3 ~~stated in subsection (1) and the trustee fails to require the payee~~
4 ~~to give adequate security for the refund of any of the payment~~
5 ~~necessary to pay another claimant.~~

6 ~~—— (b) Payment is made, due to the negligence or willful fault of~~
7 ~~the trustee, in a manner that deprives the injured claimant of~~
8 ~~priority.~~

9 ~~—— (3) If a claim is allowed, but the whereabouts of the claimant~~
10 ~~is unknown at the time the trustee attempts to pay the claim, upon~~
11 ~~petition by the trustee and after notice the court considers~~
12 ~~advisable, the court may disallow the claim. If the court disallows~~
13 ~~a claim under this subsection, the claim is barred. TRUST PROPERTY~~
14 ~~IS NOT SUBJECT TO PERSONAL OBLIGATIONS OF THE TRUSTEE, EVEN IF THE~~
15 ~~TRUSTEE BECOMES INSOLVENT OR BANKRUPT.~~

16 **PART 6**

17 **SEC. 7601. THE CAPACITY REQUIRED TO CREATE, AMEND, REVOKE, OR**
18 **ADD PROPERTY TO A REVOCABLE TRUST, OR TO DIRECT THE ACTIONS OF THE**
19 **TRUSTEE OF A REVOCABLE TRUST, IS THE SAME AS THAT REQUIRED TO MAKE**
20 **A WILL.**

21 **SEC. 7602. (1) UNLESS THE TERMS OF A TRUST EXPRESSLY PROVIDE**
22 **THAT THE TRUST IS IRREVOCABLE, THE SETTLOR MAY REVOKE OR AMEND THE**
23 **TRUST. THIS SUBSECTION DOES NOT APPLY TO A TRUST CREATED UNDER A**
24 **TRUST INSTRUMENT EXECUTED BEFORE THE EFFECTIVE DATE OF THE**
25 **AMENDATORY ACT THAT ADDED THIS SECTION.**

26 **(2) IF A REVOCABLE TRUST IS CREATED OR FUNDED BY MORE THAN 1**
27 **SETTLOR, BOTH OF THE FOLLOWING APPLY:**

1 (A) TO THE EXTENT THAT THE TRUST CONSISTS OF COMMUNITY
2 PROPERTY, THE TRUST MAY BE REVOKED BY EITHER SPOUSE ACTING ALONE
3 BUT MAY BE AMENDED ONLY BY JOINT ACTION OF BOTH SPOUSES.

4 (B) TO THE EXTENT THAT THE TRUST CONSISTS OF PROPERTY OTHER
5 THAN COMMUNITY PROPERTY, EACH SETTLOR MAY REVOKE OR AMEND THE TRUST
6 WITH REGARD THE PORTION OF THE TRUST PROPERTY ATTRIBUTABLE TO THAT
7 SETTLOR'S CONTRIBUTION.

8 (C) UPON NOTIFICATION BY THE SETTLOR OF THE REVOCATION OR
9 AMENDMENT OF THE TRUST BY FEWER THAN ALL OF THE SETTLORS, THE
10 TRUSTEE SHALL PROMPTLY NOTIFY THE OTHER SETTLORS OF THE REVOCATION
11 OR AMENDMENT.

12 (3) THE SETTLOR MAY REVOKE OR AMEND A REVOCABLE TRUST IN ANY
13 OF THE FOLLOWING WAYS:

14 (A) BY SUBSTANTIALLY COMPLYING WITH A METHOD PROVIDED IN THE
15 TERMS OF THE TRUST.

16 (B) IF THE TERMS OF THE TRUST DO NOT PROVIDE A METHOD OR THE
17 METHOD PROVIDED IN THE TERMS IS NOT EXPRESSLY MADE EXCLUSIVE, IN
18 EITHER OF THE FOLLOWING WAYS:

19 (i) IF THE TRUST IS CREATED PURSUANT TO A WRITING, BY ANOTHER
20 WRITING MANIFESTING CLEAR AND CONVINCING EVIDENCE OF THE SETTLOR'S
21 INTENT TO REVOKE OR AMEND THE TRUST.

22 (ii) IF THE TRUST IS AN ORAL TRUST, BY ANY METHOD MANIFESTING
23 CLEAR AND CONVINCING EVIDENCE OF THE SETTLOR'S INTENT.

24 (4) UPON REVOCATION OF A REVOCABLE TRUST, THE TRUSTEE SHALL
25 DELIVER THE TRUST PROPERTY AS THE SETTLOR DIRECTS.

26 (5) A SETTLOR'S POWERS WITH RESPECT TO REVOCATION, AMENDMENT,
27 OR DISTRIBUTION OF TRUST PROPERTY MAY BE EXERCISED BY AN AGENT

1 UNDER A DURABLE POWER OF ATTORNEY ONLY TO THE EXTENT EXPRESSLY
2 AUTHORIZED BY THE TERMS OF THE TRUST OR THE POWER OF ATTORNEY.

3 (6) A CONSERVATOR OR PLENARY GUARDIAN OF THE SETTLOR MAY
4 EXERCISE A SETTLOR'S POWERS WITH RESPECT TO REVOCATION, AMENDMENT,
5 OR DISTRIBUTION OF TRUST PROPERTY ONLY TO THE EXTENT EXPRESSLY
6 AUTHORIZED BY THE TERMS OF THE TRUST AND WITH THE APPROVAL OF THE
7 COURT SUPERVISING THE CONSERVATORSHIP OR GUARDIANSHIP.

8 (7) A TRUSTEE WHO DOES NOT KNOW THAT A TRUST HAS BEEN REVOKED
9 OR AMENDED IS NOT LIABLE TO THE SETTLOR OR THE SETTLOR'S SUCCESSORS
10 IN INTEREST, INCLUDING THE TRUST BENEFICIARIES, FOR DISTRIBUTIONS
11 MADE AND OTHER ACTIONS TAKEN ON THE ASSUMPTION THAT THE TRUST HAD
12 NOT BEEN AMENDED OR REVOKED.

13 SEC. 7603. (1) SUBJECT TO SUBSECTION (2), WHILE A TRUST IS
14 REVOCABLE, RIGHTS OF THE TRUST BENEFICIARIES ARE SUBJECT TO THE
15 CONTROL OF, AND THE DUTIES OF THE TRUSTEE ARE OWED EXCLUSIVELY TO,
16 THE SETTLOR.

17 (2) IF THE TRUSTEE REASONABLY BELIEVES THAT THE SETTLOR OF A
18 REVOCABLE TRUST IS AN INCAPACITATED INDIVIDUAL, THE TRUSTEE SHALL
19 KEEP THE SETTLOR'S DESIGNATED AGENT OR, IF THERE IS NO DESIGNATED
20 AGENT OR IF THE SOLE AGENT IS A TRUSTEE, EACH BENEFICIARY WHO, IF
21 THE SETTLOR WERE THEN DECEASED, WOULD BE A QUALIFIED TRUST
22 BENEFICIARY INFORMED OF THE EXISTENCE OF THE TRUST AND REASONABLY
23 INFORMED OF ITS ADMINISTRATION.

24 (3) WHILE A TRUST IS NOT REVOCABLE AND WHILE A PERSON HAS A
25 CURRENTLY EXERCISABLE POWER OF WITHDRAWAL OVER THE ENTIRE PRINCIPAL
26 OF THE TRUST, THE DUTIES OF A TRUSTEE ARE OWED EXCLUSIVELY TO THE
27 PERSON.

1 (4) A PERSON WHO SUCCEEDS TO THE POSITION OF TRUSTEE OF A
2 REVOCABLE TRUST UPON THE DEATH, RESIGNATION, OR INCAPACITY OF A
3 TRUSTEE WHO WAS ALSO THE TRUST SETTLOR IS NOT LIABLE FOR AN ACTION
4 OF THE SETTLOR WHILE THE SETTLOR WAS SERVING AS TRUSTEE.

5 (5) WITH RESPECT TO A PREDECESSOR TRUSTEE WHO WAS ALSO THE
6 SETTLOR, THE SUCCESSOR TRUSTEE HAS NO RESPONSIBILITY TO INVESTIGATE
7 A TRANSACTION BY THE PREDECESSOR TRUSTEE, TO REVIEW AN ACCOUNT, TO
8 REVIEW AN ACTION OF THE PREDECESSOR TRUSTEE, OR TO TAKE ACTION FOR
9 A BREACH OF TRUST BY THE PREDECESSOR TRUSTEE.

10 SEC. 7604. (1) A PERSON MAY COMMENCE A JUDICIAL PROCEEDING TO
11 CONTEST THE VALIDITY OF A TRUST THAT WAS REVOCABLE AT THE SETTLOR'S
12 DEATH WITHIN THE EARLIER OF THE FOLLOWING:

13 (A) TWO YEARS AFTER THE SETTLOR'S DEATH.

14 (B) FOUR MONTHS AFTER THE TRUSTEE SENT THE PERSON A NOTICE
15 INFORMING THE PERSON OF ALL OF THE FOLLOWING:

16 (i) THE TRUST'S EXISTENCE.

17 (ii) THE DATE OF THE TRUST INSTRUMENT.

18 (iii) THE DATE OF ANY AMENDMENTS KNOWN TO THE TRUSTEE.

19 (iv) A DESCRIPTION OF THE PERSON'S INTEREST IN THE TRUST, IF
20 ANY.

21 (v) THE SETTLOR'S NAME.

22 (vi) THE TRUSTEE'S NAME AND ADDRESS.

23 (vii) THE TIME ALLOWED FOR COMMENCING A PROCEEDING.

24 (2) UPON THE DEATH OF THE SETTLOR OF A TRUST THAT WAS
25 REVOCABLE AT THE SETTLOR'S DEATH, THE TRUSTEE MAY PROCEED TO
26 DISTRIBUTE THE TRUST PROPERTY IN ACCORDANCE WITH THE TERMS OF THE
27 TRUST. THE TRUSTEE IS NOT SUBJECT TO LIABILITY FOR DOING SO UNLESS

1 EITHER OF THE FOLLOWING APPLY:

2 (A) THE TRUSTEE KNOWS OF A PENDING JUDICIAL PROCEEDING
3 CONTESTING THE VALIDITY OF THE TRUST.

4 (B) A POTENTIAL CONTESTANT HAS NOTIFIED THE TRUSTEE IN WRITING
5 OF A POSSIBLE JUDICIAL PROCEEDING TO CONTEST THE TRUST AND A
6 JUDICIAL PROCEEDING IS COMMENCED WITHIN 63 DAYS AFTER THE
7 CONTESTANT SENT THE NOTIFICATION.

8 (3) A BENEFICIARY OF A TRUST THAT IS DETERMINED TO HAVE BEEN
9 INVALID IS LIABLE TO RETURN ANY DISTRIBUTION RECEIVED.

10 SEC. 7605. (1) THE PROPERTY OF A TRUST OVER WHICH THE SETTLOR
11 HAS THE RIGHT WITHOUT REGARD TO THE SETTLOR'S MENTAL CAPACITY, AT
12 HIS OR HER DEATH, EITHER ALONE OR IN CONJUNCTION WITH ANOTHER
13 PERSON, TO REVOKE THE TRUST AND REVEST PRINCIPAL IN HIMSELF OR
14 HERSELF IS SUBJECT TO ALL OF THE FOLLOWING, BUT ONLY TO THE EXTENT
15 THAT THE SETTLOR'S PROPERTY SUBJECT TO PROBATE ADMINISTRATION IS
16 INSUFFICIENT TO SATISFY THE FOLLOWING EXPENSES, CLAIMS, AND
17 ALLOWANCES:

18 (A) THE ADMINISTRATION EXPENSES OF THE SETTLOR'S ESTATE.

19 (B) AN ENFORCEABLE AND TIMELY PRESENTED CLAIM OF A CREDITOR OF
20 THE SETTLOR, INCLUDING A CLAIM FOR THE SETTLOR'S FUNERAL AND BURIAL
21 EXPENSES.

22 (C) HOMESTEAD, FAMILY, AND EXEMPT PROPERTY ALLOWANCES.

23 (2) A TRUST ESTABLISHED AS PART OF, AND ALL PAYMENTS FROM, AN
24 EMPLOYEE ANNUITY DESCRIBED IN SECTION 403 OF THE INTERNAL REVENUE
25 CODE, 26 USC 403, AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN
26 SECTION 408 OF THE INTERNAL REVENUE CODE, 26 USC 408, A KEOGH, OR
27 HR-10, PLAN, OR A RETIREMENT OR OTHER PLAN THAT IS QUALIFIED UNDER

1 SECTION 401 OF THE INTERNAL REVENUE CODE, 26 USC 401, SHALL NOT BE
2 CONSIDERED TO BE A TRUST DESCRIBED IN SUBSECTION (1).

3 (3) THIS SECTION DOES NOT IMPAIR A RIGHT THAT AN INDIVIDUAL
4 HAS UNDER A QUALIFIED DOMESTIC RELATIONS ORDER AS THAT TERM IS
5 DEFINED IN SECTION 414(P) OF THE INTERNAL REVENUE CODE, 26 USC 414.

6 (4) FOR PURPOSES OF THIS SECTION, PROPERTY HELD OR RECEIVED BY
7 A TRUST TO THE EXTENT THAT THE PROPERTY WOULD NOT HAVE BEEN SUBJECT
8 TO A CLAIM AGAINST THE SETTLOR'S ESTATE IF IT HAD BEEN PAID
9 DIRECTLY TO A TRUST CREATED UNDER THE SETTLOR'S WILL OR OTHER THAN
10 TO THE SETTLOR'S ESTATE, OR PROPERTY RECEIVED FROM A TRUST OTHER
11 THAN A TRUST DESCRIBED IN THIS SECTION, SHALL NOT BE CONSIDERED
12 TRUST PROPERTY AVAILABLE FOR THE PAYMENT OF THE ADMINISTRATION
13 EXPENSES, A CLAIM AGAINST THE SETTLOR'S ESTATE, OR AN ALLOWANCE
14 DESCRIBED IN SUBSECTION (1).

15 SEC. 7606. (1) A TRUSTEE OF A TRUST DESCRIBED IN SECTION
16 7605(1) SHALL PAY TO THE PERSONAL REPRESENTATIVE OF THE SETTLOR'S
17 ESTATE THE AMOUNT THAT THE PERSONAL REPRESENTATIVE CERTIFIES IN
18 WRITING TO THE TRUSTEE IS REQUIRED TO PAY THE ADMINISTRATION
19 EXPENSES OF THE SETTLOR'S ESTATE; AN ENFORCEABLE AND TIMELY
20 PRESENTED CLAIM OF A CREDITOR OF THE SETTLOR, INCLUDING A CLAIM FOR
21 THE SETTLOR'S FUNERAL AND BURIAL EXPENSES; AND HOMESTEAD, FAMILY,
22 AND EXEMPT PROPERTY ALLOWANCES. THE TRUSTEE MAY RELY ON THE
23 CERTIFICATE OF THE PERSONAL REPRESENTATIVE WITHOUT LIABILITY TO A
24 TRUST BENEFICIARY OR ANOTHER PARTY. IF A PERSONAL REPRESENTATIVE IS
25 NOT APPOINTED FOR THE SETTLOR'S ESTATE, THE TRUSTEE SHALL PAY
26 DIRECTLY TO THE CREDITOR AN ENFORCEABLE AND TIMELY SERVED CLAIM OF
27 A CREDITOR OF THE SETTLOR, INCLUDING A CLAIM FOR THE SETTLOR'S

1 FUNERAL AND BURIAL EXPENSES. IF A PERSONAL REPRESENTATIVE IS NOT
2 APPOINTED FOR THE SETTLOR'S ESTATE WITHIN 4 MONTHS AFTER THE DATE
3 OF THE PUBLICATION OF NOTICE TO CREDITORS, A TRUST DESCRIBED IN
4 SECTION 7605(1) IS NOT LIABLE FOR PAYMENT OF HOMESTEAD, FAMILY, OR
5 EXEMPT PROPERTY ALLOWANCES. A PAYMENT MADE BY A TRUSTEE IS SUBJECT
6 TO THIS SECTION, BUT THE PAYMENT SHALL BE MADE EXCLUSIVELY OUT OF
7 PROPERTY, OR THE PROCEEDS OF PROPERTY, THAT IS INCLUDABLE IN THE
8 SETTLOR'S GROSS ESTATE FOR FEDERAL ESTATE TAX PURPOSES, OTHER THAN
9 ASSETS DESCRIBED IN SECTION 7605(2) TO (4).

10 (2) SUBJECT TO SECTION 7607, UNLESS A SETTLOR PROVIDES IN HIS
11 OR HER WILL OR, IN THE ABSENCE OF SUCH A PROVISION, DESIGNATES IN
12 THE TRUST THE MONEY OR PROPERTY PASSING UNDER A TRUST TO BE USED AS
13 DESCRIBED IN SECTION 7605(1), THE ADMINISTRATION EXPENSES OF THE
14 SETTLOR'S ESTATE; AN ENFORCEABLE AND TIMELY FILED CLAIM OF A
15 CREDITOR OF THE SETTLOR, INCLUDING A CLAIM FOR THE SETTLOR'S
16 FUNERAL AND BURIAL EXPENSES; OR HOMESTEAD, FAMILY, AND EXEMPT
17 PROPERTY ALLOWANCES, TO BE PAID IN ACCORDANCE WITH SUBSECTION (1),
18 SHALL BE PAID FROM THE PROPERTY OF THE TRUST IN THE FOLLOWING
19 ORDER:

20 (A) PROPERTY OF THE TRUST RESIDUE REMAINING AFTER ALL
21 DISTRIBUTIONS THAT ARE TO BE SATISFIED BY REFERENCE TO A SPECIFIC
22 PROPERTY OR TYPE OF PROPERTY, FUND, MONEY, OR STATUTORY AMOUNT.

