

SECOND REGULAR SESSION

# HOUSE BILL NO. 1511

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BYRD.

Read 1<sup>st</sup> time February 18, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3540L.011

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### AN ACT

To repeal sections 362.600, 456.010, 456.015, 456.016, 456.020, 456.030, 456.040, 456.050, 456.055, 456.060, 456.070, 456.072, 456.075, 456.080, 456.090, 456.100, 456.110, 456.120, 456.130, 456.140, 456.150, 456.160, 456.170, 456.180, 456.183, 456.185, 456.187, 456.190, 456.195, 456.200, 456.210, 456.220, 456.225, 456.230, 456.232, 456.233, 456.234, 456.235, 456.236, 456.240, 456.250, 456.260, 456.270, 456.280, 456.290, 456.300, 456.310, 456.320, 456.330, 456.340, 456.350, 456.400, 456.410, 456.420, 456.430, 456.440, 456.450, 456.460, 456.470, 456.480, 456.490, 456.500, 456.510, 456.520, 456.524, 456.530, 456.535, 456.540, 456.550, 456.560, 456.570, 456.580, 456.590, 456.610, 456.620, 456.630, 456.640, 456.650, 456.660, 456.670, 456.900, 456.901, 456.902, 456.903, 456.904, 456.905, 456.906, 456.907, 456.908, 456.909, 456.910, 456.911, 456.912, 456.913, 469.010, 469.409, 469.411, 469.419, 469.423, 469.435, 469.449 and 469.453, RSMo, and enact one hundred fifty new sections in lieu thereof relating to trust and estate administration.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 362.600, 456.010, 456.015, 456.016, 456.020, 456.030, 456.040, 2 456.050, 456.055, 456.060, 456.070, 456.072, 456.075, 456.080, 456.090, 456.100, 456.110, 3 456.120, 456.130, 456.140, 456.150, 456.160, 456.170, 456.180, 456.183, 456.185, 456.187, 4 456.190, 456.195, 456.200, 456.210, 456.220, 456.225, 456.230, 456.232, 456.233, 456.234, 5 456.235, 456.236, 456.240, 456.250, 456.260, 456.270, 456.280, 456.290, 456.300, 456.310, 6 456.320, 456.330, 456.340, 456.350, 456.400, 456.410, 456.420, 456.430, 456.440, 456.450, 7 456.460, 456.470, 456.480, 456.490, 456.500, 456.510, 456.520, 456.524, 456.530, 456.535,

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

8 456.540, 456.550, 456.560, 456.570, 456.580, 456.590, 456.610, 456.620, 456.630, 456.640,  
9 456.650, 456.660, 456.670, 456.900, 456.901, 456.902, 456.903, 456.904, 456.905, 456.906,  
10 456.907, 456.908, 456.909, 456.910, 456.911, 456.912, 456.913, 469.010, 469.409, 469.411,  
11 469.419, 469.423, 469.435, 469.449 and 469.453, are repealed and one hundred fifty new  
12 sections enacted in lieu thereof, to be known as sections 362.600, 456.1-101, 456.1-102, 456.1-  
13 103, 456.1-104, 456.1-105, 456.1-106, 456.1-107, 456.1-108, 456.1-109, 456.1-110, 456.1-111,  
14 456.1-112, 456.2-201, 456.2-202, 456.2-204, 456.3-301, 456.3-302, 456.3-303, 456.3-304,  
15 456.3-305, 456.4-401, 456.4-402, 456.4-403, 456.4-404, 456.4-405, 456.4-406, 456.4-407,  
16 456.4-408, 456.4-409, 456.4-410, 456.4-411A, 456.4-411B, 456.4-412, 456.4-413, 456.4-414,  
17 456.4-415, 456.4-416, 456.4-417, 456.5-501, 456.5-502, 456.5-503, 456.5-504, 456.5-505,  
18 456.5-506, 456.5-507, 456.6-601, 456.6-602, 456.6-603, 456.6-604, 456.7-701, 456.7-702,  
19 456.7-703, 456.7-704, 456.7-705, 456.7-706, 456.7-707, 456.7-708, 456.7-709, 456.8-801,  
20 456.8-802, 456.8-803, 456.8-804, 456.8-805, 456.8-806, 456.8-807, 456.8-808, 456.8-809,  
21 456.8-810, 456.8-811, 456.8-812, 456.8-813, 456.8-814, 456.8-815, 456.8-816, 456.8-817,  
22 456.10-1001, 456.10-1002, 456.10-1003, 456.10-1004, 456.10-1005, 456.10-1006, 456.10-1007,  
23 456.10-1008, 456.10-1009, 456.10-1010, 456.10-1011, 456.10-1012, 456.10-1013, 456.11-1101,  
24 456.11-1102, 456.11-1103, 456.11-1104, 456.11-1106, 456.001, 456.003, 456.005, 456.007,  
25 456.009, 456.011, 456.013, 456.015, 456.017, 456.019, 456.021, 456.023, 456.025, 456.027,  
26 456.029, 456.031, 456.033, 456.035, 456.037, 456.039, 456.041, 469.010, 469.240, 469.250,  
27 469.260, 469.270, 469.280, 469.290, 469.300, 469.310, 469.320, 469.330, 469.340, 469.350,  
28 469.402, 469.409, 469.411, 469.419, 469.423, 469.435, 469.449, 469.453, 469.900, 469.901,  
29 469.902, 469.903, 469.904, 469.905, 469.906, 469.907, 469.908, 469.909, 469.910, 469.911,  
30 469.912, and 469.913 to read as follows:

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

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

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

6 2. Except as provided in subsection 5 of this section, any foreign corporation may act in  
7 this state as trustee, executor, administrator, guardian, or in any other like fiduciary capacity,  
8 without the necessity of complying with any law of this state relating to the licensing of foreign  
9 banking corporations by the director of finance or relating to the qualifications of foreign  
10 corporations to do business in this state, and notwithstanding any prohibition, limitation or  
11 restriction contained in any other law of this state, provided only that:

12 (1) The foreign corporation is authorized to act in this fiduciary capacity or capacities  
13 in the state in which it is incorporated, or, if the foreign corporation be a national banking

14 association, in which it has its principal place of business; and

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

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

22 (b) Which contains provisions to the effect that any bank or other corporation, which is  
23 not incorporated under the laws of that state, or if a national bank then which does not have its  
24 principal place of business in that state, acting in that state in a fiduciary capacity pursuant to  
25 provisions of law making it eligible to do so, shall be deemed to have appointed an official of  
26 that state to be its true and lawful attorney upon whom may be served all legal process in any  
27 action or proceeding against it relating to or growing out of any trust, estate or matter in respect  
28 of which the corporation has acted or is acting in that state in this fiduciary capacity, and that the  
29 acceptance of or engagement in that state in any acts in this fiduciary capacity shall be  
30 signification of its agreement that the process against it, which is so served, shall be of the same  
31 legal force and validity as though served upon it personally, or which contains any substantially  
32 similar provisions.

33

34 Any foreign corporation eligible to act in any fiduciary capacity in this state pursuant to the  
35 provisions of this section may so act whether or not a resident of this state be acting with it in  
36 this capacity, may use its corporate name in connection with such activity in this state, and may  
37 be appointed to act in this fiduciary capacity by any court having jurisdiction in the premises, all  
38 notwithstanding any provision of law to the contrary. Nothing in this section contained shall be  
39 construed to prohibit or make unlawful any activity in this state by a bank or other corporation  
40 which is not incorporated under the laws of this state, or if a national bank then which does not  
41 have its principal place of business in this state, which would be lawful in the absence of this  
42 section.