23 (B) PROPERTY THAT IS NOT TO BE DISTRIBUTED OUT OF SPECIFIED OR
24 IDENTIFIED PROPERTY OR A SPECIFIED OR IDENTIFIED ITEM OF PROPERTY.

25 (C) PROPERTY THAT IS TO BE DISTRIBUTED OUT OF SPECIFIED OR
26 IDENTIFIED PROPERTY OR A SPECIFIED OR IDENTIFIED ITEM OF PROPERTY.

27 SEC. 7607. (1) THE FOLLOWING RULES APPLY TO SECTION 7606(2):

1 (A) UPON THE FAILURE OR INSUFFICIENCY OF MONEY OR PROPERTY OUT
2 OF WHICH PAYMENT SHOULD BE MADE, TO THE EXTENT OF THE
3 INSUFFICIENCY, A DISTRIBUTION OF PROPERTY FROM THE TRUST THAT IS TO
4 BE SATISFIED OUT OF SPECIFIED OR IDENTIFIED PROPERTY SHALL BE
5 CLASSED AS A DISTRIBUTION TO BE SATISFIED OUT OF THE GENERAL TRUST
6 PROPERTY NOT OTHERWISE DISPOSED OF IN THE TERMS OF THE TRUST.

7 (B) A DISTRIBUTION OF PROPERTY FROM THE TRUST GIVEN FOR
8 VALUABLE CONSIDERATION ABATES WITH OTHER DISTRIBUTIONS OF THE SAME
9 CLASS ONLY TO THE EXTENT OF THE EXCESS OVER THE AMOUNT OF THE VALUE
10 OF THE CONSIDERATION UNTIL ALL OTHERS OF THE SAME CLASS ARE
11 EXHAUSTED.

12 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
13 DISTRIBUTIONS OF PROPERTY FROM THE TRUST ABATE EQUALLY AND RATABLY
14 AND WITHOUT PREFERENCE OR PRIORITY AS BETWEEN REAL AND PERSONAL
15 PROPERTY.

16 (D) IF A SPECIFIED OR IDENTIFIED ITEM OF PROPERTY THAT HAS
17 BEEN DESIGNATED FOR DISTRIBUTION IN THE TERMS OF THE TRUST OR THAT
18 IS CHARGED WITH A DISTRIBUTION IS SOLD OR TAKEN BY THE TRUSTEE,
19 OTHER BENEFICIARIES SHALL CONTRIBUTE ACCORDING TO THEIR RESPECTIVE
20 INTERESTS TO THE TRUST BENEFICIARY WHOSE PROPERTY IS SOLD OR TAKEN,
21 AND, BEFORE DISTRIBUTION, THE TRUSTEE SHALL DETERMINE THE AMOUNTS
22 OF THE RESPECTIVE CONTRIBUTIONS, WHICH SHALL BE PAID OR WITHHELD
23 BEFORE DISTRIBUTION IS MADE.

24 (2) COSTS AND EXPENSES OF TRUST ADMINISTRATION, INCLUDING
25 TRUSTEE COMPENSATION AND ATTORNEY FEES, SHALL BE PAID BY THE
26 TRUSTEE BEFORE AND IN PREFERENCE TO THE ADMINISTRATION COSTS AND
27 EXPENSES OF THE SETTLOR'S ESTATE, AN ENFORCEABLE AND TIMELY FILED

1 CLAIM OF A CREDITOR OF THE SETTLOR, AND HOMESTEAD, FAMILY, AND
2 EXEMPT PROPERTY ALLOWANCES. IF, AFTER PAYING COSTS AND EXPENSES OF
3 TRUST ADMINISTRATION, THE TRUST PROPERTY IS INSUFFICIENT TO PAY IN
4 FULL ALL CHARGES FOR WHICH THE TRUST IS LIABLE UNDER SECTION
5 7605(1), THE TRUSTEE SHALL MAKE PAYMENT IN THE FOLLOWING ORDER OF
6 PRIORITY:

7 (A) COSTS AND EXPENSES OF ADMINISTRATION OF THE DECEDENT'S
8 ESTATE.

9 (B) REASONABLE FUNERAL AND BURIAL EXPENSES.

10 (C) HOMESTEAD ALLOWANCE.

11 (D) FAMILY ALLOWANCE.

12 (E) EXEMPT PROPERTY.

13 (F) DEBTS AND TAXES WITH PRIORITY UNDER FEDERAL LAW.

14 (G) REASONABLE AND NECESSARY MEDICAL AND HOSPITAL EXPENSES OF
15 THE DECEDENT'S LAST ILLNESS, INCLUDING COMPENSATION OF A PERSON
16 ATTENDING THE DECEDENT.

17 (H) DEBTS AND TAXES WITH PRIORITY UNDER OTHER LAWS OF THIS
18 STATE.

19 (I) ALL OTHER CLAIMS.

20 (3) A PREFERENCE SHALL NOT BE GIVEN IN THE PAYMENT OF A CHARGE
21 OVER ANOTHER CHARGE OF THE SAME CLASS UNDER SUBSECTION (2), AND A
22 CHARGE DUE AND PAYABLE IS NOT ENTITLED TO A PREFERENCE OVER A
23 CHARGE NOT DUE.

24 (4) IF THE DECEDENT WAS THE SETTLOR OF MORE THAN 1 TRUST
25 DESCRIBED IN SECTION 7605(1), THE CHARGES DESCRIBED IN THAT SECTION
26 ARE PAYABLE PRO RATA FROM THOSE TRUSTS BASED ON THE GROSS VALUES OF
27 THE RESPECTIVE TRUSTS ON THE DATE OF THE DECEDENT'S DEATH. EACH

1 TRUSTEE IS ENTITLED TO RIGHT OF CONTRIBUTION AS NECESSARY TO EFFECT
2 THE PRO RATA LIABILITY. THE ALLOCATION AND CONTRIBUTION, HOWEVER,
3 ARE SUBJECT TO PROVISIONS IN THE TRUSTS REGARDING THE ALLOCATION
4 AND BURDEN OF THE CHARGES. IF THERE IS CONFLICT BETWEEN THE TERMS
5 OF THE TRUSTS REGARDING THE ALLOCATION AND BURDEN OF THE CHARGES,
6 THE DECEDENT'S WILL CONTROLS.

7 SEC. 7608. IF THERE IS NO PERSONAL REPRESENTATIVE OF THE
8 SETTLOR'S ESTATE TO WHOM LETTERS OF ADMINISTRATION HAVE BEEN ISSUED
9 SO THAT THE PUBLICATION AND NOTICE REQUIREMENTS OF SECTION 3801
10 HAVE NOT BEEN DISCHARGED, EACH TRUSTEE OF A TRUST DESCRIBED IN
11 SECTION 7605(1) SHALL PUBLISH AND SERVE A NOTICE TO CREDITORS IN
12 THE SAME MANNER, WITH THE SAME DUTIES, AND WITH THE SAME PROTECTION
13 FOR THE TRUSTEE AND THE ATTORNEY FOR THE TRUSTEE AS DESCRIBED IN
14 SECTION 3801 FOR A PERSONAL REPRESENTATIVE. THE NOTICE SHALL COMPLY
15 WITH APPLICABLE COURT RULES AND CONTAIN THE NAME OF THE TRUST'S
16 DECEASED SETTLOR; THE TRUST'S NAME OR OTHER DESIGNATION, IF ANY;
17 THE DATE THE TRUST WAS ESTABLISHED; THE NAME AND ADDRESS OF EACH
18 TRUSTEE SERVING AT THE TIME OF OR AS A RESULT OF THE SETTLOR'S
19 DEATH; AND THE NAME AND ADDRESS OF THE TRUSTEE'S ATTORNEY, IF ANY.
20 THE NOTICE SHALL STATE THE DATE OF PUBLICATION.

21 SEC. 7609. (1) SUBJECT TO SECTION 7611, IF NOTICE TO CLAIMANTS
22 IS GIVEN BY A TRUSTEE AS PROVIDED IN SECTION 7608, A CLAIMANT SHALL
23 PRESENT A CLAIM AGAINST A TRUST DESCRIBED IN SECTION 7605(1) IN
24 EITHER OF THE FOLLOWING WAYS:

25 (A) THE CLAIMANT MAY MAIL OR DELIVER TO THE TRUSTEE A WRITTEN
26 STATEMENT OF THE CLAIM INDICATING ITS BASIS, THE NAME AND ADDRESS
27 OF THE CLAIMANT, AND THE AMOUNT CLAIMED. THE CLAIM IS CONSIDERED

1 PRESENTED ON THE TRUSTEE'S RECEIPT OF THE CLAIM. IF A CLAIM IS NOT
2 YET DUE, THE DATE WHEN IT WILL BECOME DUE SHALL BE STATED. IF THE
3 CLAIM IS CONTINGENT OR UNLIQUIDATED, THE NATURE OF THE UNCERTAINTY
4 SHALL BE STATED. IF THE CLAIM IS SECURED, THE SECURITY SHALL BE
5 DESCRIBED. FAILURE TO DESCRIBE CORRECTLY THE SECURITY, THE NATURE
6 OF ANY UNCERTAINTY, AND THE DUE DATE OF A CLAIM NOT YET DUE DOES
7 NOT INVALIDATE A CLAIM'S PRESENTATION.

8 (B) THE CLAIMANT MAY COMMENCE A PROCEEDING TO OBTAIN PAYMENT
9 OF A CLAIM AGAINST THE TRUST IN A COURT WHERE THE TRUSTEE IS
10 SUBJECT TO JURISDICTION. THE COMMENCEMENT OF THE PROCEEDING SHALL
11 OCCUR WITHIN THE TIME LIMIT FOR PRESENTING THE CLAIM. PRESENTATION
12 OF A CLAIM IS NOT REQUIRED IN REGARD TO MATTERS CLAIMED IN
13 PROCEEDINGS AGAINST THE TRUST OR SETTLOR THAT WERE PENDING AT THE
14 TIME OF THE SETTLOR'S DEATH.

15 (2) IF A PERSONAL REPRESENTATIVE IS APPOINTED FOR THE
16 SETTLOR'S ESTATE, PRESENTATION OF A CLAIM AGAINST THE SETTLOR'S
17 ESTATE SHALL BE MADE IN THE MANNER DESCRIBED IN SECTION 3804, AND
18 SUCH A PRESENTATION IS SUFFICIENT TO ASSERT LIABILITY AGAINST A
19 TRUST DESCRIBED IN SECTION 7605(1) WITHOUT AN ADDITIONAL
20 PRESENTATION OF THE CLAIM AGAINST THE TRUSTEE.

21 SEC. 7610. (1) SUBJECT TO SECTION 7611, IF NOT BARRED EARLIER
22 BY ANOTHER STATUTE OF LIMITATIONS, A CLAIM AGAINST THE SETTLOR OF A
23 TRUST DESCRIBED IN SECTION 7606(1) THAT AROSE AT OR BEFORE THE
24 SETTLOR'S DEATH THAT A PERSON SEEKS TO RECOVER FROM THE TRUST IS
25 BARRED AGAINST THE TRUST, EACH TRUSTEE OF THE TRUST, AND A TRUST
26 BENEFICIARY, UNLESS PRESENTED WITHIN 1 OF THE FOLLOWING TIMES:

27 (A) IF NOTICE IS GIVEN IN COMPLIANCE EITHER WITH SECTION 3801

1 OR SECTION 7608, WITHIN 4 MONTHS AFTER THE DATE OF PUBLICATION OF
2 NOTICE TO CREDITORS.

3 (B) FOR A CREDITOR KNOWN TO THE PERSONAL REPRESENTATIVE AT THE
4 TIME OF PUBLICATION OR DURING THE 4 MONTHS FOLLOWING PUBLICATION,
5 OR KNOWN TO THE TRUSTEE AT OR DURING SUCH A TIME IF PUBLICATION
6 OCCURRED UNDER SECTION 7608, WITHIN 28 DAYS AFTER THE SUBSEQUENT
7 SENDING OF NOTICE OR 4 MONTHS AFTER THE DATE OF PUBLICATION OF
8 NOTICE TO CREDITORS, WHICHEVER IS LATER.

9 (C) IF THE NOTICE REQUIREMENTS OF EITHER SECTION 3801 OR
10 SECTION 7608 ARE NOT MET, WITHIN 3 YEARS AFTER THE SETTLOR'S DEATH.

11 (2) THIS SECTION DOES NOT AFFECT OR PREVENT ANY OF THE
12 FOLLOWING:

13 (A) A PROCEEDING TO ENFORCE A MORTGAGE, PLEDGE, OR OTHER LIEN
14 UPON PROPERTY HELD IN THE TRUST.

15 (B) A PROCEEDING TO ESTABLISH THE SETTLOR'S OR THE TRUSTEE'S
16 LIABILITY FOR WHICH THE SETTLOR OR THE TRUSTEE IS PROTECTED BY
17 LIABILITY INSURANCE TO THE LIMITS OF THE INSURANCE PROTECTION ONLY.

18 (C) COLLECTION OF COMPENSATION FOR SERVICES RENDERED AND
19 REIMBURSEMENT OF EXPENSES ADVANCED BY THE TRUSTEE OR BY AN
20 ATTORNEY, AUDITOR, INVESTMENT ADVISER, OR OTHER SPECIALIZED AGENT
21 OR ASSISTANT FOR THE TRUSTEE.

22 SEC. 7611. IF THERE IS NO PERSONAL REPRESENTATIVE APPOINTED
23 FOR THE SETTLOR'S ESTATE AND NOTICE IS GIVEN IN ACCORDANCE WITH
24 SECTION 7608, THE ALLOWANCE OR DISALLOWANCE OF A CLAIM PRESENTED IN
25 THE MANNER DESCRIBED IN SECTION 7609(1) AND WITHIN A TIME PERIOD
26 DESCRIBED IN SECTION 7610 IS GOVERNED BY THE FOLLOWING PROVISIONS:

27 (A) THE TRUSTEE MAY DELIVER OR MAIL A NOTICE TO THE CLAIMANT

1 STATING THAT THE CLAIM HAS BEEN DISALLOWED IN WHOLE OR IN PART. IF,
2 AFTER ALLOWING OR DISALLOWING A CLAIM, THE TRUSTEE CHANGES A
3 DECISION CONCERNING THE CLAIM, THE TRUSTEE SHALL NOTIFY THE
4 CLAIMANT. THE TRUSTEE SHALL NOT CHANGE A DECISION DISALLOWING A
5 CLAIM IF THE TIME FOR THE CLAIMANT TO COMMENCE A PROCEEDING FOR
6 ALLOWANCE EXPIRES OR IF THE TIME TO COMMENCE A PROCEEDING ON THE
7 CLAIM EXPIRES AND THE CLAIM HAS BEEN BARRED. A CLAIM THAT IS
8 DISALLOWED IN WHOLE OR IN PART BY THE TRUSTEE IS BARRED TO THE
9 EXTENT NOT ALLOWED UNLESS THE CLAIMANT COMMENCES A PROCEEDING
10 AGAINST THE TRUSTEE NOT LATER THAN 63 DAYS AFTER THE MAILING OF THE
11 NOTICE OF DISALLOWANCE OR PARTIAL ALLOWANCE IF THE NOTICE WARNS THE
12 CLAIMANT OF THE IMPENDING BAR. FAILURE BY THE TRUSTEE TO DELIVER OR
13 MAIL TO A CLAIMANT NOTICE OF ACTION ON THE CLAIM WITHIN 63 DAYS
14 AFTER THE TIME FOR THE CLAIM'S PRESENTATION HAS EXPIRED CONSTITUTES
15 A NOTICE OF ALLOWANCE.

16 (B) AFTER ALLOWING OR DISALLOWING A CLAIM, THE TRUSTEE MAY
17 CHANGE THE ALLOWANCE OR DISALLOWANCE AS PROVIDED IN THIS
18 SUBDIVISION. BEFORE PAYMENT, THE TRUSTEE MAY CHANGE THE ALLOWANCE
19 TO A DISALLOWANCE IN WHOLE OR IN PART, BUT NOT AFTER ALLOWANCE BY A
20 COURT ORDER OR JUDGMENT, OR AN ORDER DIRECTING PAYMENT OF THE
21 CLAIM. THE TRUSTEE SHALL NOTIFY THE CLAIMANT OF THE CHANGE TO
22 DISALLOWANCE, AND THE DISALLOWED CLAIM IS THEN SUBJECT TO BAR AS
23 PROVIDED IN SUBDIVISION (A). THE TRUSTEE MAY CHANGE A DISALLOWANCE
24 TO AN ALLOWANCE, IN WHOLE OR IN PART, UNTIL IT IS BARRED UNDER
25 SUBDIVISION (A). AFTER A CLAIM IS BARRED, IT MAY BE ALLOWED AND
26 PAID ONLY IF THE TRUST IS SOLVENT AND ALL WHOSE INTERESTS WOULD BE
27 AFFECTED CONSENT.

1 (C) UPON THE TRUSTEE'S OR A CLAIMANT'S COMMENCEMENT OF A
2 PROCEEDING, THE COURT MAY ALLOW IN WHOLE OR IN PART A CLAIM
3 PROPERLY PRESENTED IN DUE TIME AND NOT BARRED BY SUBDIVISION (A).

4 (D) A JUDGMENT IN A PROCEEDING IN ANOTHER COURT AGAINST A
5 TRUSTEE TO ENFORCE A CLAIM AGAINST A DECEDENT'S ESTATE CONSTITUTES
6 AN ALLOWANCE OF THE CLAIM.

7 (E) UNLESS OTHERWISE PROVIDED IN A JUDGMENT IN ANOTHER COURT
8 ENTERED AGAINST THE TRUSTEE, AN ALLOWED CLAIM BEARS INTEREST AT A
9 RATE DETERMINED UNDER SECTION 6013 OF THE REVISED JUDICATURE ACT OF
10 1961, MCL 600.6013, FOR THE PERIOD COMMENCING 63 DAYS AFTER THE
11 TIME FOR ORIGINAL PRESENTATION OF THE CLAIM HAS EXPIRED, UNLESS
12 BASED ON A CONTRACT THAT PROVIDES FOR INTEREST, IN WHICH CASE THE
13 CLAIM BEARS INTEREST IN ACCORDANCE WITH THE CONTRACT.

14 SEC. 7612. (1) UPON THE EXPIRATION OF 4 MONTHS AFTER THE DATE
15 OF THE PUBLICATION OF THE NOTICE TO CREDITORS, THE TRUSTEE SHALL
16 PROCEED TO PAY THE CLAIMS ALLOWED AGAINST THE TRUST IN THE ORDER OF
17 PRIORITY PRESCRIBED IN SECTION 7607(2)(F) AND (G), AFTER MAKING
18 PROVISION FOR COSTS AND EXPENSES OF TRUST ADMINISTRATION, FOR
19 REASONABLE FUNERAL AND BURIAL EXPENSES, FOR EACH CLAIM ALREADY
20 PRESENTED THAT IS NOT YET ALLOWED OR WHOSE ALLOWANCE IS APPEALED,
21 AND FOR EACH UNBARRED CLAIM THAT MAY YET BE PRESENTED. A CLAIMANT
22 WHOSE CLAIM IS ALLOWED, BUT NOT PAID AS PROVIDED IN THIS SECTION,
23 MAY PETITION THE COURT TO SECURE AN ORDER DIRECTING THE TRUSTEE TO
24 PAY THE CLAIM TO THE EXTENT THAT MONEY OF THE TRUST IS AVAILABLE
25 FOR THE PAYMENT.

26 (2) AT ANY TIME, THE TRUSTEE MAY PAY A CLAIM THAT IS NOT
27 BARRED, WITH OR WITHOUT FORMAL PRESENTATION, BUT IS INDIVIDUALLY

1 LIABLE TO ANOTHER CLAIMANT WHOSE CLAIM IS ALLOWED AND WHO IS
2 INJURED BY THE PAYMENT IF EITHER OF THE FOLLOWING OCCURS:

3 (A) PAYMENT IS MADE BEFORE THE EXPIRATION OF THE TIME LIMIT
4 STATED IN SUBSECTION (1) AND THE TRUSTEE FAILS TO REQUIRE THE PAYEE
5 TO GIVE ADEQUATE SECURITY FOR THE REFUND OF ANY OF THE PAYMENT
6 NECESSARY TO PAY ANOTHER CLAIMANT.

7 (B) PAYMENT IS MADE, DUE TO THE NEGLIGENCE OR WILLFUL FAULT OF
8 THE TRUSTEE, IN A MANNER THAT DEPRIVES THE INJURED CLAIMANT OF
9 PRIORITY.

10 (3) IF A CLAIM IS ALLOWED BUT THE WHEREABOUTS OF THE CLAIMANT
11 ARE UNKNOWN AT THE TIME THE TRUSTEE ATTEMPTS TO PAY THE CLAIM, UPON
12 PETITION BY THE TRUSTEE AND AFTER NOTICE THE COURT CONSIDERS
13 ADVISABLE, THE COURT MAY DISALLOW THE CLAIM. IF THE COURT DISALLOWS
14 A CLAIM UNDER THIS SUBSECTION, THE CLAIM IS BARRED.

15 SEC. 7613. PAYMENT OF A SECURED CLAIM SHALL BE UPON THE BASIS
16 OF THE AMOUNT ALLOWED IF THE CREDITOR SURRENDERS THE SECURITY.
17 OTHERWISE, PAYMENT SHALL BE UPON THE BASIS OF 1 OF THE FOLLOWING:

18 (A) IF THE CREDITOR EXHAUSTS THE SECURITY BEFORE RECEIVING
19 PAYMENT, UPON THE CLAIM AMOUNT ALLOWED LESS THE FAIR VALUE OF THE
20 SECURITY.

21 (B) IF THE CREDITOR DOES NOT HAVE THE RIGHT TO EXHAUST THE
22 SECURITY OR DOES NOT DO SO, UPON THE CLAIM AMOUNT ALLOWED LESS THE
23 VALUE OF THE SECURITY AS DETERMINED BY CONVERTING IT INTO MONEY
24 ACCORDING TO THE TERMS OF THE AGREEMENT UNDER WHICH THE SECURITY IS
25 DELIVERED TO THE CREDITOR, OR AS DETERMINED BY THE CREDITOR AND
26 TRUSTEE BY AGREEMENT, ARBITRATION, COMPROMISE, OR LITIGATION.

27 SEC. 7614. A CLAIM THAT WILL BECOME DUE AT A FUTURE TIME, A

1 CONTINGENT CLAIM, OR AN UNLIQUIDATED CLAIM IS GOVERNED BY THE
2 FOLLOWING:

3 (A) IF A CLAIM BECOMES DUE OR CERTAIN BEFORE THE DISTRIBUTION
4 OF THE TRUST, AND IF THE CLAIM IS ALLOWED OR ESTABLISHED BY A
5 PROCEEDING, THE CLAIM SHALL BE PAID IN THE SAME MANNER AS PRESENTLY
6 DUE AND ABSOLUTE CLAIMS OF THE SAME CLASS.

7 (B) FOR A CLAIM NOT COVERED BY SUBDIVISION (A), THE TRUSTEE
8 OR, ON PETITION OF THE TRUSTEE OR THE CLAIMANT IN A PROCEEDING FOR
9 THE PURPOSE, THE COURT MAY PROVIDE FOR PAYMENT AS FOLLOWS:

10 (i) IF THE CLAIMANT CONSENTS, THE CLAIMANT MAY BE PAID THE
11 PRESENT OR AGREED VALUE OF THE CLAIM, TAKING ANY UNCERTAINTY INTO
12 ACCOUNT.

13 (ii) ARRANGEMENT FOR FUTURE PAYMENT, OR POSSIBLE PAYMENT, ON
14 THE HAPPENING OF THE CONTINGENCY OR ON LIQUIDATION MAY BE MADE BY
15 CREATING A TRUST, GIVING A MORTGAGE, OBTAINING A BOND OR SECURITY
16 FROM A DISTRIBUTEE, OR OTHERWISE.

17 SEC. 7615. IN ALLOWING A CLAIM, THE TRUSTEE MAY DEDUCT A
18 COUNTERCLAIM THAT THE TRUSTEE HAS AGAINST THE CLAIMANT. IN
19 DETERMINING A CLAIM AGAINST A TRUST, THE COURT SHALL REDUCE THE
20 AMOUNT ALLOWED BY THE AMOUNT OF A COUNTERCLAIM AND, IF THE TOTAL
21 COUNTERCLAIMS EXCEED THE CLAIM, RENDER A JUDGMENT AGAINST THE
22 CLAIMANT IN THE AMOUNT OF THE EXCESS. A COUNTERCLAIM, LIQUIDATED OR
23 UNLIQUIDATED, MAY ARISE FROM A TRANSACTION OTHER THAN THAT UPON
24 WHICH THE CLAIM IS BASED. A COUNTERCLAIM MAY GIVE RISE TO RELIEF
25 EXCEEDING IN AMOUNT OR DIFFERENT IN KIND FROM THAT SOUGHT IN THE
26 CLAIM.

27

PART 7

1 SEC. 7701. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3),
2 A PERSON DESIGNATED AS TRUSTEE ACCEPTS THE TRUSTEESHIP BY DOING
3 EITHER OF THE FOLLOWING:

4 (A) SUBSTANTIALLY COMPLYING WITH A METHOD OF ACCEPTANCE
5 PROVIDED IN THE TERMS OF THE TRUST.

6 (B) IF THE TERMS OF THE TRUST DO NOT PROVIDE A METHOD OR THE
7 METHOD PROVIDED IN THE TERMS IS NOT EXPRESSLY MADE EXCLUSIVE,
8 ACCEPTING DELIVERY OF THE TRUST PROPERTY, EXERCISING POWERS OR
9 PERFORMING DUTIES AS TRUSTEE, OR OTHERWISE INDICATING ACCEPTANCE OF
10 THE TRUSTEESHIP.

11 (2) A PERSON DESIGNATED AS TRUSTEE WHO HAS NOT YET ACCEPTED
12 THE TRUSTEESHIP MAY REJECT THE TRUSTEESHIP. A DESIGNATED TRUSTEE
13 WHO DOES NOT ACCEPT THE TRUSTEESHIP WITHIN A REASONABLE TIME AFTER
14 KNOWING OF THE DESIGNATION IS DEEMED TO HAVE REJECTED THE
15 TRUSTEESHIP.

16 (3) A PERSON DESIGNATED AS TRUSTEE, WITHOUT ACCEPTING THE
17 TRUSTEESHIP, MAY DO ALL OF THE FOLLOWING:

18 (A) ACT TO PRESERVE THE TRUST PROPERTY IF, WITHIN A REASONABLE
19 TIME AFTER ACTING, THE PERSON SENDS A REJECTION OF THE TRUSTEESHIP
20 TO THE SETTLOR OR, IF THE SETTLOR IS DEAD OR LACKS CAPACITY, TO A
21 QUALIFIED TRUST BENEFICIARY.

22 (B) EXERCISE ALL POWERS SET FORTH UNDER SECTION 7818(1)(A).

23 (C) INSPECT OR INVESTIGATE TRUST PROPERTY TO DETERMINE
24 POTENTIAL LIABILITY UNDER OTHER LAW OR FOR ANY OTHER PURPOSE.

25 SEC. 7702. (1) A TRUSTEE SHALL GIVE BOND TO SECURE PERFORMANCE
26 OF THE TRUSTEE'S DUTIES ONLY IF THE COURT FINDS THAT A BOND IS
27 NEEDED TO PROTECT THE INTERESTS OF THE TRUST BENEFICIARIES OR IS

1 REQUIRED BY THE TERMS OF THE TRUST AND THE COURT HAS NOT DISPENSED
2 WITH THE REQUIREMENT.

3 (2) THE COURT MAY SPECIFY THE AMOUNT OF A BOND, ITS
4 LIABILITIES, AND WHETHER SURETIES ARE NECESSARY. THE COURT MAY
5 MODIFY OR TERMINATE A BOND AT ANY TIME.

6 (3) A REGULATED FINANCIAL SERVICE INSTITUTION QUALIFIED TO DO
7 TRUST BUSINESS IN THIS STATE NEED NOT GIVE BOND, EVEN IF REQUIRED
8 BY THE TERMS OF THE TRUST.

9 SEC. 7703. (1) COTRUSTEES SHALL ACT BY MAJORITY DECISION.

10 (2) IF A VACANCY OCCURS IN A COTRUSTEESHIP, THE REMAINING
11 COTRUSTEE OR COTRUSTEES MAY ACT FOR THE TRUST.

12 (3) A COTRUSTEE SHALL PARTICIPATE IN THE PERFORMANCE OF A
13 TRUSTEE'S FUNCTION UNLESS THE COTRUSTEE IS UNAVAILABLE TO PERFORM
14 THE FUNCTION BECAUSE OF ABSENCE, ILLNESS, DISQUALIFICATION UNDER
15 OTHER LAW, OR OTHER TEMPORARY INCAPACITY OR THE COTRUSTEE HAS
16 PROPERLY DELEGATED THE PERFORMANCE OF THE FUNCTION TO ANOTHER
17 TRUSTEE.

18 (4) IF PROMPT ACTION IS NECESSARY TO AVOID INJURY TO THE TRUST
19 PROPERTY, THE REMAINING COTRUSTEE OR A MAJORITY OF THE REMAINING
20 COTRUSTEES MAY ACT FOR THE TRUST IF EITHER OF THE FOLLOWING
21 APPLIES:

22 (A) A COTRUSTEE IS UNAVAILABLE TO PERFORM DUTIES BECAUSE OF
23 ABSENCE, ILLNESS, DISQUALIFICATION UNDER OTHER LAW, OR OTHER
24 TEMPORARY INCAPACITY.

25 (B) A COTRUSTEE WHO IS AVAILABLE FAILS OR REFUSES TO
26 PARTICIPATE IN THE ADMINISTRATION OF THE TRUST FOLLOWING NOTICE
27 FROM THE REMAINING COTRUSTEE OR COTRUSTEES.

1 (5) BY AGREEMENT OF THE TRUSTEES, A TRUSTEE MAY DELEGATE TO A
2 COTRUSTEE BOTH OF THE FOLLOWING:

3 (A) ANY POWER THAT IS PERMITTED TO BE DELEGATED PURSUANT TO
4 SECTION 7817(V) TO AN AGENT WHO IS NOT A TRUSTEE.

5 (B) ANY POWER THAT CAN ONLY BE PERFORMED BY A TRUSTEE, IF
6 NOTICE OF THE DELEGATION IS PROVIDED TO THE QUALIFIED TRUST
7 BENEFICIARIES WITHIN 28 DAYS.

8 (6) UNLESS A DELEGATION UNDER SUBSECTION (5) WAS IRREVOCABLE,
9 A TRUSTEE MAY REVOKE THE DELEGATION PREVIOUSLY MADE. A REVOCATION
10 UNDER THIS SUBSECTION SHALL BE IN WRITING AND SHALL BE GIVEN TO ALL
11 OF THE REMAINING COTRUSTEES. IF NOTICE OF THE DELEGATION WAS
12 REQUIRED TO BE PROVIDED TO THE QUALIFIED TRUST BENEFICIARIES,
13 NOTICE OF THE REVOCATION SHALL BE GIVEN TO THE QUALIFIED TRUST
14 BENEFICIARIES WITHIN 28 DAYS AFTER THE REVOCATION.

15 (7) IF 2 OR MORE TRUSTEES OWN SECURITIES, THEIR ACTS WITH
16 RESPECT TO VOTING HAVE 1 OF THE FOLLOWING EFFECTS:

17 (A) IF ONLY 1 TRUSTEE VOTES, IN PERSON OR BY PROXY, THAT
18 TRUSTEE'S ACT BINDS ALL OF THE TRUSTEES.

19 (B) IF MORE THAN 1 TRUSTEE VOTES, IN PERSON OR BY PROXY, THE
20 ACT OF THE MAJORITY SO VOTING BINDS ALL OF THE TRUSTEES.

21 (C) IF MORE THAN 1 TRUSTEE VOTES, IN PERSON OR BY PROXY, BUT
22 THE VOTE IS EVENLY SPLIT ON A PARTICULAR MATTER, EACH FACTION IS
23 ENTITLED TO VOTE THE SECURITIES PROPORTIONATELY.

24 (8) A TRUSTEE IS NOT LIABLE FOR THE ACTION OR OMISSION OF A
25 COTRUSTEE IF ALL OF THE FOLLOWING APPLY:

26 (A) THE TRUSTEE IS NOT UNAVAILABLE TO PERFORM A TRUSTEE'S
27 FUNCTION BECAUSE OF ABSENCE, ILLNESS, DISQUALIFICATION UNDER OTHER

1 LAW, OR OTHER INCAPACITY OR HAS NOT PROPERLY DELEGATED THE
2 PERFORMANCE OF THE FUNCTION TO A COTRUSTEE.

3 (B) THE TRUSTEE IS AWARE OF BUT DOES NOT JOIN IN THE ACTION OR
4 OMISSION OF THE COTRUSTEE.

5 (C) THE TRUSTEE DISSENTS IN WRITING TO EACH COTRUSTEE AT OR
6 BEFORE THE TIME OF THE ACTION OR OMISSION.

7 (9) A TRUSTEE WHO IS NOT AWARE OF AN ACTION BY A COTRUSTEE IS
8 NOT LIABLE FOR THAT ACTION UNLESS THE TRUSTEE SHOULD HAVE KNOWN
9 THAT THE ACTION WOULD BE TAKEN AND, IF THE TRUSTEE HAD KNOWN, WOULD
10 HAVE HAD AN AFFIRMATIVE DUTY TO TAKE ACTION TO PREVENT THE ACTION.