43 3. Except as provided in subsection 5 of this section, prior to the time when any foreign  
44 corporation acts pursuant to the authority of this section in any fiduciary capacity or capacities  
45 in this state, the foreign corporation shall file with the director of finance a written application  
46 for a certificate of reciprocity and the director of finance shall issue the certificate to the foreign  
47 corporation. The application shall state:

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

49 (2) The name of the state under the laws of which it is incorporated, or if the foreign

50 corporation is a national banking association shall state that fact;

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

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

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

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

61 **(7) Unless the applicant is subject to the jurisdiction of the Office of Thrift Counsel,**  
62 **that the applicant has provided with the application a fiduciary bond in the amount of one**  
63 **million dollars for the benefit of the director of the division of finance in a format approved**  
64 **by the director of the division of finance.**

65

66 The application shall be verified by an officer of the foreign corporation, and there shall be filed  
67 with it such certificates of public officials and copies of documents certified by public officials  
68 as may be necessary to show that the foreign corporation is authorized to act in a fiduciary  
69 capacity or capacities similar to those in which it desires to act in the state of Missouri, in the  
70 state in which it is incorporated, or, if it is a national banking association in which it has its  
71 principal place of business. The director of finance shall, thereupon, if the foreign corporation  
72 is one which may act in the fiduciary capacity or capacities as provided in subsection 2 of this  
73 section, issue to the corporation a certificate of reciprocity, retaining a duplicate thereof together  
74 with the application and accompanying documents in his or her office. The certificate of  
75 reciprocity shall recite and certify that the foreign corporation is eligible to act in this state  
76 pursuant to this section and shall recite the fiduciary capacity or capacities in which the foreign  
77 corporation is eligible so to act.

78 4. A certificate of reciprocity issued to any foreign corporation shall remain in effect  
79 until the foreign corporation shall cease to be entitled under subsection 2 of this section to act  
80 in this state in the fiduciary capacity or capacities covered by the certificate, and thereafter until  
81 revoked by the director of finance. If at any time the foreign corporation shall cease to be  
82 entitled under subsection 2 of this section to act in this state in the fiduciary capacity or  
83 capacities covered by the certificate, the director of finance shall revoke the certificate and give  
84 written notice of the revocation to the foreign corporation. No revocation of any certificate of  
85 reciprocity shall affect the right of the foreign corporation to continue to act in this state in a

86 fiduciary capacity in estates or matters in which it has theretofore begun to act in a fiduciary  
87 capacity pursuant to the certificate.

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

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

94         (2) The foreign corporation is a bank, trust company or national banking association in  
95 good standing that possesses fiduciary powers from its chartering authority and is the surviving  
96 corporation to a merger or consolidation with a national banking association located in Missouri  
97 or a Missouri bank or trust company. The provisions of this subdivision are enacted to  
98 implement subsection 2 of this section and section 362.610, and the provisions of Title 12,  
99 U.S.C. 36(f)(2) of the National Bank Act; or

100         (3) The foreign corporation is a state-chartered bank, savings and loan association, trust  
101 company or national banking association in good standing that possesses fiduciary powers and  
102 has received a certificate of reciprocity, in which case it may only open a trust representative  
103 office in Missouri which is not otherwise a branch of such foreign corporation, provided a bank,  
104 savings and loan association or trust company chartered under the laws of Missouri and a  
105 national bank with its principal location in Missouri, all with fiduciary powers, are permitted to  
106 open and operate a trust representative office under the same or less restrictive conditions in the  
107 state in which the foreign corporation is organized or has its principal office.

108         6. A foreign corporation, insofar as it acts in a fiduciary capacity in this state pursuant  
109 to the provisions of this section, shall not be deemed to be transacting business in this state, if  
110 the foreign corporation does not establish or maintain in this state a place of business, branch  
111 office, or agency for the conduct in this state of business as a fiduciary.

112         7. Every foreign corporation to which a certificate of reciprocity shall have been issued  
113 shall be deemed to have appointed the director of finance to be its true and lawful attorney upon  
114 whom may be served all legal process in any action or proceeding against it relating to or  
115 growing out of any trust, estate or matter in respect of which the foreign corporation acts in this  
116 state in any fiduciary capacity pursuant to the certificate of reciprocity. Service of the process  
117 shall be made by delivering a copy of the summons or other process, with a copy of the petition  
118 when service of the copy is required by law, together with a remittance of one dollar (to be taxed  
119 as costs in the action or proceeding), to the director of finance or to any person in his or her  
120 office authorized by him to receive the service. The director of finance shall immediately  
121 forward the process, together with the copy of the petition, if any, to the foreign corporation, by

122 registered mail, addressed to it at the address on file with the director, or if there be none on file  
123 then at its last known address. The director of finance shall keep a permanent record in his or  
124 her office showing for all process served, the style of the action or proceeding, the court in which  
125 it was brought, the name and title of the officer serving the process, the day and hour of service,  
126 and the day of mailing by registered mail to the foreign corporation and the address to which  
127 mailed. In case the process is issued by an associate circuit judge, the same may be directed to  
128 and served by any officer authorized to serve process in the city or county where the director of  
129 finance shall have his or her office, at least fifteen days before the return thereof.

2 **456.1-101. Sections 456.1-101 to 456.11-1106 shall be known and may be cited as the**  
3 **"Missouri Uniform Trust Code".**

2 **456.1-102. Sections 456.1-101 to 456.11-1106 apply to express trusts, charitable or**  
3 **noncharitable, testamentary or inter vivos, and trusts created pursuant to a statute,**  
4 **judgment, or decree that requires the trust to be administered in the manner of an express**  
5 **trust. Sections 456.1-101 to 456.11-1106 do not apply to any trust created by the inherent**  
6 **power of the court pursuant to chapter 460, RSMo.**

2 **456.1-103. In sections 456.1-101 to 456.11-1106:**  
3 **(1) "Action," with respect to an act of a trustee, includes a failure to act.**  
4 **(2) "Beneficiary" means a person that:**  
5 **(a) has a present or future beneficial interest in a trust, vested or contingent; or**  
6 **(b) in a capacity other than that of trustee, holds a power of appointment over trust**  
7 **property.**

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

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

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

14 **(6) "Environmental law" means a federal, state, or local law, rule, regulation, or**  
15 **ordinance relating to protection of the environment.**

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

22 **(8) "Guardian" means a person described in subdivision (6) of section 475.010,**

22 **RSMo. The term does not include a guardian ad litem.**

23 **(9) "Interested persons" include beneficiaries and any others having a property**  
24 **right in or claim against a trust estate which may be affected by a judicial proceeding. It**  
25 **also includes fiduciaries and other persons representing interested persons. The meaning**  
26 **as it relates to particular persons may vary from time to time and must be determined**  
27 **according to the particular purposes of, and matter involved in, any proceeding.**

28 **(10) "Interests of the beneficiaries" means the beneficial interests provided in the**  
29 **terms of the trust.**

30 **(11) "Internal Revenue Code" means the United States Internal Revenue Code of**  
31 **1986, as in effect on January 1, 2005 or as later amended.**

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

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

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

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

42 **(16) "Principal place of administration" of a trust is the trustee's usual place of**  
43 **business where the records pertaining to the trust are kept, or the trustee's residence if the**  
44 **trustee has no such place of business, unless otherwise designated by the terms of the trust**  
45 **as provided in section 456.1-108. In the case of cotrustees, the principal place of**  
46 **administration is, in the following order of priority:**

47 **(a) The usual place of business of the corporate trustee if there is but one corporate**  
48 **cotrustee;**

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

51 **(c) The usual place of business or residence of any of the cotrustees.**

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

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

57 **(19) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's**

58 **qualification is determined:**

59 **(a) is a permissible distributee;**

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

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

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

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

67 **(22) "Settlor" means a person, including a testator, who creates, or contributes**  
68 **property to, a trust. If more than one person creates or contributes property to a trust,**  
69 **each person is a settlor of the portion of the trust property attributable to that person's**  
70 **contribution except to the extent another person has the power to revoke or withdraw that**  
71 **portion pursuant to the terms of the trust.**

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

73 **(a) to execute or adopt a tangible symbol; or**

74 **(b) to attach to or logically associate with the record an electronic sound, symbol,**  
75 **or process.**

76 **(24) "Spendthrift provision" means a term of a trust which restrains either the**  
77 **voluntary or involuntary transfer or both the voluntary and involuntary transfer of a**  
78 **beneficiary's interest.**

79 **(25) "State" means a State of the United States, the District of Columbia, Puerto**  
80 **Rico, the United States Virgin Islands, or any territory or insular possession subject to the**  
81 **jurisdiction of the United States. The term includes an Indian tribe or band recognized by**  
82 **federal law or formally acknowledged by a State.**

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

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

88 **(28) "Trustee" includes an original, additional, and successor trustee, and a**  
89 **cotrustee.**

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

3 **(1) has actual knowledge of it;**

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

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

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

          456.1-105. 1. Except as otherwise provided in the terms of the trust, sections 456.1-  
2 101 to 456.11-1106 governs the duties and powers of a trustee, relations among trustees,  
3 and the rights and interests of a beneficiary.