11 (10) A DISSENTING TRUSTEE WHO JOINS IN AN ACTION AT THE
12 DIRECTION OF THE MAJORITY OF THE TRUSTEES AND WHO NOTIFIED ANY
13 COTRUSTEE IN WRITING OF THE DISSENT AT OR BEFORE THE TIME OF THE
14 ACTION IS NOT LIABLE FOR THE ACTION.

15 SEC. 7704. (1) A VACANCY IN A TRUSTEESHIP OCCURS IF 1 OR MORE
16 OF THE FOLLOWING OCCUR:

17 (A) A PERSON DESIGNATED AS TRUSTEE REJECTS THE TRUSTEESHIP.

18 (B) A PERSON DESIGNATED AS TRUSTEE CANNOT BE IDENTIFIED OR
19 DOES NOT EXIST.

20 (C) A TRUSTEE RESIGNS.

21 (D) A TRUSTEE IS DISQUALIFIED OR REMOVED.

22 (E) A TRUSTEE DIES.

23 (F) A GUARDIAN OR CONSERVATOR IS APPOINTED FOR AN INDIVIDUAL
24 SERVING AS TRUSTEE.

25 (2) IF 1 OR MORE COTRUSTEES REMAIN IN OFFICE, A VACANCY IN A
26 TRUSTEESHIP NEED NOT BE FILLED. A VACANCY IN A TRUSTEESHIP SHALL BE
27 FILLED IF THE TRUST HAS NO REMAINING TRUSTEE.

1 (3) IF A VACANCY IN A TRUSTEESHIP IS TO BE FILLED, THE VACANCY
2 SHALL BE FILLED IN THE FOLLOWING ORDER OF PRIORITY:

3 (A) IN THE MANNER DESIGNATED BY THE TERMS OF THE TRUST.

4 (B) BY A PERSON APPOINTED BY THE COURT.

5 (4) WHETHER OR NOT A VACANCY IN A TRUSTEESHIP EXISTS OR IS
6 REQUIRED TO BE FILLED, THE COURT MAY APPOINT AN ADDITIONAL TRUSTEE
7 OR SPECIAL FIDUCIARY UPON THE SHOWING OF GOOD CAUSE.

8 SEC. 7705. (1) A TRUSTEE MAY RESIGN IN EITHER OF THE FOLLOWING
9 CIRCUMSTANCES:

10 (A) UPON AT LEAST 28 DAYS' NOTICE TO THE QUALIFIED TRUST
11 BENEFICIARIES, THE HOLDERS OF POWERS OF APPOINTMENT, AND ALL
12 COTRUSTEES.

13 (B) WITH THE APPROVAL OF THE COURT.

14 (2) IN APPROVING A RESIGNATION, THE COURT MAY ISSUE ORDERS AND
15 IMPOSE CONDITIONS REASONABLY NECESSARY FOR THE PROTECTION OF THE
16 TRUST PROPERTY.

17 (3) ANY LIABILITY OF A RESIGNING TRUSTEE OR OF ANY SURETIES ON
18 THE TRUSTEE'S BOND FOR ACTS OR OMISSIONS OF THE TRUSTEE IS NOT
19 DISCHARGED OR AFFECTED BY THE TRUSTEE'S RESIGNATION.

20 SEC. 7706. (1) THE SETTLOR, A COTRUSTEE, OR A QUALIFIED TRUST
21 BENEFICIARY MAY REQUEST THE COURT TO REMOVE A TRUSTEE, OR A TRUSTEE
22 MAY BE REMOVED BY THE COURT ON ITS OWN INITIATIVE.

23 (2) THE COURT MAY REMOVE A TRUSTEE IF 1 OR MORE OF THE
24 FOLLOWING OCCUR:

25 (A) THE TRUSTEE COMMITS A SERIOUS BREACH OF TRUST.

26 (B) LACK OF COOPERATION AMONG COTRUSTEES SUBSTANTIALLY IMPAIRS
27 THE ADMINISTRATION OF THE TRUST.

1 (C) BECAUSE OF UNFITNESS, UNWILLINGNESS, OR PERSISTENT FAILURE
2 OF THE TRUSTEE TO ADMINISTER THE TRUST EFFECTIVELY, THE COURT
3 DETERMINES THAT REMOVAL OF THE TRUSTEE BEST SERVES THE PURPOSES OF
4 THE TRUST.

5 (D) THERE HAS BEEN A SUBSTANTIAL CHANGE OF CIRCUMSTANCES, THE
6 COURT FINDS THAT REMOVAL OF THE TRUSTEE BEST SERVES THE INTERESTS
7 OF THE TRUST BENEFICIARIES AND IS NOT INCONSISTENT WITH A MATERIAL
8 PURPOSE OF THE TRUST, AND A SUITABLE COTRUSTEE OR SUCCESSOR TRUSTEE
9 IS AVAILABLE.

10 (3) PENDING A FINAL DECISION ON A REQUEST TO REMOVE A TRUSTEE,
11 OR IN LIEU OF OR IN ADDITION TO REMOVING A TRUSTEE, TO THE EXTENT
12 IT IS NOT INCONSISTENT WITH A MATERIAL PURPOSE OF THE TRUST, THE
13 COURT MAY ORDER ANY APPROPRIATE RELIEF UNDER SECTION 7901(2) THAT
14 IS NECESSARY TO PROTECT THE TRUST PROPERTY OR THE INTERESTS OF THE
15 TRUST BENEFICIARIES.

16 SEC. 7707. (1) UNLESS A COTRUSTEE REMAINS IN OFFICE OR THE
17 COURT OTHERWISE ORDERS, AND UNTIL THE TRUST PROPERTY IS DELIVERED
18 TO A SUCCESSOR TRUSTEE OR OTHER PERSON ENTITLED TO IT, A TRUSTEE
19 WHO HAS RESIGNED OR BEEN REMOVED HAS THE DUTIES OF A TRUSTEE AND
20 THE POWERS NECESSARY TO PROTECT THE TRUST PROPERTY.

21 (2) A TRUSTEE WHO HAS RESIGNED OR BEEN REMOVED SHALL PROCEED
22 EXPEDITIOUSLY TO DELIVER THE TRUST PROPERTY IN THE TRUSTEE'S
23 POSSESSION TO THE COTRUSTEE, SUCCESSOR TRUSTEE, OR OTHER PERSON
24 ENTITLED TO IT.

25 SEC. 7708. (1) IF THE TERMS OF A TRUST DO NOT SPECIFY THE
26 TRUSTEE'S COMPENSATION, A TRUSTEE IS ENTITLED TO COMPENSATION THAT
27 IS REASONABLE UNDER THE CIRCUMSTANCES.

1 SEC. 7802. (1) A TRUSTEE SHALL ADMINISTER THE TRUST SOLELY IN
2 THE INTERESTS OF THE TRUST BENEFICIARIES.

3 (2) SUBJECT TO THE RIGHTS OF PERSONS DEALING WITH OR ASSISTING
4 THE TRUSTEE AS PROVIDED IN SECTION 7912, A SALE, ENCUMBRANCE, OR
5 OTHER TRANSACTION INVOLVING THE INVESTMENT OR MANAGEMENT OF TRUST
6 PROPERTY ENTERED INTO BY THE TRUSTEE FOR THE TRUSTEE'S OWN PERSONAL
7 ACCOUNT OR WHICH IS OTHERWISE AFFECTED BY A SUBSTANTIAL CONFLICT
8 BETWEEN THE TRUSTEE'S FIDUCIARY AND PERSONAL INTERESTS IS VOIDABLE
9 BY A TRUST BENEFICIARY AFFECTED BY THE TRANSACTION UNLESS 1 OR MORE
10 OF THE FOLLOWING APPLY:

11 (A) THE TRANSACTION WAS AUTHORIZED BY THE TERMS OF THE TRUST.

12 (B) THE TRANSACTION WAS APPROVED BY THE COURT AFTER NOTICE TO
13 THE INTERESTED PERSONS.

14 (C) THE TRUST BENEFICIARY DID NOT COMMENCE A JUDICIAL
15 PROCEEDING WITHIN THE TIME ALLOWED BY SECTION 7905.

16 (D) THE TRUST BENEFICIARY CONSENTED TO THE TRUSTEE'S CONDUCT,
17 RATIFIED THE TRANSACTION, OR RELEASED THE TRUSTEE IN COMPLIANCE
18 WITH SECTION 7909.

19 (E) THE TRANSACTION INVOLVES A CONTRACT ENTERED INTO OR CLAIM
20 ACQUIRED BY THE TRUSTEE BEFORE THE PERSON BECAME OR CONTEMPLATED
21 BECOMING TRUSTEE.

22 (F) THE TRANSACTION IS OTHERWISE PERMITTED BY STATUTE.

23 (3) A SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING THE
24 INVESTMENT OR MANAGEMENT OF TRUST PROPERTY IS PRESUMED TO BE
25 AFFECTED BY A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF
26 IT IS ENTERED INTO BY THE TRUSTEE WITH ANY OF THE FOLLOWING:

27 (A) THE TRUSTEE'S SPOUSE.

1 (B) THE TRUSTEE'S DESCENDANT, SIBLING, OR PARENT OR THE SPOUSE
2 OF A DESCENDANT, SIBLING, OR PARENT.

3 (C) AN AGENT OR ATTORNEY OF THE TRUSTEE.

4 (D) A CORPORATION OR OTHER PERSON OR ENTERPRISE IN WHICH THE
5 TRUSTEE, OR A PERSON THAT OWNS A SIGNIFICANT INTEREST IN THE
6 TRUSTEE, HAS AN INTEREST THAT MIGHT AFFECT THE TRUSTEE'S BEST
7 JUDGMENT.

8 (4) A TRANSACTION THAT DOES NOT CONCERN TRUST PROPERTY IN
9 WHICH THE TRUSTEE ENGAGES IN THE TRUSTEE'S INDIVIDUAL CAPACITY
10 INVOLVES A CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS IF THE
11 TRANSACTION CONCERNS AN OPPORTUNITY PROPERLY BELONGING TO THE
12 TRUST.

13 (5) AN INVESTMENT BY A TRUSTEE IN SECURITIES OF AN INVESTMENT
14 COMPANY OR INVESTMENT TRUST TO WHICH THE TRUSTEE, OR ITS AFFILIATE,
15 PROVIDES SERVICES IN A CAPACITY OTHER THAN AS TRUSTEE IS NOT
16 PRESUMED TO BE AFFECTED BY A CONFLICT BETWEEN PERSONAL AND
17 FIDUCIARY INTERESTS IF THE INVESTMENT OTHERWISE COMPLIES WITH THE
18 MICHIGAN PRUDENT INVESTOR RULE. IN ADDITION TO ITS COMPENSATION FOR
19 ACTING AS TRUSTEE, THE TRUSTEE MAY BE COMPENSATED BY THE INVESTMENT
20 COMPANY OR INVESTMENT TRUST FOR PROVIDING THOSE SERVICES OUT OF
21 FEES CHARGED TO THE TRUST. IF THE TRUSTEE RECEIVES COMPENSATION
22 FROM THE INVESTMENT COMPANY OR INVESTMENT TRUST FOR PROVIDING
23 INVESTMENT ADVISORY OR INVESTMENT MANAGEMENT SERVICES, THE TRUSTEE
24 SHALL AT LEAST ANNUALLY NOTIFY THE PERSONS ENTITLED UNDER SECTION
25 7814 TO RECEIVE A COPY OF THE TRUSTEE'S ANNUAL REPORT OF THE RATE
26 AND METHOD BY WHICH THAT COMPENSATION WAS DETERMINED.

27 (6) IN VOTING SHARES OF STOCK OR IN EXERCISING POWERS OF

1 CONTROL OVER SIMILAR INTERESTS IN OTHER FORMS OF ENTERPRISE, THE
2 TRUSTEE SHALL ACT IN THE BEST INTERESTS OF THE TRUST BENEFICIARIES.
3 IF THE TRUST IS THE SOLE OWNER OF A CORPORATION OR OTHER FORM OF
4 ENTERPRISE, THE TRUSTEE SHALL ELECT OR APPOINT DIRECTORS OR OTHER
5 MANAGERS TO MANAGE THE CORPORATION OR ENTERPRISE IN THE BEST
6 INTERESTS OF THE TRUST BENEFICIARIES.

7 (7) THIS SECTION DOES NOT PRECLUDE THE FOLLOWING TRANSACTIONS,
8 IF FAIR TO THE TRUST BENEFICIARIES:

9 (A) AN AGREEMENT BETWEEN A TRUSTEE AND A TRUST BENEFICIARY
10 RELATING TO THE APPOINTMENT OR COMPENSATION OF THE TRUSTEE.

11 (B) PAYMENT OF REASONABLE COMPENSATION TO THE TRUSTEE.

12 (C) A TRANSACTION BETWEEN A TRUST AND ANOTHER TRUST,
13 DECEDENT'S ESTATE, OR CONSERVATORSHIP OF WHICH THE TRUSTEE IS A
14 FIDUCIARY OR IN WHICH A TRUST BENEFICIARY HAS AN INTEREST.

15 (D) A DEPOSIT OF TRUST MONEY IN A REGULATED FINANCIAL SERVICE
16 INSTITUTION OPERATED BY OR AFFILIATED WITH THE TRUSTEE.

17 (E) AN ADVANCE BY THE TRUSTEE OF MONEY FOR THE PROTECTION OF
18 THE TRUST.

19 SEC. 7803. THE TRUSTEE SHALL ACT AS WOULD A PRUDENT PERSON IN
20 DEALING WITH THE PROPERTY OF ANOTHER, INCLUDING FOLLOWING THE
21 STANDARDS OF THE MICHIGAN PRUDENT INVESTOR RULE. IF THE TRUSTEE HAS
22 SPECIAL SKILLS OR IS NAMED TRUSTEE ON THE BASIS OF REPRESENTATION
23 OF SPECIAL SKILLS OR EXPERTISE, THE TRUSTEE IS UNDER A DUTY TO USE
24 THOSE SKILLS.

25 SEC. 7808. WHILE A TRUST IS REVOCABLE, THE TRUSTEE MAY FOLLOW
26 A DIRECTION OF THE SETTLOR THAT IS CONTRARY TO THE TERMS OF THE
27 TRUST.

1 SEC. 7809. (1) A TRUST PROTECTOR, OTHER THAN ONE WHO IS A
2 BENEFICIARY OF THE TRUST, IS PRESUMPTIVELY A FIDUCIARY WHO, AS
3 SUCH, IS REQUIRED TO EXERCISE HIS OR HER SPECIFIED POWERS IN GOOD
4 FAITH WITH REGARD TO THE PURPOSES OF THE TRUST AND THE INTERESTS OF
5 THE BENEFICIARIES, AND IS LIABLE FOR ANY LOSS THAT RESULTS FROM THE
6 BREACH OF HIS OR HER FIDUCIARY DUTIES.

7 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), THE
8 TRUSTEE SHALL ACT IN ACCORDANCE WITH A TRUST PROTECTOR'S EXERCISE
9 OF THE TRUST PROTECTOR'S SPECIFIED POWERS AND IS NOT LIABLE FOR SO
10 ACTING.

11 (3) IF EITHER OF THE FOLLOWING APPLIES TO A TRUST PROTECTOR'S
12 ATTEMPTED EXERCISE OF A SPECIFIED POWER, THE TRUSTEE SHALL NOT ACT
13 IN ACCORDANCE WITH THE ATTEMPTED EXERCISE OF THE POWER UNLESS THE
14 TRUSTEE RECEIVES DIRECTION FROM THE COURT:

15 (A) THE EXERCISE IS CONTRARY TO THE TERMS OF THE TRUST.

16 (B) THE EXERCISE WOULD CONSTITUTE A BREACH OF A FIDUCIARY DUTY
17 THAT THE TRUST PROTECTOR OWES TO THE BENEFICIARIES OF THE TRUST.

18 (4) A TRUSTEE IS NOT LIABLE FOR ANY LOSS THAT RESULTS FROM ANY
19 OF THE FOLLOWING:

20 (A) THE TRUSTEE'S COMPLIANCE WITH A DIRECTION OF A TRUST
21 PROTECTOR, UNLESS THE ATTEMPTED EXERCISE WAS DESCRIBED IN
22 SUBSECTION (3).

23 (B) THE TRUSTEE'S FAILURE TO TAKE ANY ACTION THAT REQUIRES A
24 PRIOR AUTHORIZATION OF THE TRUST PROTECTOR IF THE TRUSTEE TIMELY
25 SOUGHT BUT FAILED TO RECEIVE THE AUTHORIZATION.

26 (C) SEEKING A DETERMINATION FROM THE COURT REGARDING THE TRUST
27 PROTECTOR'S ACTIONS OR DIRECTIONS.

1 (D) THE TRUSTEE'S REFRAINING FROM ACTION PURSUANT TO
2 SUBSECTION (3).

3 (5) 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 SEC. 7810. A TRUSTEE SHALL TAKE REASONABLE STEPS TO TAKE
7 CONTROL OF AND PROTECT THE TRUST PROPERTY.

8 SEC. 7811. (1) A TRUSTEE SHALL KEEP ADEQUATE RECORDS OF THE
9 ADMINISTRATION OF THE TRUST.

10 (2) A TRUSTEE SHALL KEEP TRUST PROPERTY SEPARATE FROM THE
11 TRUSTEE'S OWN PROPERTY.

12 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4), TO THE
13 EXTENT THAT PROPERTY IS HELD BY SOMEONE OTHER THAN THE TRUSTEE, THE
14 TRUSTEE SHALL CAUSE THE TRUST'S INTEREST IN THE TRUST'S PROPERTY TO
15 APPEAR IN RECORDS MAINTAINED BY THE PARTY HOLDING THE TRUST
16 PROPERTY.

17 (4) A TRUSTEE MAY DO ANY OF THE FOLLOWING:

18 (A) INVEST AS A WHOLE THE PROPERTY OF 2 OR MORE SEPARATE
19 TRUSTS, PROVIDED THE TRUSTEE MAINTAINS RECORDS CLEARLY INDICATING
20 THE RESPECTIVE INTERESTS.

21 (B) HOLD TRUST PROPERTY IN NOMINEE FORM.

22 (C) IF THE TRUST IS REVOCABLE BY THE SETTLOR, CAUSE THE
23 TRUST'S INTEREST IN THE TRUST'S PROPERTY TO APPEAR IN RECORDS IN
24 THE MANNER DIRECTED BY THE SETTLOR.

25 (D) NOT REFLECT THE TRUST'S INTEREST IN THE TRUST'S PROPERTY
26 WHEN THE NATURE OF THE PROPERTY IS SUCH THAT IT IS NOT POSSIBLE OR
27 PRACTICABLE TO DO SO.

1 SEC. 7812. A TRUSTEE SHALL TAKE REASONABLE STEPS TO ENFORCE
2 CLAIMS OF THE TRUST AND TO DEFEND CLAIMS AGAINST THE TRUST.

3 SEC. 7813. (1) A TRUSTEE SHALL TAKE REASONABLE STEPS TO LOCATE
4 TRUST PROPERTY AND TO COMPEL A FORMER TRUSTEE OR OTHER PERSON TO
5 DELIVER TRUST PROPERTY TO THE TRUSTEE.

6 (2) A RESIGNING TRUSTEE OR A TRUSTEE BEING REPLACED BY A
7 SUCCESSOR MAY RETAIN A REASONABLE RESERVE FOR THE PAYMENT OF DEBTS,
8 TAXES, AND EXPENSES, INCLUDING ATTORNEY FEES AND OTHER EXPENSES
9 INCIDENTAL TO THE ALLOWANCE OF THE TRUSTEE'S ACCOUNTS.

10 (3) UNLESS THE DISTRIBUTION OR PAYMENT CAN NO LONGER BE
11 QUESTIONED BECAUSE OF ADJUDICATION, ESTOPPEL, OR OTHER LIMITATION,
12 A DISTRIBUTE OR CLAIMANT THAT RECEIVES PROPERTY THAT IS IMPROPERLY
13 DISTRIBUTED OR PAID FROM A TRUST SHALL RETURN THE PROPERTY AND ANY
14 INCOME AND GAIN FROM THE PROPERTY SINCE DISTRIBUTION, IF THE
15 RECIPIENT HAS THE PROPERTY. IF THE RECIPIENT DOES NOT HAVE THE
16 PROPERTY, THE RECIPIENT SHALL PAY THE VALUE OF THE PROPERTY AS OF
17 THE DATE OF DISTRIBUTION OR PAYMENT AND ANY INCOME AND GAIN FROM
18 THE PROPERTY SINCE DISTRIBUTION.

19 (4) IF A PERSON EMBEZZLES OR WRONGFULLY CONVERTS TRUST
20 PROPERTY, OR REFUSES, WITHOUT COLORABLE CLAIM OF RIGHT, TO TRANSFER
21 POSSESSION OF TRUST PROPERTY TO THE CURRENT TRUSTEE UPON DEMAND,
22 THE PERSON IS LIABLE IN AN ACTION BROUGHT BY THE CURRENT TRUSTEE,
23 OR THE BENEFICIARY OF THE TRUST FOR THE BENEFIT OF THE TRUST, FOR
24 DOUBLE THE VALUE OF ANY PROPERTY EMBEZZLED, CONVERTED, OR
25 WRONGFULLY WITHHELD FROM THE CURRENT TRUSTEE.

26 SEC. 7814. (1) A TRUSTEE SHALL KEEP THE QUALIFIED TRUST
27 BENEFICIARIES REASONABLY INFORMED ABOUT THE ADMINISTRATION OF THE

1 TRUST AND OF THE MATERIAL FACTS NECESSARY FOR THEM TO PROTECT THEIR
2 INTERESTS. UNLESS UNREASONABLE UNDER THE CIRCUMSTANCES, A TRUSTEE
3 SHALL PROMPTLY RESPOND TO A TRUST BENEFICIARY'S REQUEST FOR
4 INFORMATION RELATED TO THE ADMINISTRATION OF THE TRUST.

5 (2) A TRUSTEE SHALL DO ALL OF THE FOLLOWING:

6 (A) UPON THE REASONABLE REQUEST OF A TRUST BENEFICIARY,
7 PROMPTLY FURNISH TO THE TRUST BENEFICIARY A COPY OF THE TERMS OF
8 THE TRUST THAT DESCRIBE OR AFFECT THE TRUST BENEFICIARY'S INTEREST
9 AND RELEVANT INFORMATION ABOUT THE TRUST PROPERTY.

10 (B) SUBJECT TO SUBSECTION (6), WITHIN 63 DAYS AFTER ACCEPTING
11 A TRUSTEESHIP, NOTIFY THE QUALIFIED TRUST BENEFICIARIES OF THE
12 ACCEPTANCE, OF THE COURT IN WHICH THE TRUST IS REGISTERED, IF IT IS
13 REGISTERED, AND OF THE TRUSTEE'S NAME, ADDRESS, AND TELEPHONE
14 NUMBER.

15 (C) SUBJECT TO SUBSECTION (6), WITHIN 63 DAYS AFTER THE DATE
16 THE TRUSTEE ACQUIRES KNOWLEDGE OF THE CREATION OF AN IRREVOCABLE
17 TRUST, OR THE DATE THE TRUSTEE ACQUIRES KNOWLEDGE THAT A FORMERLY
18 REVOCABLE TRUST HAS BECOME IRREVOCABLE, WHETHER BY THE DEATH OF THE
19 SETTLOR OR OTHERWISE, NOTIFY THE QUALIFIED TRUST BENEFICIARIES OF
20 THE TRUST'S EXISTENCE, OF THE IDENTITY OF THE SETTLOR OR SETTLORS,
21 OF THE COURT IN WHICH THE TRUST IS REGISTERED, IF IT IS REGISTERED,
22 AND OF THE RIGHT TO REQUEST A COPY OF THE TERMS OF THE TRUST THAT
23 DESCRIBE OR AFFECT THE TRUST BENEFICIARY'S INTERESTS.

24 (D) NOTIFY THE QUALIFIED TRUST BENEFICIARIES IN ADVANCE OF ANY
25 CHANGE IN THE METHOD OR RATE OF THE TRUSTEE'S COMPENSATION.

26 (3) A TRUSTEE SHALL SEND TO THE DISTRIBUTEES OR PERMISSIBLE
27 DISTRIBUTEES OF TRUST INCOME OR PRINCIPAL, AND TO OTHER QUALIFIED

1 OR NONQUALIFIED TRUST BENEFICIARIES WHO REQUEST IT, AT LEAST
2 ANNUALLY AND AT THE TERMINATION OF THE TRUST, A REPORT OF THE TRUST
3 PROPERTY, LIABILITIES, RECEIPTS, AND DISBURSEMENTS, INCLUDING THE
4 SOURCE AND AMOUNT OF THE TRUSTEE'S COMPENSATION, A LISTING OF THE
5 TRUST PROPERTY AND, IF FEASIBLE, THEIR RESPECTIVE MARKET VALUES,
6 AND, IF APPLICABLE, ANY DISCLOSURE REQUIRED UNDER SECTION 7802(5).
7 IN THE TRUSTEE'S DISCRETION, THE TRUSTEE MAY PROVIDE THE REPORT TO
8 ANY TRUST BENEFICIARY. UPON A VACANCY IN A TRUSTEESHIP, UNLESS A
9 COTRUSTEE REMAINS IN OFFICE, A REPORT SHALL BE SENT TO THE
10 QUALIFIED TRUST BENEFICIARIES BY THE FORMER TRUSTEE. A PERSONAL
11 REPRESENTATIVE, CONSERVATOR, OR GUARDIAN MAY SEND THE QUALIFIED
12 TRUST BENEFICIARIES A REPORT ON BEHALF OF A DECEASED OR
13 INCAPACITATED TRUSTEE.

14 (4) IF THE TERMS OF A TRUST DIRECT THAT ACCOUNTS AND
15 INFORMATION BE PROVIDED TO LESS THAN ALL QUALIFIED TRUST
16 BENEFICIARIES, AT THE COURT'S DIRECTION, THE TRUSTEE SHALL PROVIDE
17 STATEMENTS OF ACCOUNT AND OTHER INFORMATION TO PERSONS EXCLUDED
18 UNDER THE TERMS OF THE TRUST TO THE EXTENT AND IN THE MANNER THE
19 COURT DIRECTS.

20 (5) A TRUST BENEFICIARY MAY WAIVE THE RIGHT TO A TRUSTEE'S
21 REPORT OR OTHER INFORMATION OTHERWISE REQUIRED TO BE FURNISHED
22 UNDER THIS SECTION. A TRUST BENEFICIARY, WITH RESPECT TO FUTURE
23 REPORTS AND OTHER INFORMATION, MAY WITHDRAW A WAIVER PREVIOUSLY
24 GIVEN.

25 (6) SUBSECTION (2) (B) AND (C) APPLIES ONLY TO A TRUSTEE WHO
26 ACCEPTS A TRUSTEESHIP, AN IRREVOCABLE TRUST CREATED, OR A REVOCABLE
27 TRUST THAT BECOMES IRREVOCABLE ON OR AFTER THE EFFECTIVE DATE OF

1 THE AMENDATORY ACT THAT ADDED THIS SECTION.

2 SEC. 7815. (1) A BENEFICIARY OF A DISCRETIONARY TRUST
3 PROVISION AS DESCRIBED IN SECTION 7505 HAS NO PROPERTY RIGHT IN A
4 TRUST INTEREST THAT IS SUBJECT TO A DISCRETIONARY TRUST PROVISION,
5 AND HAS NO RIGHT TO ANY AMOUNT OF TRUST INCOME OR PRINCIPAL THAT
6 MAY BE DISTRIBUTED ONLY IN THE EXERCISE OF THE TRUSTEE'S
7 DISCRETION. HOWEVER, AND NOTWITHSTANDING THE BREADTH OF DISCRETION
8 GRANTED TO A TRUSTEE IN THE TERMS OF THE TRUST, INCLUDING THE USE
9 OF SUCH TERMS AS "ABSOLUTE", "SOLE", OR "UNCONTROLLED", A TRUSTEE
10 ABUSES THE TRUSTEE'S DISCRETION IN EXERCISING OR FAILING TO
11 EXERCISE A DISCRETIONARY POWER IF THE TRUSTEE DOES ANY OF THE
12 FOLLOWING:

13 (A) ACTS DISHONESTLY.

14 (B) ACTS WITH AN IMPROPER MOTIVE, EVEN THOUGH NOT A DISHONEST
15 MOTIVE.

16 (C) FAILS TO EXERCISE THE TRUSTEE'S JUDGMENT IN ACCORDANCE
17 WITH THE TERMS AND PURPOSES OF THE TRUST.

18 (2) SUBJECT TO SUBSECTION (4), THE FOLLOWING RULES APPLY TO A
19 TRUSTEE'S EXERCISE OF A POWER UNLESS THE TERMS OF THE TRUST
20 EXPRESSLY INDICATE THAT THE RULE DOES NOT APPLY:

21 (A) A PERSON OTHER THAN A SETTLOR WHO IS A TRUST BENEFICIARY
22 AND TRUSTEE OF A TRUST THAT CONFERS ON THE TRUSTEE A POWER TO MAKE
23 DISTRIBUTIONS PURSUANT TO A DISCRETIONARY TRUST PROVISION TO OR FOR
24 THE TRUSTEE'S BENEFIT MAY EXERCISE THE POWER ONLY IN ACCORDANCE
25 WITH AN ASCERTAINABLE STANDARD.

26 (B) A TRUSTEE MAY NOT EXERCISE A POWER TO MAKE DISTRIBUTIONS
27 PURSUANT TO A DISCRETIONARY TRUST PROVISION IN A MANNER TO SATISFY

1 A LEGAL OBLIGATION OF SUPPORT THAT THE TRUSTEE PERSONALLY OWES
2 ANOTHER PERSON.

3 (3) A POWER WHOSE EXERCISE IS LIMITED OR PROHIBITED BY
4 SUBSECTION (2) MAY BE EXERCISED BY A MAJORITY OF THE REMAINING
5 TRUSTEES WHOSE EXERCISE OF THE POWER IS NOT SO LIMITED OR
6 PROHIBITED. IF THE POWER OF ALL TRUSTEES IS SO LIMITED OR
7 PROHIBITED, THE COURT MAY APPOINT A SPECIAL FIDUCIARY WITH
8 AUTHORITY TO EXERCISE THE POWER.

9 (4) SUBSECTION (2) DOES NOT APPLY TO ANY OF THE FOLLOWING:

10 (A) A POWER HELD BY THE SETTLOR'S SPOUSE WHO IS THE TRUSTEE OF
11 A TRUST FOR WHICH A MARITAL DEDUCTION, AS DEFINED IN SECTION
12 2056(B)(5) OR 2523(E) OF THE INTERNAL REVENUE CODE, 26 USC 2056 AND
13 2523, WAS PREVIOUSLY ALLOWED.

14 (B) ANY TRUST DURING ANY PERIOD THAT THE TRUST MAY BE REVOKED
15 OR AMENDED BY ITS SETTLOR.

16 (C) A TRUST IF CONTRIBUTIONS TO THE TRUST QUALIFY FOR THE
17 ANNUAL EXCLUSION UNDER SECTION 2503(C) OF THE INTERNAL REVENUE
18 CODE, 26 USC 2503.

19 SEC. 7816. (1) A TRUSTEE, WITHOUT AUTHORIZATION BY THE COURT,
20 MAY EXERCISE ALL OF THE FOLLOWING:

21 (A) POWERS CONFERRED BY THE TERMS OF THE TRUST.

22 (B) EXCEPT AS LIMITED BY THE TERMS OF THE TRUST, ALL OF THE
23 FOLLOWING:

24 (i) ALL POWERS OVER THE TRUST PROPERTY THAT AN UNMARRIED
25 COMPETENT OWNER HAS OVER INDIVIDUALLY OWNED PROPERTY.

26 (ii) ANY OTHER POWERS APPROPRIATE TO ACHIEVE THE PROPER
27 INVESTMENT, MANAGEMENT, AND DISTRIBUTION OF THE TRUST PROPERTY.

1 (iii) ANY OTHER POWERS CONFERRED BY THIS ARTICLE.

2 (2) THE EXERCISE OF A POWER IS SUBJECT TO THE FIDUCIARY DUTIES
3 PRESCRIBED BY THIS ARTICLE.

4 SEC. 7817. WITHOUT LIMITING THE AUTHORITY CONFERRED BY SECTION
5 7816, A TRUSTEE HAS ALL OF THE FOLLOWING POWERS:

6 (A) TO TAKE POSSESSION, CUSTODY, OR CONTROL OF PROPERTY
7 TRANSFERRED TO THE TRUST AND ACCEPT OR REJECT ADDITIONS TO THE
8 TRUST.

9 (B) TO RETAIN PROPERTY THAT THE TRUSTEE RECEIVES, INCLUDING
10 PROPERTY IN WHICH THE TRUSTEE IS PERSONALLY INTERESTED, IN
11 ACCORDANCE WITH THE MICHIGAN PRUDENT INVESTOR RULE.

12 (C) TO RECEIVE PROPERTY FROM A FIDUCIARY OR ANOTHER SOURCE
13 THAT IS ACCEPTABLE TO THE TRUSTEE.

14 (D) TO PERFORM, COMPROMISE, OR REFUSE TO PERFORM A CONTRACT OF
15 THE SETTLOR THAT IS AN OBLIGATION OF THE TRUST, AS THE TRUSTEE MAY
16 DETERMINE UNDER THE CIRCUMSTANCES. IN PERFORMING AN ENFORCEABLE
17 CONTRACT BY THE SETTLOR TO CONVEY OR LEASE LAND, IF THE CONTRACT
18 FOR A CONVEYANCE REQUIRES THE GIVING OF A WARRANTY, THE DEED OR
19 OTHER INSTRUMENT OF CONVEYANCE TO BE GIVEN BY THE TRUSTEE SHALL
20 CONTAIN THE WARRANTY REQUIRED. THE WARRANTY IS BINDING ON THE TRUST
21 AS THOUGH MADE BY THE SETTLOR, BUT DOES NOT BIND THE TRUSTEE EXCEPT
22 IN THE TRUSTEE'S FIDUCIARY CAPACITY. THE TRUSTEE, AMONG OTHER
23 POSSIBLE COURSES OF ACTION, MAY DO EITHER OF THE FOLLOWING:

24 (i) EXECUTE AND DELIVER A DEED OF CONVEYANCE FOR CASH PAYMENT
25 OF MONEY REMAINING DUE OR THE PURCHASER'S NOTE FOR THE MONEY
26 REMAINING DUE SECURED BY A MORTGAGE ON THE LAND.