4           2. The terms of a trust prevail over any provision of sections 456.1-101 to 456.11-  
5 1106 except:

6           (1) the requirements for creating a trust;

7           (2) the duty of a trustee to act in good faith and in accordance with the purposes  
8 of the trust;

9           (3) the requirement that a trust and its terms be for the benefit of its beneficiaries;

10          (4) the power of the court to modify or terminate a trust under section 456.4-410,  
11 subsection 3 of section 456.4-411B, and sections 456.4-412 to 456.4-416;

12          (5) the effect of a spendthrift provision and the rights of certain creditors and  
13 assignees to reach a trust as provided in sections 456.5-501 to 456.5-507;

14          (6) the power of the court under section 456.7-702 to require, dispense with, or  
15 modify or terminate a bond;

16          (7) the power of the court under subsection 2 of section 456.7-708 to adjust a  
17 trustee's compensation specified in the terms of the trust which is unreasonably low or  
18 high;

19          (8) the duty to notify the permissible distributees of an irrevocable trust who have  
20 attained twenty-one years of age of the existence of the trust and of their rights to request  
21 trustee's reports and other information reasonably related to the administration of the  
22 trust;

23          (9) the duty to respond to the request of a qualified beneficiary of an irrevocable  
24 trust for trustee's reports and other information reasonably related to the administration

25 of a trust;

26 (10) the effect of an exculpatory term under section 456.10-1008;

27 (11) the rights under sections 456.10-1010 to 456.10-1013 of a person other than a  
28 trustee or beneficiary;

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

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

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

456.1-106. The common law of trusts and principles of equity supplement sections  
2 456.1-101 to 456.11-1106, except to the extent modified by sections 456.1-101 to 456.11-1106  
3 or another statute of this state.

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

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

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

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

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

6 (2) all or part of the administration occurs in the designated jurisdiction.

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

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

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

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

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

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

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

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

26           5. In connection with a transfer of the trust's principal place of administration, the  
27 trustee may transfer some or all of the trust property to a successor trustee designated in  
28 the terms of the trust or appointed pursuant to section 456.7-704.

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

7           2. Notice otherwise required under sections 456.1-101 to 456.11-1106 or a document  
8 otherwise required to be sent under sections 456.1-101 to 456.11-1106 need not be provided  
9 to a person whose identity or location is unknown to and not reasonably ascertainable by  
10 the trustee.

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

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

          456.1-110. 1. A specified charitable organization or a person appointed to enforce  
2 a trust created for the care of an animal or another noncharitable purpose as provided in  
3 sections 456.4-408 or 456.4-409 has the rights of a qualified beneficiary under sections  
4 456.1-101 to 456.11-1106.

5           2. Except with respect to section 456.1-411B, the attorney general of this state has  
6 the rights of a qualified beneficiary with respect to an interest in a charitable trust having  
7 its principal place of administration in this state if:

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

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

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

15           **(a) is a permissible distributee;**

16           **(b) would be a permissible distributee if the interests of the permissible distributees**  
17 **terminated on that date; or**

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

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

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

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

7           **3. A nonjudicial settlement agreement is valid only to the extent it does not violate**  
8 **a material purpose of the trust and includes terms and conditions that could be properly**  
9 **approved by the court under sections 456.1-101 to 456.11-1106 or other applicable law.**

10           **4. Matters that may be resolved by a nonjudicial settlement agreement include:**

11           **(1) the interpretation or construction of the terms of the trust;**

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

13           **(3) direction to a trustee to refrain from performing a particular act or the grant**  
14 **to a trustee of any necessary or desirable power;**

15           **(4) the resignation or appointment of a trustee and the determination of a trustee's**  
16 **compensation;**

17           **(5) transfer of a trust's principal place of administration; and**

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

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

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

**456.1-112. 1. If a settlor's marriage is dissolved or annulled, any beneficial terms**  
2 **of a trust in favor of the settlor's former spouse or any fiduciary appointment of the**  
3 **settlor's former spouse is revoked on the date the marriage is dissolved or annulled,**

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

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

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

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

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

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

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

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

456.2-202. 1. By accepting the trusteeship of a trust having its principal place of  
2 administration in this state or by moving the principal place of administration to this state,  
3 the trustee submits personally to the jurisdiction of the courts of this State regarding the  
4 administration of the trust during any period that the principal place of administration is  
5 located in this state.

6       2. With respect to their interests in the trust, the beneficiaries of a trust having its  
7 principal place of administration in this state are subject to the jurisdiction of the courts  
8 of this state regarding any proceeding involving the administration of the trust. By  
9 accepting a distribution from such a trust, the recipient submits personally to the  
10 jurisdiction of the courts of this state regarding any proceeding involving the  
11 administration of the trust.

- 12           **3. A judicial proceeding involving a trust may relate to any matter involving the**  
13 **trust's administration, including, but not limited to a proceeding to:**
- 14           **(1) request instructions or declare rights;**
  - 15           **(2) approve a nonjudicial settlement;**
  - 16           **(3) interpret or construe the terms of the trust;**
  - 17           **(4) determine the validity of a trust or of any of its terms;**
  - 18           **(5) approve a trustee's report or accounting or compel a trustee to report or**  
19 **account;**
  - 20           **(6) direct a trustee to refrain from performing a particular act or grant to a trustee**  
21 **any necessary or desirable power;**
  - 22           **(7) review the actions of a trustee, including the exercise of a discretionary power;**
  - 23           **(8) accept the resignation of a trustee;**
  - 24           **(9) appoint or remove a trustee;**
  - 25           **(10) determine a trustee's compensation;**
  - 26           **(11) determine the liability of a trustee for an action relating to the trust and**  
27 **compel redress of a breach of trust by any available remedy;**
  - 28           **(12) modify or terminate a trust;**
  - 29           **(13) combine trusts or divide a trust;**
  - 30           **(14) determine liability of a trust for debts of a beneficiary and living settlor;**
  - 31           **(15) approve employment and compensation of agents;**
  - 32           **(16) determine the propriety of investments or of principal and income allocations;**
  - 33           **(17) ascertain the identity of trust beneficiaries or the respective beneficial interests**  
34 **of trust beneficiaries;**
  - 35           **(18) release of trust registration or change of the trust's principal place of**  
36 **administration;**
  - 37           **(19) determine the timing and quantity of distributions and dispositions of assets;**
  - 38           **(20) determine the validity and effect of alienations by beneficiaries, by exercise of**  
39 **powers of appointment or otherwise; or**
  - 40           **(21) appoint a representative for a beneficiary.**
- 41           **4. This section does not preclude other methods of obtaining jurisdiction over a**  
42 **trustee, beneficiary, or other person receiving property from the trust.**

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

- 3           **(1) For a trust then registered in this State, in the probate division of the circuit**  
4 **court where the trust is registered; or**
- 5           **(2) For a trust not then registered in this State, in the probate division of the circuit**

6 court where the trust could properly be registered; or

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

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

12 3. If proceedings concerning the same trust are commenced in more than one court  
13 of this State, the court in which the proceeding was first commenced shall continue to hear  
14 the matter, and the other courts shall hold the matter in abeyance until the question of  
15 venue is decided, and if the court in which the proceeding was first commenced determines  
16 that venue is properly in another court, it shall transfer the proceeding to the other court.

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

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

4 2. The consent of a person who may represent and bind another person under  
5 sections 456.3-301 to 456.3-305 is binding on the person represented unless the person  
6 represented objects to the representation before the consent would otherwise have become  
7 effective.

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

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

4  
5 In this section "testamentary power of appointment" means a testamentary power of  
6 appointment exercisable without the consent of the creator of the power or person holding  
7 an adverse interest in favor of:

8 (1) a class of appointees that includes the holder, the holder's estate, the holder's  
9 creditors, or the creditors of the holder's estate; or

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

456.3-303. To the extent there is no conflict of interest between the representative

2 and the person represented or among those being represented with respect to a particular  
3 question or dispute:

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

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

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

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

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

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

15 (7) a personal representative of a decedent's estate may represent and bind persons  
16 interested in the estate.

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

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

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

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

456.4-401. A trust may be created by:

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

4 (2) declaration by the owner of property that the owner holds identifiable property  
5 as trustee;

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

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

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

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

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

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

6 (a) a charitable trust;

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

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

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

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

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

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

456.4-403. A trust not created by will is validly created if its creation complies with  
2 the law of the jurisdiction in which the trust instrument was executed, or the law of the  
3 jurisdiction in which, at the time of creation:

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

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

6 (3) any trust property was located.