27 (ii) DELIVER A DEED IN ESCROW WITH DIRECTIONS THAT THE

1 PROCEEDS, WHEN PAID IN ACCORDANCE WITH THE ESCROW AGREEMENT, BE
2 PAID TO THE TRUSTEE, AS DESIGNATED IN THE ESCROW AGREEMENT.

3 (E) TO SATISFY A SETTLOR'S WRITTEN CHARITABLE PLEDGE
4 IRRESPECTIVE OF WHETHER THE PLEDGE CONSTITUTES A BINDING OBLIGATION
5 OF THE SETTLOR OR WAS PROPERLY PRESENTED AS A CLAIM, IF IN THE
6 TRUSTEE'S JUDGMENT THE SETTLOR WOULD HAVE WANTED THE PLEDGE
7 COMPLETED UNDER THE CIRCUMSTANCES.

8 (F) TO DEPOSIT TRUST PROPERTY IN A REGULATED FINANCIAL SERVICE
9 INSTITUTION, INCLUDING A REGULATED FINANCIAL SERVICE INSTITUTION
10 OPERATED BY OR AFFILIATED WITH THE TRUSTEE AND TO INVEST AND
11 REINVEST TRUST PROPERTY AS WOULD A PRUDENT INVESTOR ACTING IN
12 ACCORDANCE WITH THE MICHIGAN PRUDENT INVESTOR RULE AND TO DEPOSIT
13 SECURITIES WITH A DEPOSITARY OR OTHER REGULATED FINANCIAL SERVICE
14 INSTITUTION.

15 (G) TO ACQUIRE PROPERTY, INCLUDING PROPERTY IN THIS OR ANOTHER
16 STATE OR COUNTRY, IN ANY MANNER FOR CASH OR ON CREDIT, AT PUBLIC OR
17 PRIVATE SALE; AND TO MANAGE, DEVELOP, IMPROVE, EXCHANGE, PARTITION,
18 OR CHANGE THE CHARACTER OF TRUST PROPERTY.

19 (H) TO MAKE AN ORDINARY OR EXTRAORDINARY REPAIR OR ALTERATION
20 IN A BUILDING OR ANOTHER STRUCTURE, TO DEMOLISH AN IMPROVEMENT, OR
21 TO RAZE AN EXISTING OR ERECT A NEW PARTY WALL OR BUILDING.

22 (I) TO SUBDIVIDE, DEVELOP, OR DEDICATE LAND TO PUBLIC USE; TO
23 MAKE OR OBTAIN THE VACATION OF A PLAT OR ADJUST A BOUNDARY; TO
24 ADJUST A DIFFERENCE IN VALUATION ON EXCHANGE OR PARTITION BY GIVING
25 OR RECEIVING CONSIDERATION; OR TO DEDICATE AN EASEMENT TO PUBLIC
26 USE WITHOUT CONSIDERATION.

27 (J) TO ENTER FOR ANY PURPOSE INTO A LEASE AS LESSOR OR LESSEE,

1 WITH OR WITHOUT AN OPTION TO PURCHASE OR RENEW, FOR A PERIOD WITHIN
2 OR EXTENDING BEYOND THE DURATION OF THE TRUST.

3 (K) TO ENTER INTO A LEASE OR ARRANGEMENT FOR EXPLORATION AND
4 REMOVAL OF MINERALS OR ANOTHER NATURAL RESOURCE OR TO ENTER INTO A
5 POOLING OR UNITIZATION AGREEMENT FOR A PERIOD WITHIN OR EXTENDING
6 BEYOND THE DURATION OF THE TRUST.

7 (L) TO ABANDON OR DECLINE TO ADMINISTER PROPERTY IF, IN THE
8 TRUSTEE'S OPINION, THE PROPERTY IS VALUELESS, OR IS SO ENCUMBERED
9 OR IN SUCH A CONDITION THAT IT IS OF NO BENEFIT TO THE TRUST.

10 (M) TO VOTE A STOCK OR OTHER SECURITY IN PERSON, BY GENERAL OR
11 LIMITED PROXY, OR IN ANOTHER MANNER PROVIDED BY LAW, OR ENTER INTO
12 OR CONTINUE A VOTING TRUST AGREEMENT.

13 (N) TO PAY A CALL, ASSESSMENT, OR OTHER AMOUNT CHARGEABLE OR
14 ACCRUING AGAINST OR ON ACCOUNT OF A SECURITY, AND SELL OR EXERCISE
15 STOCK SUBSCRIPTION OR CONVERSION RIGHTS.

16 (O) TO HOLD PROPERTY IN THE NAME OF A NOMINEE OR IN ANOTHER
17 FORM WITHOUT DISCLOSURE OF THE INTEREST OF THE TRUST. HOWEVER, THE
18 TRUSTEE IS LIABLE FOR AN ACT OF THE NOMINEE IN CONNECTION WITH THE
19 PROPERTY SO HELD.

20 (P) TO INSURE THE TRUST PROPERTY AGAINST DAMAGE, LOSS, OR
21 LIABILITY AND TO INSURE THE TRUSTEE, THE TRUSTEE'S AGENTS, AND THE
22 TRUST BENEFICIARIES AGAINST LIABILITY ARISING FROM THE
23 ADMINISTRATION OF THE TRUST.

24 (Q) TO BORROW PROPERTY, WITH OR WITHOUT SECURITY, FOR ANY
25 PURPOSE FROM THE TRUSTEE OR OTHERS AND TO MORTGAGE OR PLEDGE TRUST
26 PROPERTY FOR A PERIOD WITHIN OR EXTENDING BEYOND THE DURATION OF
27 THE TRUST.

1 (R) TO EFFECT A FAIR AND REASONABLE COMPROMISE WITH A DEBTOR
2 OR OBLIGOR, OR EXTEND, RENEW, OR IN ANY MANNER MODIFY THE TERMS OF
3 AN OBLIGATION OWING TO THE TRUST. IF THE TRUSTEE HOLDS A MORTGAGE,
4 PLEDGE, OR ANOTHER LIEN ON PROPERTY OF ANOTHER PERSON, THE TRUSTEE
5 MAY, INSTEAD OF FORECLOSURE, ACCEPT A CONVEYANCE OR TRANSFER OF
6 ENCUMBERED PROPERTY FROM THE PROPERTY'S OWNER IN SATISFACTION OF
7 THE INDEBTEDNESS SECURED BY A LIEN.

8 (S) TO PAY A TAX, AN ASSESSMENT, THE TRUSTEE'S COMPENSATION,
9 OR ANOTHER EXPENSE INCIDENT TO THE ADMINISTRATION OF THE TRUST.

10 (T) TO SELL OR EXERCISE A SUBSCRIPTION OR CONVERSION RIGHT OR
11 TO CONSENT, DIRECTLY OR THROUGH A COMMITTEE OR ANOTHER AGENT, TO
12 THE REORGANIZATION, CONSOLIDATION, MERGER, DISSOLUTION, OR
13 LIQUIDATION OF A BUSINESS ENTERPRISE.

14 (U) TO ALLOCATE AN ITEM OF INCOME OR EXPENSE TO EITHER TRUST
15 INCOME OR PRINCIPAL, AS PERMITTED OR PROVIDED BY LAW.

16 (V) TO EMPLOY, AND PAY REASONABLE COMPENSATION FOR SERVICES
17 PERFORMED BY, A PERSON, INCLUDING AN AUDITOR, INVESTMENT ADVISOR,
18 ACCOUNTANT, APPRAISER, BROKER, CUSTODIAN, RENTAL AGENT, REALTOR, OR
19 AGENT, EVEN IF THE PERSON IS ASSOCIATED WITH THE TRUSTEE, FOR THE
20 PURPOSE OF ADVISING OR ASSISTING THE TRUSTEE IN THE PERFORMANCE OF
21 AN ADMINISTRATIVE DUTY; TO ACT WITHOUT INDEPENDENT INVESTIGATION
22 UPON SUCH A PERSON'S RECOMMENDATION; AND, INSTEAD OF ACTING
23 PERSONALLY, TO EMPLOY 1 OR MORE AGENTS TO PERFORM AN ACT OF
24 ADMINISTRATION, WHETHER OR NOT DISCRETIONARY.

25 (W) TO EMPLOY AN ATTORNEY TO PERFORM NECESSARY LEGAL SERVICES
26 OR TO ADVISE OR ASSIST THE TRUSTEE IN THE PERFORMANCE OF THE
27 TRUSTEE'S ADMINISTRATIVE DUTIES. AN ATTORNEY EMPLOYED UNDER THIS

1 SUBDIVISION SHALL RECEIVE REASONABLE COMPENSATION FOR THAT
2 EMPLOYMENT.

3 (X) TO PROSECUTE, DEFEND, ARBITRATE, SETTLE, RELEASE,
4 COMPROMISE, OR AGREE TO INDEMNIFY AN ACTION, CLAIM, OR PROCEEDING
5 IN ANY JURISDICTION OR UNDER AN ALTERNATIVE DISPUTE RESOLUTION
6 PROCEDURE. THE TRUSTEE MAY ACT UNDER THIS SUBDIVISION FOR THE
7 TRUSTEE'S PROTECTION IN THE PERFORMANCE OF THE TRUSTEE'S DUTIES.

8 (Y) TO SELL, EXCHANGE, PARTITION, OR OTHERWISE DISPOSE OF, OR
9 GRANT AN OPTION WITH RESPECT TO, TRUST PROPERTY FOR ANY PURPOSE
10 UPON ANY TERMS OR CONDITIONS FOR A PERIOD WITHIN OR EXTENDING
11 BEYOND THE DURATION OF THE TRUST.

12 (Z) TO CONTINUE OR PARTICIPATE IN A BUSINESS OR ENTERPRISE IN
13 ANY MANNER, IN ANY FORM, AND FOR ANY LENGTH OF TIME.

14 (AA) TO CHANGE THE FORM, IN ANY MANNER, OF A BUSINESS OR
15 ENTERPRISE IN WHICH THE SETTLOR WAS ENGAGED AT THE TIME OF DEATH.

16 (BB) TO PROVIDE FOR EXONERATION OF THE TRUSTEE FROM PERSONAL
17 LIABILITY IN A CONTRACT ENTERED INTO ON BEHALF OF THE TRUST.

18 (CC) TO RESPOND TO ENVIRONMENTAL CONCERNS AND HAZARDS
19 AFFECTING TRUST PROPERTY AS PROVIDED IN SECTION 7818.

20 (DD) TO COLLECT, PAY, CONTEST, SETTLE, RELEASE, AGREE TO
21 INDEMNIFY AGAINST, COMPROMISE, OR ABANDON A CLAIM OF OR AGAINST THE
22 TRUST, INCLUDING A CLAIM AGAINST THE TRUST BY THE TRUSTEE.

23 (EE) TO RESPOND TO A TAX MATTER AS PROVIDED IN SECTION 7819.

24 (FF) TO MAKE A PAYMENT OF MONEY, OR OTHER PROPERTY INSTEAD OF
25 MONEY, TO OR FOR A MINOR OR INCAPACITATED TRUST BENEFICIARY AS
26 PROVIDED IN SECTION 7820.

27 (GG) TO MAKE A DISTRIBUTION OR DIVISION OF TRUST PROPERTY IN

1 CASH OR IN KIND, OR BOTH; TO ALLOT A DIFFERENT KIND OR
2 DISPROPORTIONATE PORTION OF, OR AN UNDIVIDED INTEREST IN, TRUST
3 PROPERTY AMONG BENEFICIARIES AND DETERMINE THE VALUE OF ALLOTTED
4 TRUST PROPERTY; OR TO DISTRIBUTE AN UNCLAIMED SHARE IN THE SAME
5 MANNER AS DESCRIBED IN SECTION 3916.

6 (HH) TO TRANSFER THE PROPERTY OF A TRUST TO ANOTHER
7 JURISDICTION AND APPOINT, COMPENSATE, OR REMOVE A SUCCESSOR
8 TRUSTEE, INDIVIDUAL OR CORPORATE, FOR TRUST PROPERTY IN ANOTHER
9 JURISDICTION, WITH ANY TRUST POWERS SET OUT IN THIS PART THAT THE
10 TRUSTEE DELEGATES TO THE SUCCESSOR TRUSTEE.

11 (II) TO EXECUTE AND DELIVER AN INSTRUMENT THAT ACCOMPLISHES OR
12 FACILITATES THE EXERCISE OF A POWER VESTED IN THE TRUSTEE.

13 (JJ) TO SELECT A MODE OF PAYMENT UNDER ANY EMPLOYEE BENEFIT OR
14 RETIREMENT PLAN, ANNUITY, OR LIFE INSURANCE PAYABLE TO THE TRUSTEE,
15 EXERCISE RIGHTS THEREUNDER, INCLUDING EXERCISE OF THE RIGHT TO
16 INDEMNIFICATION FOR EXPENSES AND AGAINST LIABILITIES, AND TAKE
17 APPROPRIATE ACTION TO COLLECT THE PROCEEDS.

18 (KK) TO MAKE LOANS OUT OF TRUST PROPERTY, INCLUDING LOANS TO A
19 TRUST BENEFICIARY ON TERMS AND CONDITIONS THE TRUSTEE CONSIDERS TO
20 BE FAIR AND REASONABLE UNDER THE CIRCUMSTANCES. THE TRUSTEE HAS A
21 LIEN ON FUTURE DISTRIBUTIONS FOR REPAYMENT OF LOANS MADE UNDER THIS
22 SUBDIVISION.

23 (LL) TO PLEDGE TRUST PROPERTY TO GUARANTEE LOANS MADE BY OTHERS
24 TO THE TRUST BENEFICIARY.

25 (MM) TO RESOLVE A DISPUTE CONCERNING THE INTERPRETATION OF THE
26 TRUST OR ITS ADMINISTRATION BY MEDIATION, ARBITRATION, OR OTHER
27 PROCEDURE FOR ALTERNATIVE DISPUTE RESOLUTION.

1 (NN) ON TERMINATION OF THE TRUST, TO EXERCISE THE POWERS
2 APPROPRIATE TO WIND UP THE ADMINISTRATION OF THE TRUST AND
3 DISTRIBUTE THE TRUST PROPERTY TO THE PERSONS ENTITLED TO IT.

4 SEC. 7818. (1) IN CONNECTION WITH AN ENVIRONMENTAL CONCERN OR
5 HAZARD, A TRUSTEE MAY DO ANY OF THE FOLLOWING:

6 (A) INSPECT PROPERTY OR THE OPERATION OF A BUSINESS ACTIVITY
7 ON PROPERTY, INCLUDING PROPERTY HELD IN OR OPERATED BY A SOLE
8 PROPRIETORSHIP, PARTNERSHIP, CORPORATION, OR LIMITED LIABILITY
9 COMPANY OR ANY OTHER TYPE OF ENTITY, FOR THE PURPOSE OF DETERMINING
10 COMPLIANCE WITH ENVIRONMENTAL LAW AFFECTING THE PROPERTY AND TO
11 RESPOND TO AN ACTUAL OR THREATENED VIOLATION OF AN ENVIRONMENTAL
12 LAW AFFECTING PROPERTY HELD OR TENDERED TO THE TRUSTEE.

13 (B) TAKE ACTION NECESSARY TO PREVENT, ABATE, OR OTHERWISE
14 REMEDY AN ACTUAL OR THREATENED VIOLATION OF AN ENVIRONMENTAL LAW
15 AFFECTING PROPERTY HELD BY THE TRUSTEE, EITHER BEFORE OR AFTER A
16 GOVERNMENTAL BODY INITIATES AN ENFORCEMENT ACTION.

17 (C) REFUSE TO ACCEPT PROPERTY IN TRUST IF THE TRUSTEE
18 DETERMINES THAT THE PROPERTY TO BE TRANSFERRED TO THE TRUST EITHER
19 IS OR MAY BE CONTAMINATED BY A HAZARDOUS SUBSTANCE OR HAS BEEN OR
20 IS BEING USED FOR AN ACTIVITY DIRECTLY OR INDIRECTLY INVOLVING A
21 HAZARDOUS SUBSTANCE THAT COULD RESULT IN LIABILITY TO THE TRUST OR
22 OTHERWISE IMPAIR THE VALUE OF THE TRUST PROPERTY.

23 (D) SETTLE OR COMPROMISE AT ANY TIME A CLAIM AGAINST THE TRUST
24 THAT A GOVERNMENTAL BODY OR PRIVATE PARTY MAY ASSERT INVOLVING THE
25 ALLEGED VIOLATION OF AN ENVIRONMENTAL LAW AFFECTING PROPERTY HELD
26 IN THE TRUST.

27 (E) DISCLAIM A POWER GRANTED BY A DOCUMENT, STATUTE, OR RULE

1 OF LAW THAT, IN THE SOLE DISCRETION OF THE TRUSTEE, MAY CAUSE THE
2 TRUSTEE TO INCUR PERSONAL LIABILITY UNDER AN ENVIRONMENTAL LAW.

3 (F) DECLINE TO SERVE OR RESIGN AS A TRUSTEE IF THE TRUSTEE
4 REASONABLY BELIEVES THAT THERE IS OR MAY BE A CONFLICT OF INTEREST
5 BETWEEN IT IN ITS FIDUCIARY CAPACITY AND IN ITS INDIVIDUAL CAPACITY
6 BECAUSE OF A POTENTIAL CLAIM OR LIABILITY THAT MAY BE ASSERTED
7 AGAINST THE TRUSTEE ON THE TRUST'S BEHALF BECAUSE OF THE TYPE OR
8 CONDITION OF PROPERTY HELD IN TRUST.

9 (G) APPOINT AN INDEPENDENT SPECIAL TRUSTEE TO HOLD TITLE TO,
10 AND TAKE A REASONABLY REQUIRED ACTION, AS PROVIDED IN THIS SECTION,
11 RELATING TO ENVIRONMENTAL LAW IN REGARD TO, PROPERTY TENDERED TO
12 THE TRUST, UNTIL THE TIME THAT THE TRUSTEE DETERMINES THAT NO
13 SUBSTANTIAL RISK EXISTS IF THE TENDERED PROPERTY BECOMES PART OF
14 THE TRUST PROPERTY OR ABANDONS THE TENDERED PROPERTY.

15 (H) CHARGE THE COST OF AN INSPECTION, REVIEW, ABATEMENT,
16 RESPONSE, CLEANUP, SETTLEMENT OF CLAIM, OR REMEDIAL ACTION
17 AUTHORIZED BY THIS SECTION AGAINST THE TRUST PROPERTY.

18 (2) A TRUSTEE IS NOT PERSONALLY LIABLE TO A TRUST BENEFICIARY
19 OR OTHER PARTY FOR A DECREASE IN VALUE OF TRUST PROPERTY BY REASON
20 OF THE TRUSTEE'S COMPLIANCE WITH AN ENVIRONMENTAL LAW, SPECIFICALLY
21 INCLUDING A REPORTING REQUIREMENT UNDER THAT LAW. THE TRUSTEE'S
22 ACCEPTANCE OF PROPERTY OR FAILURE TO INSPECT PROPERTY OR A BUSINESS
23 OPERATION DOES NOT CREATE AN INFERENCE THAT THERE IS OR MAY BE
24 LIABILITY UNDER AN ENVIRONMENTAL LAW WITH RESPECT TO THE PROPERTY
25 OR BUSINESS OPERATION. THE AUTHORITY GRANTED BY THIS SECTION IS
26 SOLELY TO FACILITATE THE ADMINISTRATION AND PROTECTION OF TRUST
27 PROPERTY AND IS NOT TO IMPOSE GREATER RESPONSIBILITY OR LIABILITY

1 ON THE TRUSTEE THAN IMPOSED BY LAW ABSENT THIS SECTION.

2 SEC. 7819. (1) A TRUSTEE MAY DO ANY OF THE FOLLOWING IN
3 CONNECTION WITH A TAX MATTER:

4 (A) MAKE, REVISE, OR REVOKE AN AVAILABLE ALLOCATION, CONSENT,
5 OR ELECTION AFFECTING A TAX THAT IS APPROPRIATE IN ORDER TO CARRY
6 OUT THE SETTLOR'S ESTATE PLANNING OBJECTIVES AND TO REDUCE THE
7 OVERALL BURDEN OF TAXATION, BOTH IN THE PRESENT AND IN THE FUTURE.
8 THIS AUTHORITY INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE
9 FOLLOWING:

10 (i) ELECTING TO TAKE EXPENSES AS ESTATE TAX OR INCOME TAX
11 DEDUCTIONS.

12 (ii) ELECTING TO ALLOCATE THE EXEMPTION FROM THE TAX ON
13 GENERATION SKIPPING TRANSFERS AMONG TRANSFERS SUBJECT TO ESTATE OR
14 GIFT TAX.

15 (iii) ELECTING TO HAVE ALL OR A PORTION OF A TRANSFER FOR A
16 SPOUSE'S BENEFIT QUALIFY FOR THE MARITAL DEDUCTION.

17 (iv) ELECTING THE DATE OF DEATH OR AN ALTERNATE VALUATION DATE
18 FOR FEDERAL ESTATE TAX PURPOSES.

19 (B) EXCLUDE OR INCLUDE PROPERTY FROM THE GROSS ESTATE FOR
20 FEDERAL ESTATE TAX PURPOSES.

21 (C) VALUE PROPERTY FOR FEDERAL ESTATE TAX PURPOSES.

22 (D) JOIN WITH THE SURVIVING SPOUSE OR THE SURVIVING SPOUSE'S
23 PERSONAL REPRESENTATIVE IN THE EXECUTION AND FILING OF A JOINT
24 INCOME TAX RETURN AND CONSENTING TO A GIFT TAX RETURN FILED BY THE
25 SURVIVING SPOUSE OR THE SURVIVING SPOUSE'S PERSONAL REPRESENTATIVE.

26 (2) A TRUSTEE'S DECISION ON A MATTER DESCRIBED IN SUBSECTION
27 (1) (A) BINDS ALL BENEFICIARIES.

1 (3) AFTER MAKING A DECISION DESCRIBED IN SUBSECTION (1) (A), A
2 TRUSTEE MAY MAKE COMPENSATING ADJUSTMENTS BETWEEN PRINCIPAL AND
3 INCOME IN THE MANNER PROVIDED BY THE UNIFORM PRINCIPAL AND INCOME
4 ACT, 2004 PA 159, MCL 555.501 TO 555.1005.

5 SEC. 7820. (1) A TRUSTEE MAY ACT UNDER SECTION 7817 (FF) BY
6 PAYING MONEY OR OTHER PROPERTY TO 1 OR MORE OF THE FOLLOWING:

7 (A) THE MINOR OR INCAPACITATED INDIVIDUAL DIRECTLY.

8 (B) A PERSON OR INSTITUTION PROVIDING SUPPORT, MAINTENANCE,
9 EDUCATION, OR MEDICAL, SURGICAL, HOSPITAL, OR OTHER INSTITUTIONAL
10 CARE FOR THE MINOR OR INCAPACITATED INDIVIDUAL IN DIRECT PAYMENT
11 FOR THOSE SERVICES.

12 (C) THE LEGAL OR NATURAL GUARDIAN OF THE MINOR OR
13 INCAPACITATED INDIVIDUAL.

14 (D) A PERSON, WHETHER OR NOT APPOINTED GUARDIAN BY A COURT,
15 WHO SHALL IN FACT HAVE THE CARE AND CUSTODY OF THE MINOR OR
16 INCAPACITATED INDIVIDUAL.

17 (E) A CUSTODIAN FOR THE MINOR OR INCAPACITATED INDIVIDUAL
18 UNDER A UNIFORM GIFTS OR TRANSFERS TO MINORS ACT.

19 (2) A TRUSTEE ALSO MAY MANAGE AN AMOUNT DISTRIBUTABLE TO A
20 TRUST BENEFICIARY WHO IS A MINOR OR INCAPACITATED INDIVIDUAL AS A
21 SEPARATE FUND ON THE TRUST BENEFICIARY'S BEHALF, SUBJECT TO THE
22 TRUST BENEFICIARY'S CONTINUING RIGHT TO WITHDRAW THE DISTRIBUTION.

23 (3) IF THE TRUSTEE EXERCISES DUE CARE IN THE SELECTION OF THE
24 PERSON TO WHOM A PAYMENT IS MADE UNDER THIS SECTION, INCLUDING A
25 MINOR OR INCAPACITATED INDIVIDUAL, THE TRUSTEE DOES NOT HAVE A DUTY
26 TO SEE TO THE PAYMENT'S APPLICATION. THE PERSON'S RECEIPT FOR THE
27 PAYMENT COMPLETELY DISCHARGES THE TRUSTEE.

1 OCCUR, THE COURT MAY DO ANY OF THE FOLLOWING:

2 (A) COMPEL THE TRUSTEE TO PERFORM THE TRUSTEE'S DUTIES.

3 (B) ENJOIN THE TRUSTEE FROM COMMITTING A BREACH OF TRUST.

4 (C) COMPEL THE TRUSTEE TO REDRESS A BREACH OF TRUST BY PAYING
5 MONEY, RESTORING PROPERTY, OR OTHER MEANS.

6 (D) ORDER A TRUSTEE TO ACCOUNT.

7 (E) APPOINT A SPECIAL FIDUCIARY TO TAKE POSSESSION OF THE
8 TRUST PROPERTY AND ADMINISTER THE TRUST.

9 (F) SUSPEND THE TRUSTEE.

10 (G) REMOVE THE TRUSTEE AS PROVIDED IN SECTION 7706.

11 (H) REDUCE OR DENY COMPENSATION TO THE TRUSTEE.

12 (I) SUBJECT TO SECTION 7912, VOID AN ACT OF THE TRUSTEE,
13 IMPOSE A LIEN OR A CONSTRUCTIVE TRUST ON TRUST PROPERTY, OR TRACE
14 TRUST PROPERTY WRONGFULLY DISPOSED OF AND RECOVER THE PROPERTY OR
15 ITS PROCEEDS.

16 (J) ORDER ANY OTHER APPROPRIATE RELIEF.

17 SEC. 7902. A TRUSTEE WHO COMMITS A BREACH OF TRUST IS LIABLE
18 TO THE TRUST BENEFICIARIES AFFECTED FOR WHICHEVER OF THE FOLLOWING
19 IS LARGER:

20 (A) THE AMOUNT REQUIRED TO RESTORE THE VALUE OF THE TRUST
21 PROPERTY AND TRUST DISTRIBUTIONS TO WHAT THEY WOULD HAVE BEEN HAD
22 THE BREACH NOT OCCURRED.

23 (B) THE PROFIT THE TRUSTEE MADE BY REASON OF THE BREACH.

24 SEC. 7903. (1) A TRUSTEE IS ACCOUNTABLE TO AN AFFECTED TRUST
25 BENEFICIARY FOR ANY PROFIT MADE BY THE TRUSTEE ARISING FROM THE
26 ADMINISTRATION OF THE TRUST, EVEN ABSENT A BREACH OF TRUST.

27 (2) ABSENT A BREACH OF TRUST, A TRUSTEE IS NOT LIABLE TO A

1 TRUST BENEFICIARY FOR A LOSS OR DEPRECIATION IN THE VALUE OF TRUST
2 PROPERTY, FOR FAILURE TO GENERATE INCOME, OR FOR NOT HAVING MADE A
3 PROFIT.

4 (3) THIS SECTION DOES NOT DO EITHER OF THE FOLLOWING:

5 (A) LIMIT A TRUSTEE'S RIGHT TO COMPENSATION UNDER SECTION 7708
6 OR PAYMENTS ALLOWED UNDER SECTION 7802(5).

7 (B) MAKE A TRUSTEE ACCOUNTABLE TO AN AFFECTED BENEFICIARY IN
8 CONNECTION WITH A MATTER TO WHICH SECTION 4405 OF THE BANKING CODE
9 OF 1999, 1999 PA 276, MCL 487.14405, APPLIES AND THE REQUIREMENTS
10 OF THAT SECTION HAVE BEEN SATISFIED.

11 SEC. 7904. (1) IN A PROCEEDING INVOLVING THE ADMINISTRATION OF
12 A TRUST, THE COURT, AS JUSTICE AND EQUITY REQUIRE, MAY AWARD COSTS
13 AND EXPENSES, INCLUDING REASONABLE ATTORNEY FEES, TO ANY PARTY WHO
14 ENHANCES, PRESERVES, OR PROTECTS TRUST PROPERTY, TO BE PAID FROM
15 THE TRUST THAT IS THE SUBJECT OF THE PROCEEDING.

16 (2) SUBJECT TO SUBSECTION (3), IF A TRUSTEE PARTICIPATES IN A
17 DISPUTE OR PROCEEDING IN GOOD FAITH, WHETHER SUCCESSFUL OR NOT, THE
18 TRUSTEE IS ENTITLED TO RECEIVE FROM TRUST PROPERTY ALL EXPENSES AND
19 DISBURSEMENTS INCLUDING REASONABLE ATTORNEY FEES THAT THE TRUSTEE
20 INCURS IN CONNECTION WITH ITS PARTICIPATION.

21 (3) A TRUSTEE IS NOT ENTITLED TO RECEIVE TRUST PROPERTY, OR TO
22 RETAIN PAYMENTS MADE FROM TRUST PROPERTY, FOR EXPENSES AND
23 DISBURSEMENTS MADE WITH RESPECT TO CLAIMS FOR WHICH A COURT ORDERS
24 RELIEF ALLOWED UNDER SECTION 7901(2).

25 SEC. 7905. (1) THE FOLLOWING LIMITATIONS ON COMMENCING
26 PROCEEDINGS APPLY IN ADDITION TO OTHER LIMITATIONS PROVIDED BY LAW:

27 (A) A TRUST BENEFICIARY SHALL NOT COMMENCE A PROCEEDING

1 AGAINST A TRUSTEE FOR BREACH OF TRUST MORE THAN 1 YEAR AFTER THE
2 DATE THE TRUST BENEFICIARY OR A REPRESENTATIVE OF THE TRUST
3 BENEFICIARY WAS SENT A REPORT THAT ADEQUATELY DISCLOSED THE
4 EXISTENCE OF A POTENTIAL CLAIM FOR BREACH OF TRUST AND INFORMED THE
5 TRUST BENEFICIARY OF THE TIME ALLOWED FOR COMMENCING A PROCEEDING.

6 (B) A TRUST BENEFICIARY WHO HAS WAIVED THE RIGHT TO RECEIVE
7 REPORTS PURSUANT TO SECTION 7814(5) SHALL NOT COMMENCE A PROCEEDING
8 FOR A BREACH OF TRUST MORE THAN 1 YEAR AFTER THE END OF THE
9 CALENDAR YEAR IN WHICH THE ALLEGED BREACH OCCURRED.

10 (2) A REPORT ADEQUATELY DISCLOSES THE EXISTENCE OF A POTENTIAL
11 CLAIM FOR BREACH OF TRUST IF IT PROVIDES SUFFICIENT INFORMATION SO
12 THAT THE TRUST BENEFICIARY OR REPRESENTATIVE KNOWS OF THE POTENTIAL
13 CLAIM OR SHOULD HAVE INQUIRED INTO THE POTENTIAL CLAIM'S EXISTENCE.

14 (3) IF SUBSECTION (1) DOES NOT APPLY, A JUDICIAL PROCEEDING BY
15 A TRUST BENEFICIARY AGAINST A TRUSTEE FOR BREACH OF TRUST SHALL BE
16 COMMENCED WITHIN 5 YEARS AFTER THE FIRST OF THE FOLLOWING TO OCCUR:

17 (A) THE REMOVAL, RESIGNATION, OR DEATH OF THE TRUSTEE.

18 (B) THE TERMINATION OF THE TRUST BENEFICIARY'S INTEREST IN THE
19 TRUST.

20 (C) THE TERMINATION OF THE TRUST.

21 SEC. 7906. A TRUSTEE WHO ACTS IN REASONABLE RELIANCE ON THE
22 TERMS OF THE TRUST AS EXPRESSED IN THE TRUST INSTRUMENT IS NOT
23 LIABLE TO A TRUST BENEFICIARY FOR A BREACH OF TRUST TO THE EXTENT
24 THE BREACH RESULTED FROM THE RELIANCE.

25 SEC. 7907. IF THE HAPPENING OF AN EVENT, INCLUDING, BUT NOT
26 LIMITED TO, MARRIAGE, DIVORCE, PERFORMANCE OF EDUCATIONAL
27 REQUIREMENTS, ATTAINMENT OF A SPECIFIC AGE, OR DEATH, AFFECTS THE

1 ADMINISTRATION OR DISTRIBUTION OF A TRUST, A TRUSTEE WHO HAS
2 EXERCISED REASONABLE CARE TO ASCERTAIN THE HAPPENING OF THE EVENT
3 IS NOT LIABLE FOR A LOSS RESULTING FROM THE TRUSTEE'S LACK OF
4 KNOWLEDGE OR LACK OF NOTICE.

5 SEC. 7908. (1) A TERM OF A TRUST RELIEVING A TRUSTEE OF
6 LIABILITY FOR BREACH OF TRUST IS UNENFORCEABLE TO THE EXTENT THAT
7 EITHER OF THE FOLLOWING APPLIES:

8 (A) THE TERM RELIEVES THE TRUSTEE OF LIABILITY FOR BREACH OF
9 TRUST COMMITTED IN BAD FAITH OR WITH RECKLESS INDIFFERENCE TO THE
10 PURPOSES OF THE TRUST OR THE INTERESTS OF THE TRUST BENEFICIARIES.

11 (B) THE TERM WAS INSERTED AS THE RESULT OF AN ABUSE BY THE
12 TRUSTEE OF A FIDUCIARY OR CONFIDENTIAL RELATIONSHIP TO THE SETTLOR.

13 (2) THE TERMS OF A TRUST RELIEVING A TRUSTEE OF LIABILITY FOR
14 BREACH OF TRUST FOR THE ACQUISITION OR RETENTION OF A PARTICULAR
15 ASSET OR ASSET CLASS OR FAILURE TO DIVERSIFY INVESTMENTS ARE
16 ENFORCEABLE.