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

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

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

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

456.4-406. A trust is void to the extent its creation was induced by fraud, duress,

2 or undue influence.

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

2. Other than for a conveyance by which a trust may arise or result by the implication or construction of law, all declarations or creations of trust of any lands, tenements or hereditaments shall be manifested and proved by some writing signed by the party who is, or shall be, by law, enabled to declare such trusts, or by the party's last will, in writing, or else they shall be void.

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

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

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

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

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

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

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

456.4-410. 1. In addition to the methods of termination prescribed by sections 456.4-411A to 456.4-414, a trust terminates to the extent the trust is revoked or expires

3 pursuant to its terms, no purpose of the trust remains to be achieved, or the purposes of  
4 the trust have become unlawful, contrary to public policy, or impossible to achieve.

5       2. A proceeding to approve or disapprove a proposed modification or termination  
6 under sections 456.4-411A to 456.4-416, or trust combination or division under section  
7 456.4-417, may be commenced by a trustee or beneficiary, and a proceeding to approve or  
8 disapprove a proposed modification or termination under section 456.4-411A may be  
9 commenced by the settlor. The settlor of a charitable trust may maintain a proceeding to  
10 modify the trust under section 456.4-413.

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

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

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

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

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

      456.4-411B. 1. When all of the adult beneficiaries having the capacity to contract  
2 consent, the court may, upon finding that the interest of any nonconsenting beneficiary will  
3 be adequately protected, modify the terms of a noncharitable irrevocable trust so as to  
4 reduce or eliminate the interests of some beneficiaries and increase those of others, change  
5 the times or amounts of payments and distributions to beneficiaries, or provide for  
6 termination of the trust at a time earlier or later than that specified by its terms. The court  
7 may at any time upon its own motion appoint a representative pursuant to section 456.3-  
8 305 to represent a nonconsenting beneficiary. The court shall appoint such a  
9 representative upon the motion of any party, unless the court determines such an  
10 appointment is not appropriate under the circumstances.

11       2. Upon termination of a trust under subsection 1 of this section, the trustee shall

12 distribute the trust property as directed by the court.

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

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

21       (2) in the case of a modification, the party seeking modification establishes that the  
22 modification is not inconsistent with a material purpose of the trust.

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

5       2. The court may modify the management or administrative terms of a trust if  
6 modification will further the purposes of the trust.

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

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

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

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

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

10       2. A provision in the terms of a charitable trust that would result in distribution of  
11 the trust property to a noncharitable beneficiary prevails over the power of the court  
12 under subsection 1 of this section to apply cy pres to modify or terminate the trust only if,  
13 when the provision takes effect:

14       (1) the trust property is to revert to the settlor and the settlor is still living; or

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

456.4-414. 1. After notice to the qualified beneficiaries, the trustee of a trust  
2 consisting of trust property having a total value less than one hundred thousand dollars

3 may terminate the trust if the trustee concludes that the value of the trust property is  
4 insufficient to justify the cost of administration.

5       2. The court may modify or terminate a trust or remove the trustee and appoint a  
6 different trustee if it determines that the value of the trust property is insufficient to justify  
7 the cost of administration.

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

10       4. This section does not apply to an easement for conservation or preservation.

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

      456.4-416. To achieve the settlor's tax objectives, the court may modify the terms  
2 of a trust in a manner that is not contrary to the settlor's probable intention. The court  
3 may provide that the modification has retroactive effect.

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

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

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

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

6 involuntary transfers of the beneficiary's interest.

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

456.5-503. 1. In this section,

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

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

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

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

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

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

5       (2) the trustee has abused the discretion.

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

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

4       2. With respect to an irrevocable trust without a spendthrift provision, a creditor  
5 or assignee of the settlor may reach the maximum amount that can be distributed to or for  
6 the settlor's benefit. If a trust has more than one settlor, the amount the creditor or  
7 assignee of a particular settlor may reach may not exceed the settlor's interest in the  
8 portion of the trust attributable to that settlor's contribution.

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

12 (1) Where the conveyance of assets to the trust was fraudulent as to creditors pursuant to  
13 the provisions of Chapter 428, RSMo; or

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

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

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

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

24 To all persons interested in the estate of \_\_\_\_\_, decedent. The  
25 undersigned \_\_\_\_\_ is acting as Trustee under a trust the terms of  
26 which provide that the debts of the decedent may be paid by the Trustee(s) upon receipt  
27 of proper proof thereof.

28 The address of the Trustee is \_\_\_\_\_.

29  
30 All creditors of the decedent are noticed to present their claims to the undersigned within  
31 six (6) months from the date of the first publication of this notice or be forever barred.

32 \_\_\_\_\_  
33 Trustee  
34

35 (1) If such publication is duly made by the trustee, any debts not presented to the  
36 trustee within six months from the date of the first publication of the preceding notice shall  
37 be forever barred as against the trustee and the trust property.

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

41 5. For purposes of this section:

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

45 (2) upon the lapse, release, or waiver of the power, the holder is treated as the  
46 settlor of the trust only to the extent the value of the property affected by the lapse, release,  
47 or waiver exceeds the greater of the amount specified in sections 2041(b)(2), 2514(e) or

48 **2503(b) of the Internal Revenue Code.**

49 **6. This section shall not apply to a spendthrift trust described, defined, or**  
50 **established in section 456.018.**

**456.5-506. Whether or not a trust contains a spendthrift provision, a creditor or**  
2 **assignee of a beneficiary may reach a mandatory distribution of income or principal,**  
3 **including a distribution upon termination of the trust, if the trustee has not made the**  
4 **distribution to the beneficiary within a reasonable time after the required distribution**  
5 **date.**

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

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

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

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

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

7 **(2) to the extent the trust consists of property other than community property, each**  
8 **settlor may revoke or amend the trust with regard to the portion of the trust property**  
9 **attributable to that settlor's contribution.**

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

11 **(1) if the terms of the trust provide a method of amendment or revocation, by**  
12 **substantially complying with any method provided in the terms of the trust; or**

13 **(2) if the terms of the trust do not provide a method, by any other method**  
14 **manifesting clear and convincing evidence of the settlor's intent, including the terms of a**  
15 **later duly probated will or codicil that identify the trust being revoked or the trust terms**  
16 **being amended.**

17 **4. Upon revocation of a revocable trust, the trustee shall deliver the trust property**  
18 **as the settlor directs.**

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

22 **6. A conservator of the settlor or, if no conservator has been appointed, a**  
23 **conservator ad litem of the settlor may exercise a settlor's powers with respect to**

24 revocation, amendment, or distribution of trust property only with the approval of the  
25 court supervising the conservator or the conservator ad litem.

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

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

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

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

9 4. During the period the power may be exercised, the holder of a power of  
10 withdrawal has the rights of a settlor of a revocable trust under this section to the extent  
11 of the property subject to the power.

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

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

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

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

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

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

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

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

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

21           **(1) the trustee knows of a pending judicial proceeding contesting the validity of the**  
22 **trust; or**

23           **(2) a potential contestant has notified the trustee of a possible judicial proceeding**  
24 **to contest the trust and a judicial proceeding is commenced within sixty days after the**  
25 **contestant sent the notification.**

26           **4. A beneficiary of a trust that is determined to have been invalid is liable to return**  
27 **any distribution received.**

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

3           **(1) by substantially complying with a method of acceptance provided in the terms**  
4 **of the trust; or**

5           **(2) if the terms of the trust do not provide a method or the method provided in the**  
6 **terms is not expressly made exclusive, by accepting delivery of the trust property,**  
7 **exercising powers or performing duties as trustee, or otherwise indicating acceptance of**  
8 **the trusteeship.**

9           **2. A person designated as trustee who has not yet accepted the trusteeship may**  
10 **decline the trusteeship. A designated trustee who does not accept the trusteeship within**  
11 **a reasonable time after knowing of the designation is deemed to have declined the**  
12 **trusteeship.**

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

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

17           **(2) inspect or investigate trust property to determine potential liability under**  
18 **environmental or other law or for any other purpose.**

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

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

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

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

4           **3. A cotrustee must participate in the performance of a trustee's function unless the**  
5 **cotrustee is unavailable to perform the function because of absence, illness, disqualification**  
6 **under other law, or other temporary incapacity or the cotrustee has properly delegated the**  
7 **performance of the function to another trustee.**