17 SEC. 7909. A TRUSTEE IS NOT LIABLE TO A TRUST BENEFICIARY FOR
18 BREACH OF TRUST IF THE TRUST BENEFICIARY CONSENTED TO THE CONDUCT
19 CONSTITUTING THE BREACH, RELEASED THE TRUSTEE FROM LIABILITY FOR
20 THE BREACH, OR RATIFIED THE TRANSACTION CONSTITUTING THE BREACH,
21 UNLESS EITHER OF THE FOLLOWING APPLIES:

22 (A) THE CONSENT, RELEASE, OR RATIFICATION OF THE TRUST
23 BENEFICIARY WAS INDUCED BY IMPROPER CONDUCT OF THE TRUSTEE.

24 (B) AT THE TIME OF THE CONSENT, RELEASE, OR RATIFICATION, THE
25 TRUST BENEFICIARY DID NOT KNOW OF 1 OR MORE OF THE MATERIAL FACTS
26 RELATING TO THE BREACH.

27 SEC. 7910. (1) UNLESS OTHERWISE PROVIDED IN THE CONTRACT, A

1 TRUSTEE IS NOT PERSONALLY LIABLE ON A CONTRACT PROPERLY ENTERED
2 INTO IN THE TRUSTEE'S FIDUCIARY CAPACITY IN THE COURSE OF
3 ADMINISTRATION OF THE TRUST ESTATE UNLESS THE TRUSTEE FAILS TO
4 REVEAL THE TRUSTEE'S REPRESENTATIVE CAPACITY AND IDENTIFY THE TRUST
5 ESTATE IN THE CONTRACT.

6 (2) A TRUSTEE IS PERSONALLY LIABLE FOR AN OBLIGATION ARISING
7 FROM OWNERSHIP OR CONTROL OF THE TRUST ESTATE PROPERTY OR FOR A
8 TORT COMMITTED IN THE COURSE OF ADMINISTRATION OF THE TRUST ESTATE
9 ONLY IF THE TRUSTEE IS PERSONALLY AT FAULT.

10 (3) A CLAIM BASED ON A CONTRACT ENTERED INTO BY A TRUSTEE IN
11 THE TRUSTEE'S FIDUCIARY CAPACITY, ON AN OBLIGATION ARISING FROM
12 OWNERSHIP OR CONTROL OF THE TRUST ESTATE, OR ON A TORT COMMITTED IN
13 THE COURSE OF TRUST ADMINISTRATION MAY BE ASSERTED AGAINST THE
14 TRUST ESTATE BY PROCEEDING AGAINST THE TRUSTEE IN THE TRUSTEE'S
15 FIDUCIARY CAPACITY, WHETHER OR NOT THE TRUSTEE IS PERSONALLY LIABLE
16 FOR THE CLAIM.

17 (4) THE QUESTION OF LIABILITY AS BETWEEN THE TRUST ESTATE AND
18 THE TRUSTEE INDIVIDUALLY MAY BE DETERMINED IN A PROCEEDING FOR
19 ACCOUNTING, SURCHARGE, OR INDEMNIFICATION OR IN ANOTHER APPROPRIATE
20 PROCEEDING.

21 SEC. 7911. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3),
22 A TRUSTEE WHO HOLDS AN INTEREST AS A GENERAL PARTNER IN A GENERAL
23 OR LIMITED PARTNERSHIP IS NOT PERSONALLY LIABLE ON A CONTRACT
24 ENTERED INTO BY THE PARTNERSHIP AFTER THE TRUST'S ACQUISITION OF
25 THE INTEREST IF THE FIDUCIARY CAPACITY WAS DISCLOSED IN THE
26 CONTRACT OR IN A STATEMENT PREVIOUSLY FILED PURSUANT TO THE
27 MICHIGAN REVISED UNIFORM LIMITED PARTNERSHIP ACT, 1982 PA 213, MCL

1 449.1101 TO 449.2108, OR WAS KNOWN BY THE OTHER PARTY TO THE
2 CONTRACT.

3 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), A TRUSTEE
4 WHO HOLDS AN INTEREST AS A GENERAL PARTNER IS NOT PERSONALLY LIABLE
5 FOR TORTS COMMITTED BY THE PARTNERSHIP OR FOR OBLIGATIONS ARISING
6 FROM OWNERSHIP OR CONTROL OF THE INTEREST UNLESS THE TRUSTEE IS
7 PERSONALLY AT FAULT.

8 (3) THE IMMUNITY PROVIDED BY THIS SECTION DOES NOT APPLY WITH
9 RESPECT TO A GENERAL PARTNERSHIP INTEREST HELD IN ANY CAPACITY
10 OTHER THAN AS TRUSTEE.

11 (4) IF THE TRUSTEE OF A REVOCABLE TRUST HOLDS AN INTEREST AS A
12 GENERAL PARTNER, THE SETTLOR IS PERSONALLY LIABLE FOR CONTRACTS AND
13 OTHER OBLIGATIONS OF THE PARTNERSHIP AS IF THE SETTLOR WERE A
14 GENERAL PARTNER.

15 SEC. 7912. (1) A PERSON OTHER THAN A TRUST BENEFICIARY WHO IN
16 GOOD FAITH ASSISTS A TRUSTEE, OR WHO IN GOOD FAITH AND FOR VALUE
17 DEALS WITH A TRUSTEE, WITHOUT KNOWLEDGE THAT THE TRUSTEE IS
18 EXCEEDING OR IMPROPERLY EXERCISING THE TRUSTEE'S POWERS IS
19 PROTECTED FROM LIABILITY AS IF THE TRUSTEE PROPERLY EXERCISED THE
20 POWER.

21 (2) A PERSON OTHER THAN A TRUST BENEFICIARY WHO IN GOOD FAITH
22 DEALS WITH A TRUSTEE IS NOT REQUIRED TO INQUIRE INTO THE EXTENT OF
23 THE TRUSTEE'S POWERS OR THE PROPRIETY OF THE EXERCISE OF THE
24 POWERS.

25 (3) A PERSON WHO IN GOOD FAITH DELIVERS ASSETS TO A TRUSTEE
26 NEED NOT ENSURE THE PROPER APPLICATION OF THE ASSETS.

27 (4) A PERSON OTHER THAN A TRUST BENEFICIARY WHO IN GOOD FAITH

1 ASSISTS A FORMER TRUSTEE, OR WHO IN GOOD FAITH AND FOR VALUE DEALS
2 WITH A FORMER TRUSTEE, WITHOUT KNOWLEDGE THAT THE TRUSTEESHIP HAS
3 TERMINATED IS PROTECTED FROM LIABILITY AS IF THE FORMER TRUSTEE
4 WERE STILL A TRUSTEE.

5 (5) COMPARABLE PROTECTIVE PROVISIONS OF OTHER LAWS RELATING TO
6 COMMERCIAL TRANSACTIONS OR TRANSFER OF SECURITIES BY FIDUCIARIES
7 PREVAIL OVER THE PROTECTION PROVIDED BY THIS SECTION.

8 SEC. 7913. (1) INSTEAD OF FURNISHING A COPY OF THE TRUST
9 INSTRUMENT TO A PERSON OTHER THAN A TRUST BENEFICIARY, THE TRUSTEE
10 MAY FURNISH TO THE PERSON A CERTIFICATE OF TRUST CONTAINING ALL OF
11 THE FOLLOWING INFORMATION:

12 (A) THE NAME OF THE TRUST AND THE DATE OF THE TRUST INSTRUMENT
13 AND ANY AMENDMENTS.

14 (B) THE NAME AND ADDRESS OF THE CURRENTLY ACTING TRUSTEE.

15 (C) THE POWERS OF THE TRUSTEE RELATING TO THE PURPOSES FOR
16 WHICH THE CERTIFICATE IS BEING OFFERED.

17 (D) THE REVOCABILITY OR IRREVOCABILITY OF THE TRUST AND THE
18 IDENTITY OF ANY PERSON HOLDING A POWER TO REVOKE THE TRUST.

19 (E) THE AUTHORITY OF COTRUSTEES TO SIGN OR OTHERWISE
20 AUTHENTICATE AND WHETHER ALL OR LESS THAN ALL ARE REQUIRED IN ORDER
21 TO EXERCISE POWERS OF THE TRUSTEE.

22 (2) A CERTIFICATE OF TRUST MAY BE SIGNED OR OTHERWISE
23 AUTHENTICATED BY THE SETTLOR, ANY TRUSTEE, OR AN ATTORNEY FOR THE
24 SETTLOR OR TRUSTEE. THE CERTIFICATE SHALL BE IN THE FORM OF AN
25 AFFIDAVIT.

26 (3) A CERTIFICATE OF TRUST SHALL STATE THAT THE TRUST HAS NOT
27 BEEN REVOKED, MODIFIED, OR AMENDED IN ANY MANNER THAT WOULD CAUSE

1 THE REPRESENTATIONS CONTAINED IN THE CERTIFICATE OF TRUST TO BE
2 INCORRECT.

3 (4) A CERTIFICATE OF TRUST NEED NOT CONTAIN THE DISPOSITIVE
4 TERMS OF THE TRUST.

5 (5) A RECIPIENT OF A CERTIFICATE OF TRUST MAY REQUIRE THE
6 TRUSTEE TO FURNISH COPIES OF THOSE EXCERPTS FROM THE ORIGINAL TRUST
7 INSTRUMENT AND LATER AMENDMENTS THAT DESIGNATE THE TRUSTEE AND
8 CONFER UPON THE TRUSTEE THE POWER TO ACT IN THE PENDING
9 TRANSACTION.

10 (6) A PERSON WHO ACTS IN RELIANCE UPON A CERTIFICATE OF TRUST
11 WITHOUT KNOWLEDGE THAT THE REPRESENTATIONS CONTAINED IN THE
12 CERTIFICATE ARE INCORRECT IS NOT LIABLE TO ANY PERSON FOR SO ACTING
13 AND MAY ASSUME WITHOUT INQUIRY THE EXISTENCE OF THE FACTS CONTAINED
14 IN THE CERTIFICATE.

15 (7) A PERSON WHO IN GOOD FAITH ENTERS INTO A TRANSACTION IN
16 RELIANCE UPON A CERTIFICATE OF TRUST MAY ENFORCE THE TRANSACTION
17 AGAINST THE TRUST PROPERTY AS IF THE REPRESENTATIONS CONTAINED IN
18 THE CERTIFICATE WERE CORRECT.

19 (8) A PERSON MAKING A DEMAND FOR THE TRUST INSTRUMENT IN
20 ADDITION TO A CERTIFICATE OF TRUST OR EXCERPTS IS LIABLE FOR
21 DAMAGES, COSTS, EXPENSES, AND LEGAL FEES IF THE COURT DETERMINES
22 THAT THE PERSON WAS NOT ACTING PURSUANT TO A LEGAL REQUIREMENT IN
23 DEMANDING THE TRUST INSTRUMENT.

24 (9) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PERSON TO
25 OBTAIN A COPY OF THE TRUST INSTRUMENT IN A JUDICIAL PROCEEDING
26 CONCERNING THE TRUST.

27 SEC. 8201. (1) ARTICLE VII SHALL BE CONSTRUED AND APPLIED TO

1 PROMOTE ITS UNDERLYING PURPOSES AND POLICIES.

2 (2) THE FOLLOWING ARE THE UNDERLYING PURPOSES AND POLICIES OF
3 ARTICLE VII:

4 (A) TO MAKE MORE COMPREHENSIVE AND TO CLARIFY THE LAW
5 GOVERNING TRUSTS IN THIS STATE.

6 (B) TO PERMIT THE CONTINUED EXPANSION AND DEVELOPMENT OF TRUST
7 PRACTICES THROUGH CUSTOM, USAGE, AND AGREEMENT OF THE PARTIES.

8 (C) TO FOSTER CERTAINTY IN THE LAW SO THAT SETTLORS OF TRUSTS
9 WILL HAVE CONFIDENCE THAT THEIR INSTRUCTIONS WILL BE CARRIED OUT AS
10 EXPRESSED IN THE TERMS OF THE TRUST.

11 SEC. 8202. THE PROVISIONS OF ARTICLE VII GOVERNING THE LEGAL
12 EFFECT, VALIDITY, OR ENFORCEABILITY OF ELECTRONIC RECORDS OR
13 ELECTRONIC SIGNATURES, AND OF CONTRACTS FORMED OR PERFORMED WITH
14 THE USE OF ELECTRONIC RECORDS OR SIGNATURES, CONFORM TO THE
15 REQUIREMENTS OF SECTION 102 OF THE ELECTRONIC SIGNATURES IN GLOBAL
16 AND NATIONAL COMMERCE ACT, 15 USC 7002, AND SUPERSEDE, MODIFY, AND
17 LIMIT THE REQUIREMENTS OF THE ELECTRONIC SIGNATURES IN GLOBAL AND
18 NATIONAL COMMERCE ACT, 15 USC 7001 TO 7031.

19 SEC. 8204. THE AMENDMENTS AND ADDITIONS TO ARTICLE VII ENACTED
20 BY THE AMENDATORY ACT THAT ADDED THIS SECTION TAKE EFFECT ON APRIL
21 1, 2010.

22 SEC. 8206. (1) EXCEPT AS OTHERWISE PROVIDED IN ARTICLE VII,
23 ALL OF THE FOLLOWING APPLY ON THE EFFECTIVE DATE OF THE AMENDATORY
24 ACT THAT ADDED THIS SECTION:

25 (A) THE AMENDMENTS AND ADDITIONS TO ARTICLE VII ENACTED BY THE
26 AMENDATORY ACT THAT ADDED THIS SECTION APPLY TO ALL TRUSTS CREATED
27 BEFORE, ON, OR AFTER THAT EFFECTIVE DATE.

1 (B) THE AMENDMENTS AND ADDITIONS TO ARTICLE VII ENACTED BY THE
2 AMENDATORY ACT THAT ADDED THIS SECTION APPLY TO ALL JUDICIAL
3 PROCEEDINGS CONCERNING TRUSTS COMMENCED ON OR AFTER THAT EFFECTIVE
4 DATE.

5 (C) THE AMENDMENTS AND ADDITIONS TO ARTICLE VII ENACTED BY THE
6 AMENDATORY ACT THAT ADDED THIS SECTION APPLY TO JUDICIAL
7 PROCEEDINGS CONCERNING TRUSTS COMMENCED BEFORE THAT EFFECTIVE DATE
8 UNLESS THE COURT FINDS THAT APPLICATION OF A PARTICULAR PROVISION
9 OF THE AMENDMENTS AND ADDITIONS WOULD SUBSTANTIALLY INTERFERE WITH
10 THE EFFECTIVE CONDUCT OF THE JUDICIAL PROCEEDINGS OR PREJUDICE THE
11 RIGHTS OF THE PARTIES, IN WHICH CASE THE PARTICULAR PROVISION OF
12 THE AMENDMENTS AND ADDITIONS DOES NOT APPLY AND THE SUPERSEDED
13 PROVISIONS APPLY.

14 (D) ANY RULE OF CONSTRUCTION OR PRESUMPTION PROVIDED IN THE
15 AMENDMENTS AND ADDITIONS TO ARTICLE VII ENACTED BY THE AMENDATORY
16 ACT THAT ADDED THIS SECTION APPLIES TO TRUST INSTRUMENTS EXECUTED
17 BEFORE THE EFFECTIVE DATE UNLESS THERE IS A CLEAR INDICATION OF A
18 CONTRARY INTENT IN THE TERMS OF THE TRUST.

19 (2) THE AMENDMENTS AND ADDITIONS TO ARTICLE VII ENACTED BY THE
20 AMENDATORY ACT THAT ADDED THIS SECTION DO NOT IMPAIR AN ACCRUED
21 RIGHT OR AFFECT AN ACT DONE BEFORE THE EFFECTIVE DATE. IF A RIGHT
22 IS ACQUIRED, EXTINGUISHED, OR BARRED UPON THE EXPIRATION OF A
23 PRESCRIBED PERIOD THAT HAS COMMENCED TO RUN UNDER ANY OTHER STATUTE
24 BEFORE THE EFFECTIVE DATE, THAT STATUTE CONTINUES TO APPLY TO THE
25 RIGHT EVEN IF IT HAS BEEN REPEALED OR SUPERSEDED.

26 (3) IF ANY PROVISION OF THE AMENDMENTS AND ADDITIONS TO
27 ARTICLE VII ENACTED BY THE AMENDATORY ACT THAT ADDED THIS SECTION

1 **CONFLICTS WITH ANY PROVISION OF 1846 RS 63, MCL 555.1 TO 555.27,**
2 **THE PROVISION OF THIS ARTICLE PREVAILS.**

3 Enacting section 1. Sections 7306 to 7308, 7408, 7409, and
4 7509 to 7511 of the estates and protected individuals code, 1998 PA
5 386, MCL 700.7306 to 700.7308, 700.7408, 700.7409, and 700.7509 to
6 700.7511 are repealed.

7 Enacting section 2. This amendatory act does not take effect
8 unless all of the following bills of the 94th Legislature are
9 enacted into law:

10 (a) Senate Bill No. ____ or House Bill No. 6717 (request no.
11 08266'08 a).

12 (b) Senate Bill No. ____ or House Bill No. 6718 (request no.
13 08266'08 b).

14 (c) Senate Bill No. ____ or House Bill No. 6719 (request no.
15 08266'08 c).

16 (d) Senate Bill No. ____ or House Bill No. 6720 (request no.
17 08266'08 d).