8           **4. If a cotrustee is unavailable to perform duties because of absence, illness,**  
9 **disqualification under other law, or other temporary incapacity, and prompt action is**  
10 **necessary to achieve the purposes of the trust or to avoid injury to the trust property, the**  
11 **remaining cotrustee or a majority of the remaining cotrustees may act for the trust.**

12           **5. A trustee may not delegate to a cotrustee the performance of a function the**  
13 **settlor reasonably expected the trustees to perform jointly. Unless a delegation was**  
14 **irrevocable, a trustee may revoke a delegation previously made.**

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

17           **7. Each trustee shall exercise reasonable care to:**

18           **(1) prevent a cotrustee from committing a serious breach of trust; and**

19           **(2) compel a cotrustee to redress a serious breach of trust.**

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

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

2           **(1) a person designated as trustee declines the trusteeship;**

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

4           **(3) a trustee resigns;**

5           **(4) a trustee is disqualified or removed;**

6           **(5) a trustee dies; or**

7           **(6) a guardian or conservator is appointed for an individual serving as trustee.**

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

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

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

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

15 **or**

16           **(3) by a person appointed by the court.**

17           **4. Whether or not a vacancy in a trusteeship exists or is required to be filled, the**

18 court may appoint an additional trustee or special fiduciary whenever the court considers  
19 the appointment necessary for the administration of the trust.

456.7-705. 1. A trustee may resign:

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

4 (2) with the approval of the court.

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

7 3. Any liability of a resigning trustee or of any sureties on the trustee's bond for  
8 acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

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

3 2. The court may remove a trustee if:

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

5 (2) lack of cooperation among cotrustees substantially impairs the administration  
6 of the trust;

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

10 (4) there has been a substantial change in the circumstances of a corporate trustee  
11 since that corporate trustee accepted office as trustee or removal is requested by all of the  
12 qualified beneficiaries and in either such case the party seeking removal establishes to the  
13 court that:

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

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

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

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

20 (1) A "substantial change in the circumstance of a corporate trustee" may include,  
21 but shall not be limited to, proof that either:

22 (a) An increase in the total compensation charged by a trustee for the  
23 administration of an irrevocable trust (the terms of which do not allow the beneficiaries  
24 to remove and replace the trustee) results in materially greater compensation than the total  
25 compensation that would have been charged under the trustee's current published fee  
26 structure for similar services in effect at the time the action was commenced; or

27           (b) the trustee has substantially and materially reduced the level of services  
28 provided to that trust and has failed to reinstate a substantially equivalent level of services  
29 after notice by the settlor, a cotrustee, or a qualified beneficiary.

30           (2) The fact that a corporate trustee has merged, been acquired, or otherwise  
31 changed corporate form shall not constitute prima facie proof of a "substantial change in  
32 the circumstance of a corporate trustee."

33           (3) In the event that a corporation is the trustee being removed, a suitable  
34 replacement cotrustee or successor trustee shall be another corporation qualified to  
35 conduct trust business in this state.

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

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

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

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

          456.7-708. 1. If the terms of a trust do not specify the trustee's compensation, a  
2 trustee is entitled to compensation that is reasonable under the circumstances.

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

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

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

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

          456.7-709. 1. A trustee is entitled to be reimbursed out of the trust property, with

2 interest as appropriate, for:

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

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

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

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

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

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

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

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

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

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

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

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

19 (1) the trustee's spouse;

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

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

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

25 4. A transaction between a trustee and a beneficiary that does not concern trust  
26 property but that occurs during the existence of the trust or while the trustee retains  
27 significant influence over the beneficiary and from which the trustee obtains an advantage

28 is voidable by the beneficiary unless the trustee establishes that the transaction was fair to  
29 the beneficiary.

30       **5. A transaction not concerning trust property in which the trustee engages in the**  
31 **trustee's individual capacity involves a conflict between personal and fiduciary interests**  
32 **if the transaction concerns an opportunity properly belonging to the trust.**

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

36       **(1) An investment by a trustee in securities of an investment company or investment**  
37 **trust to which the trustee, or its affiliate, provides services in a capacity other than as**  
38 **trustee.**

39       **(2) the placing of securities transactions by a trustee through a securities broker**  
40 **that is a part of the same company as the trustee, is owned by the trustee, or is affiliated**  
41 **with the trustee.**

42       **(3) In addition to the trustee's fees charged to the trust, the trustee, its affiliate, or**  
43 **associated entity may be compensated for any transaction or provision of services**  
44 **described in this subsection 6 or in subdivisions (4), (5), or (6) of subsection 8 of this**  
45 **section; provided, however, that with respect to any investment in securities of an**  
46 **investment company or investment trust to which the trustee or its affiliate provides**  
47 **investment advisory or investment management services or any services described in**  
48 **subdivision (5) of subsection 8 of this section, the trustee shall at least annually notify the**  
49 **persons entitled under section 456.8-813 to receive a copy of the trustee's annual report of**  
50 **the rate or method by which the compensation was determined.**

51       **7. In voting shares of stock or in exercising powers of control over similar interests**  
52 **in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries.**  
53 **If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall**  
54 **elect or appoint directors or other managers who will manage the corporation or enterprise**  
55 **in the best interests of the beneficiaries.**

56       **8. The following transactions, if fair to the beneficiaries, are not presumed to be**  
57 **affected by a conflict between personal and fiduciary interests and are not precluded by**  
58 **this section:**

59       **(1) an agreement between a trustee and a beneficiary relating to the appointment**  
60 **or compensation of the trustee;**

61       **(2) payment of reasonable compensation to the trustee;**

62       **(3) a transaction between a trust and another trust, decedent's estate, or**  
63 **conservatorship of which the trustee is a fiduciary or in which a beneficiary has an**

64 interest;

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

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

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

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

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

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

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

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

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

4 (1) selecting an agent;

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

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

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

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

13 4. By accepting a delegation of powers or duties from the trustee of a trust that is

14 subject to the law of this State, an agent submits to the jurisdiction of the courts of this  
15 State.

2 456.8-808. 1. While a trust is revocable, the trustee may follow a direction of the  
3 settlor that is contrary to the terms of the trust.

4 2. If the terms of a trust confer upon a person other than the settlor of a revocable  
5 trust power to direct certain actions of the trustee, the trustee shall act in accordance with  
6 an exercise of the power unless the attempted exercise is contrary to the terms of the trust  
7 or the trustee knows the attempted exercise would constitute a serious breach of a fiduciary  
8 duty that the person holding the power owes to the beneficiaries of the trust.

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

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

2 456.8-809. A trustee shall take reasonable steps to take control of and protect the  
3 trust property, except that this duty does not apply to, and the trustee is not responsible  
4 for, items of tangible personal property that are property of a trust revocable by the settlor  
5 and that are not in the possession or control of the trustee.

2 456.8-810. 1. A trustee shall keep adequate records of the administration of the  
3 trust.

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

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

8 4. If the trustee maintains records clearly indicating the respective interests, a  
trustee may invest as a whole the property of two or more separate trusts.

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

3 456.8-812. A trustee shall take reasonable steps to compel a former trustee or other  
2 person to deliver trust property to the trustee, and to redress a breach of trust known to  
3 the trustee to have been committed by a former trustee.

4 456.8-813. 1. A trustee shall keep the qualified beneficiaries of the trust reasonably  
2 informed about the administration of the trust and of the material facts necessary for them  
3 to protect their interests. Unless unreasonable under the circumstances, a trustee shall  
4 promptly respond to a beneficiary's request for information related to the administration

5 of the trust.

6 2. A trustee:

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

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

11 (3) within sixty days after the date the trustee acquires knowledge of the creation  
12 of an irrevocable trust, or the date the trustee acquires knowledge that a formerly  
13 revocable trust has become irrevocable, whether by the death of the settlor or otherwise,  
14 shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor  
15 or settlors, of the right to request a copy of the trust instrument, and of the right to a  
16 trustee's report as provided in subsection 3 of this section; and

17 (4) shall notify the qualified beneficiaries in advance of any change in the method  
18 or rate of the trustee's compensation. Subdivisions (2) and (3) of this subsection do not  
19 apply to a trust that became irrevocable before January 1, 2005.

20 3. A trustee shall send to the permissible distributees of trust income or principal,  
21 and to other beneficiaries who request it, at least annually and at the termination of the  
22 trust, a report of the trust property, liabilities, receipts, and disbursements, including the  
23 source and amount of the trustee's compensation, a listing of the trust assets and, if  
24 feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee  
25 remains in office, a report must be sent to the qualified beneficiaries by the former trustee.  
26 A personal representative, conservator, or guardian may send the qualified beneficiaries  
27 a report on behalf of a deceased or incapacitated trustee.

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

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

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

36 7. If the trustee is bound by any confidentiality restrictions with respect to an asset  
37 of a trust, any beneficiary who is eligible to receive information pursuant to this section  
38 about such asset shall agree to be bound by the confidentiality restrictions that bind the  
39 trustee before receiving such information from the trustee.

456.8-814. 1. Notwithstanding the breadth of discretion granted to a trustee in the

2 terms of the trust, including the use of such terms as "absolute," "sole," or "uncontrolled,"  
3 the trustee shall exercise a discretionary power in good faith and in accordance with the  
4 terms and purposes of the trust and the interests of the beneficiaries.

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

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

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

14 (3) for purposes of this subsection 2 of this section, the term "trustee" shall include  
15 a person who is deemed to have any power of a trustee, whether because such person has  
16 the right to remove or replace any trustee, because a reciprocal trust or power doctrine  
17 applies, or for any other reason.

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

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

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

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

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

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

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

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

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

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

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

9           **2. The exercise of a power is subject to the fiduciary duties prescribed by section**  
10 **456.8-801 to 456.8-814.**

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

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

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

7           **(3) exchange, partition, or otherwise change the character of trust property;**

8           **(4) deposit trust money in an account in a financial institution;**

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

11           **(6) with respect to an interest in a proprietorship, partnership, limited liability**  
12 **company, business trust, corporation, or other form of business or enterprise, continue the**  
13 **business or other enterprise and take any action that may be taken by shareholders,**  
14 **members, or property owners, including merging, dissolving, or otherwise changing the**  
15 **form of business organization or contributing additional capital;**

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

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

20           **(b) hold a security in the name of a nominee or in other form without disclosure of**  
21 **the trust so that title may pass by delivery;**

22           **(c) pay calls, assessments, and other sums chargeable or accruing against the**  
23 **securities, and sell or exercise stock subscription or conversion rights; and**

24           **(d) deposit the securities with a depositary or other financial institution;**

25           **(8) with respect to an interest in real property, construct, or make ordinary or**  
26 **extraordinary repairs to, alterations to, or improvements in, buildings or other structures,**  
27 **demolish improvements, raze existing or erect new party walls or buildings, subdivide or**  
28 **develop land, dedicate land to public use or grant public or private easements, and make**  
29 **or vacate plats and adjust boundaries;**

30           **(9) enter into a lease for any purpose as lessor or lessee, including a lease or other**  
31 **arrangement for exploration and removal of natural resources, with or without the option**  
32 **to purchase or renew, for a period within or extending beyond the duration of the trust;**

33           **(10) grant an option involving a sale, lease, or other disposition of trust property**  
34 **or acquire an option for the acquisition of property, including an option exercisable**

- 35 beyond the duration of the trust, and exercise an option so acquired;
- 36 (11) insure the property of the trust against damage or loss and insure the trustee,  
37 the trustee's agents, and beneficiaries against liability arising from the administration of  
38 the trust;
- 39 (12) abandon or decline to administer property of no value or of insufficient value  
40 to justify its collection or continued administration;
- 41 (13) with respect to possible liability for violation of environmental law:
- 42 (a) inspect or investigate property the trustee holds or has been asked to hold, or  
43 property owned or operated by an organization in which the trustee holds or has been  
44 asked to hold an interest, for the purpose of determining the application of environmental  
45 law with respect to the property;
- 46 (b) take action to prevent, abate, or otherwise remedy any actual or potential  
47 violation of any environmental law affecting property held directly or indirectly by the  
48 trustee, whether taken before or after the assertion of a claim or the initiation of  
49 governmental enforcement;
- 50 (c) decline to accept property into trust or disclaim any power with respect to  
51 property that is or may be burdened with liability for violation of environmental law;
- 52 (d) compromise claims against the trust which may be asserted for an alleged  
53 violation of environmental law; and
- 54 (e) pay the expense of any inspection, review, abatement, or remedial action to  
55 comply with environmental law;
- 56 (14) pay or contest any claim, settle a claim by or against the trust, and release, in  
57 whole or in part, a claim belonging to the trust;
- 58 (15) pay taxes, assessments, compensation of the trustee and of employees and  
59 agents of the trust, and other expenses incurred in the administration of the trust;
- 60 (16) exercise elections with respect to federal, state, and local taxes;
- 61 (17) select a mode of payment under any employee benefit or retirement plan,  
62 annuity, or life insurance payable to the trustee, exercise rights thereunder, including  
63 exercise of the right to indemnification for expenses and against liabilities, and take  
64 appropriate action to collect the proceeds;
- 65 (18) make loans out of trust property, including loans to a beneficiary on terms and  
66 conditions the trustee considers to be fair and reasonable under the circumstances, and the  
67 trustee has a lien on future distributions for repayment of those loans;
- 68 (19) pledge trust property to guarantee or secure loans made by others to a  
69 beneficiary;
- 70 (20) appoint a trustee to act in another jurisdiction with respect to trust property

71 located in the other jurisdiction, confer upon the appointed trustee all of the powers and  
72 duties of the appointing trustee, require that the appointed trustee furnish security, and  
73 remove any trustee so appointed;

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

77 (a) paying it to the beneficiary's conservator or, if the beneficiary does not have a  
78 conservator, the beneficiary's guardian;

79 (b) paying it to the beneficiary's custodian under the Missouri Transfers to Minors  
80 Law under sections 404.005 to 404.094, RSMo, or a personal custodian under sections  
81 404.400 to 404.650, RSMo, and, for that purpose, creating a custodianship or custodial  
82 trust;

83 (c) if the trustee does not know of a conservator, guardian, custodian, or custodial  
84 trustee, paying it to an adult relative or other person having legal or physical care or  
85 custody of the beneficiary, to be expended on the beneficiary's behalf; or

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

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

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

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

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

99 (26) on termination of the trust, exercise the powers appropriate to wind up the  
100 administration of the trust and distribute the trust property to the persons entitled to it;  
101 and

102 (27) To invest and reinvest trust assets in accordance with sections 469.900 to  
103 469.913, RSMo; including investing and reinvesting in securities or obligations of any state  
104 or its political subdivisions, including securities or obligations that are underwritten by the  
105 trustee or an affiliate of the trustee or a syndicate in which the trustee or an affiliate of the  
106 trustee is a member which meet the standards established by the division of finance

107 pursuant to subsection 5 of section 362.550, RSMo.

2           **456.8-817. 1. Upon termination or partial termination of a trust, the trustee may**  
3 **send to the beneficiaries a proposal for distribution. The right of any beneficiary to object**  
4 **to the proposed distribution terminates if the beneficiary does not notify the trustee of an**  
5 **objection within thirty days after the proposal was sent but only if the proposal informed**  
6 **the beneficiary of the right to object and of the time allowed for objection.**

7           **2. Upon the occurrence of an event terminating or partially terminating a trust, the**  
8 **trustee shall proceed expeditiously to distribute the trust property to the persons entitled**  
9 **to it, subject to the right of the trustee to retain a reasonable reserve for the payment of**  
10 **debts, expenses, and taxes.**

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

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

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

16           **456.10-1001. 1. A violation by a trustee of a duty the trustee owes to a beneficiary**  
17 **is a breach of trust.**

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

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

3           **(2) enjoin the trustee from committing a breach of trust;**

4           **(3) compel the trustee to redress a breach of trust by paying money, restoring**  
5 **property, or other means;**

6           **(4) order a trustee to account;**

7           **(5) appoint a special fiduciary to take possession of the trust property and**  
8 **administer the trust;**

9           **(6) suspend the trustee;**

10           **(7) remove the trustee as provided in section 456.7-706;**

11           **(8) reduce or deny compensation to the trustee;**

12           **(9) subject to section 456.10-1012, void an act of the trustee, impose a lien or a**  
13 **constructive trust on trust property, or trace trust property wrongfully disposed of and**  
14 **recover the property or its proceeds; or**

15           **(10) order any other appropriate relief.**

16           **456.10-1002. 1. A trustee who commits a breach of trust is liable to the**  
17 **beneficiaries affected for the greater of:**

1           **(1) the amount required to restore the value of the trust property and trust**  
2 **distributions to what they would have been had the breach not occurred; or**

5           (2) the profit the trustee made by reason of the breach.

6           2. Except as otherwise provided in this subsection, if more than one trustee is liable  
7 to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other  
8 trustee or trustees that are also liable. A trustee is not entitled to contribution if the trustee  
9 was substantially more at fault than another trustee or if the trustee committed the breach  
10 of trust in bad faith or with reckless indifference to the purposes of the trust or the  
11 interests of the beneficiaries. A trustee who received a benefit from the breach of trust is  
12 not entitled to contribution from another trustee to the extent of the benefit received.

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

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

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

          456.10-1005. 1. A beneficiary may not commence a proceeding against a trustee for  
2 breach of trust more than one year after the last to occur of the date the beneficiary or a  
3 representative of the beneficiary was sent a report that adequately disclosed the existence  
4 of a potential claim for breach of trust and the date the trustee informed the beneficiary  
5 of the time allowed for commencing a proceeding with respect to any potential claim  
6 adequately disclosed on the report.

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

10          3. If subsection 1 of this section does not apply, a judicial proceeding by a  
11 beneficiary against a trustee for breach of trust must be commenced within five years after  
12 the first to occur of:

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

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

15           (3) the termination of the trust.

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

          456.10-1007. If the happening of an event, including marriage, divorce,

2 performance of educational requirements, or death, affects the administration or  
3 distribution of a trust, a trustee who has exercised reasonable care to ascertain the  
4 happening of the event is not liable for a loss resulting from the trustee's lack of knowledge.

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

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

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

7 2. Unless the settlor was represented by an attorney not employed by the trustee  
8 with respect to the trust containing the exculpatory term, an exculpatory term drafted or  
9 caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential  
10 relationship unless the trustee proves that the exculpatory term is fair under the  
11 circumstances and that its existence and contents were adequately communicated to the  
12 settlor.

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

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

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

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

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

8 3. A claim based on a contract entered into by a trustee in the trustee's fiduciary  
9 capacity, on an obligation arising from ownership or control of trust property, or on a tort  
10 committed in the course of administering a trust, may be asserted in a judicial proceeding  
11 against the trustee in the trustee's fiduciary capacity, whether or not the trustee is  
12 personally liable for the claim.

456.10-1011. 1. Except as otherwise provided in subsection 3 of this section or

2 unless personal liability is imposed in the contract, a trustee who holds an interest as a  
3 general partner in a general or limited partnership is not personally liable on a contract  
4 entered into by the partnership after the trust's acquisition of the interest if the fiduciary  
5 capacity was disclosed in the contract or in a statement previously filed with the Secretary  
6 of State of this State.

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

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

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

456.10-1012. 1. A person other than a beneficiary who in good faith assists a  
2 trustee, or who in good faith and for value deals with a trustee, without knowledge that the  
3 trustee is exceeding or improperly exercising the trustee's powers is protected from liability  
4 as if the trustee properly exercised the power.

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

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

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

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

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

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

5 (2) the identity of the settlor;

- 6           (3) the identity and address of the currently acting trustee;  
7           (4) the powers of the trustee;  
8           (5) the revocability or irrevocability of the trust and the identity of any person  
9 holding a power to revoke the trust;  
10          (6) the authority of cotrustees to sign or otherwise authenticate and whether all or  
11 less than all are required in order to exercise powers of the trustee;  
12          (7) the trust's taxpayer identification number; and  
13          (8) the manner of taking title to trust property.

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

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

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

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

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

29          7. A person who in good faith enters into a transaction in reliance upon a  
30 certification of trust may enforce the transaction against the trust property as if the  
31 representations contained in the certification were correct.

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

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

2          456.11-1101. In applying and construing this uniform act, consideration must be  
3 given to the need to promote uniformity of the law with respect to its subject matter among  
states that enact it.

2          456.11-1102. Sections 456.1-101 to 456.11-1106 modify, limit, and supersede the  
federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. section

3 7001, et seq.) but do not modify, limit, or supersede section 101(c) of that Act (15 U.S.C.  
4 section 7001(c)) or authorize electronic delivery of any of the notices described in section  
5 103(b) of that act (15 U.S.C. section 7003(b)).

456.11-1103. If any provision of sections 456.1-101 to 456.11-1106 or its application  
2 to any person or circumstances is held invalid, the invalidity does not affect other  
3 provisions or applications of sections 456.1-101 to 456.11-1106 which can be given effect  
4 without the invalid provision or application, and to this end the provisions of sections  
5 456.1-101 to 456.11-1106 are severable.

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

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

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

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

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

13 (4) any rule of construction or presumption provided in sections 456.1-101 to  
14 456.11-1106 apply to trust instruments executed before January 1, 2005, unless there is a  
15 clear indication of a contrary intent in the terms of the trust; and

16 (5) an act done before January 1, 2005, is not affected by any provisions contained  
17 in sections 456.1-101 to 456.11-1106.

18 2. If a right is acquired, extinguished, or barred upon the expiration of a prescribed  
19 period that has commenced to run under any other statute before January 1, 2005, that  
20 statute continues to apply to the right even if it has been repealed or superseded.

[456.015.] 456.001. 1. If an instrument providing for a pecuniary bequest or transfer to  
2 or for the benefit of the spouse of the testator or transferor requires or permits the satisfaction of  
3 such bequest or transfer wholly or partly by the distribution of property valued at some date or  
4 on some basis other than its fair market value at the time of distribution, and does not require that  
5 such bequest or transfer be satisfied by the distribution of assets, including cash, having an  
6 aggregate fair market value on the date or dates of distribution amounting to no less than the  
7 amount of such bequest or transfer, then in such case, the provisions of the instrument

8 notwithstanding, any property distributed in satisfaction of such bequest or transfer shall have  
9 an aggregate fair market value on the date of distribution fairly reflecting the distributee's  
10 proportionate share of the appreciation or depreciation in value to the date of distribution of all  
11 property then available for distribution.

12 2. If, in any instrument which provides for a pecuniary bequest or transfer, the personal  
13 representative or trustee is empowered to satisfy such bequest or transfer by distribution of  
14 property in kind, and the instrument is silent as to the value to be given to property distributed  
15 in kind, any property distributed in satisfaction of the bequest or transfer shall be valued at the  
16 fair market value thereof on the date of distribution.

17 3. The phrase "pecuniary bequest or transfer", as used in this section, means a bequest  
18 or transfer either in a stated amount or in an amount determined by the use of a formula.

19 **4. This section shall be effective with respect to wills and revocable inter vivos**  
20 **trusts executed or created before or after October 13, 1969, by persons who die on or after**  
21 **said date, and to irrevocable inter vivos trusts which are created on or after October 13,**  
22 **1969.**

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

[456.030.] **456.005.** Proceeds of life insurance policies heretofore made payable to a  
2 trustee or trustees named as beneficiary or hereafter to be named beneficiary under an inter vivos  
3 trust shall be paid directly to the trustee or trustees and held and disposed of by the trustee or  
4 trustees as provided in the trust agreement or declaration of trust in writing made and in  
5 existence on the date of death of the insured, whether or not such trust or declaration of trust is  
6 amendable or revocable or both, or whether it may have been amended, and notwithstanding the  
7 reservation of any or all rights of ownership under the insurance policy or annuity contract;  
8 subject, however, to a valid assignment of any part of the proceeds. It is not necessary to the  
9 validity of such trust agreement or declaration of trust that it be funded or have a corpus other  
10 than the right, which need not be irrevocable, of the trustee or trustees named therein to receive  
11 such proceeds as beneficiary. A policy of life insurance or annuity contract may designate as  
12 beneficiary a trustee or trustees named or to be named by will if the designation is made in

13 accordance with the provisions of the policy or contract whether or not the will is in existence  
14 at the time of the designation.

[456.040.] **456.007.** 1. Whenever any person, firm or corporation, engaged in the leasing  
2 of personal property, shall require a deposit or advance payment to be made by the lessee to bind  
3 the lessee to the performance of such contract, then such money so deposited, with any accruing  
4 interest thereon, shall, until returned or applied in accordance with the terms of such contract or  
5 agreement, continue to be the money of the person making the deposit and shall become and  
6 remain a trust fund in the possession of the person with whom such deposit shall be made, and  
7 the person, firm or corporation, receiving such deposit shall be the holder of such fund as trustee,  
8 and as the trustee as herein defined shall forthwith, and within seven days after the receipt of  
9 such trust fund, deposit the same in some bank or trust company in the county in which the cestui  
10 que trust shall reside or have his principal office or place of business, and such fund shall not be  
11 mingled with any other funds or assets of such trustee. Any person, firm or corporation receiving  
12 any money in trust, as herein defined, who shall violate any of the provisions of this section shall  
13 be deemed guilty of a misdemeanor; provided, however, that this section and section [456.050]  
14 **456.009** shall not apply to such transactions where the property used or leased is delivered to  
15 lessee at time of agreement and remains in the actual and continuous possession of lessee during  
16 the term of such agreement.

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

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

[456.060.] **456.011.** A trust of real or personal property, or both, created as part of a  
2 stock bonus plan, pension plan, disability or death benefit plan, medical benefit plan,  
3 profit-sharing plan or retirement plan, for the exclusive benefit of employees or self-employed  
4 persons, to which contributions are made by an employer, or employees, or both, or by  
5 self-employed persons, for the purpose of distributing to such employees or self-employed  
6 persons the earnings or the principal, or both earnings and principal of the fund so held in trust,  
7 shall not be deemed to be invalid as violating any existing laws against perpetuities or suspension

8 of the power of alienation of title to property; but such a trust may continue for such time as may  
9 be necessary to accomplish the purposes for which it may be created.

[456.070.] **456.013.** The income arising from any property held in a trust created as part  
2 of a stock bonus plan, pension plan, disability or death benefit plan, medical benefit plan,  
3 profit-sharing plan or retirement plan for the exclusive benefit of employees or self-employed  
4 persons to which contributions are made by an employer or employees, or both, or by  
5 self-employed persons, for the purpose of distributing in accordance with such plan to such  
6 employees or self-employed persons the earnings or the principal or both earnings and principal  
7 of the trust fund, may be permitted to accumulate until the fund shall be sufficient to accomplish  
8 the purposes of such plan.

[456.072.] **456.015.** A trust created as part of a stock bonus plan, nonpublic pension  
2 plan, disability or death benefit plan, profit-sharing plan, or retirement plan, for the exclusive  
3 benefit of employees to which contributions are made by an employer, or participant, or both,  
4 for the purpose of distributing to such participant the earnings or the principal, or both earnings  
5 and principal of the fund so held in trust, shall be deemed to be a spendthrift trust if the plan or  
6 trust includes a provision restraining the assignment, alienation, or other voluntary or involuntary  
7 transfer of the interest of a participant in the trust. Prior to payment or delivery thereof to such  
8 participant by the plan trustee, such an interest of the participant shall be exempt from  
9 attachment or execution under the laws of this state, and such provision restraining the  
10 assignment, alienation, or other voluntary or involuntary transfer of the interest of a participant  
11 in the trust shall preclude any creditor of the participant from satisfying a claim from the assets  
12 or property of such a plan or trust before payment or delivery of such interest to the participant  
13 by the plan trustee, provided that the interest of any such participant shall be subject to  
14 attachment or execution pursuant to a qualified domestic relations order, as defined by section  
15 414(p) of the federal Internal Revenue Code, as amended, issued by a court in any proceeding  
16 for dissolution of marriage or legal separation or a proceeding for disposition of property  
17 following dissolution of marriage by a court which lacked personal jurisdiction over the absent  
18 spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment  
19 of dissolution.

[456.075.] **456.017.** The provisions of sections [456.060, 456.070, and 456.072]  
2 **456.011, 456.013, and 456.015** shall apply to every trust of the kind described in such sections  
3 hereafter created or heretofore created or attempted to be created as if such sections had been  
4 effective on and after the date of the creation, or attempted creation, of each such trust.

[456.230.] **456.019.** 1. In the administration of any trust which is a "private foundation",  
2 as defined in section 509 of the United States Internal Revenue Code, a "charitable trust", as  
3 defined in section 4947(a)(1) of the United States Internal Revenue Code, or a "split-interest

4 trust", as defined in section 4947(a)(2) of the United States Internal Revenue Code, the following  
5 acts shall be prohibited:

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

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

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

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

22 2. In the administration of any trust which is a "private foundation", as defined in section  
23 509 of the United States Internal Revenue Code, or which is a "charitable trust", as defined in  
24 section 4947(a)(1) of the United States Internal Revenue Code, there shall be distributed, for the  
25 purposes specified in the trust instrument, for each taxable year, amounts at least sufficient to  
26 avoid liability for the tax imposed by section 4942(a) of the United States Internal Revenue  
27 Code.

28 3. The provisions of subsections 1 and 2 of this section shall not apply to any trust to the  
29 extent that a court of competent jurisdiction shall determine that such application would be  
30 contrary to the terms of the instrument governing such trust and that the same may not properly  
31 be changed to conform to such sections. The trustee shall not be held liable to anyone for any  
32 payments made under subsection 2 prior to such determination.

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

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

[456.232.] **456.021.** A devise or other transfer, the validity of which is determinable by  
2 the law of this state, may be made by a will or other instrument of transfer, including a  
3 designation of beneficiary under a life insurance policy, to the trustee or trustees of a trust

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

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

18 (2) Shall be administered and disposed of in accordance with the provisions of the  
19 instrument or will setting forth the terms of the trust, including any amendments thereto made  
20 before the death of the testator or transferor, regardless of whether made before or after the  
21 execution of the testator's will or the delivery of the instrument of transfer, and, if the testator's  
22 will or the instrument of transfer so provides, including any amendments to the trust made after  
23 the death of the testator or transferor. A revocation or termination of the trust before the death  
24 of the testator shall cause a devise to the trustees of that trust to lapse.

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

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

7 2. No rule against accumulations shall apply to a trust described in subsection 1 of this  
8 section unless the terms of the trust require that the income be accumulated during a period of  
9 time the trust continues beyond the period of the rule against perpetuities that would apply to the  
10 trust but for subsection 1 of this section. If the terms of the trust require that the income be  
11 accumulated during any period of time the trust continues beyond the period of the rule against

12 perpetuities that would apply to the trust but for subsection 1 of this section, then during that  
13 period of time the trustee shall have the power to make discretionary distributions of net income  
14 to such recipients and in such shares and in such manner as most closely effectuates the settlor's  
15 or testator's manifested plan of distribution.

16 3. The provisions of this section apply to:

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

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

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

27 4. As used in this section, the term "trust" [shall have the same meaning as in subdivision  
28 (2) of section 456.500, except that the term shall not include a trust that is not subject to the rule  
29 against perpetuities by reason of any other law of this state] **means an express trust created by**  
30 **a trust instrument, including a will, whereby a trustee has the duty to administer a trust**  
31 **asset for the benefit of a named or otherwise described income or principal beneficiary, or**  
32 **both. The term "trust" does not include a beneficiary, an investment trust, a voting trust,**  
33 **a security instrument, a trust created by the judgment or decree of a court, a liquidation**  
34 **trust, or a trust for the primary purpose of paying dividends, interests, interest coupons,**  
35 **salaries, wages, pensions, or profits, or employee benefits of any kind, an instrument**  
36 **wherein a person is nominee or escrowee for another, a trust created in deposits in any**  
37 **financial institution, a trust that is not subject to the rule against perpetuities by reason of**  
38 **any other law of this state, or any other trust the nature of which does not admit of general**  
39 **trust administration.**

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

4 2. "Trust" includes any express trust, private or charitable, with additions thereto,  
5 wherever and however created. It also includes a resulting or constructive trust created or  
6 determined by judgment or decree under which the trust is to be administered in the manner of  
7 an express trust. "Trust" excludes other constructive and resulting trusts, guardianships,  
8 conservatorships, decedents' estates, and trust accounts with financial institutions in the name

9 of one or more parties as trustee for one or more beneficiaries where the fiduciary relationship  
10 is established by the form of the account and the deposit agreement with the financial institution,  
11 and there is no subject of the trust other than the sums on deposit in such account. "Trust" also  
12 excludes custodial arrangements pursuant to chapter 404, RSMo, the Missouri Uniform Gifts to  
13 Minors Law, paying and transfer agencies, business trusts providing for certificates to be issued  
14 to beneficiaries, investment trusts, common trust funds, voting trusts, security instruments or  
15 arrangements, liquidation trusts, trusts for the primary purpose of paying debts, dividends,  
16 interest, salaries, wages, profits, pensions or employee benefits of any kind, and any  
17 arrangements under which a person is nominee or escrowee for another.

18 3. Unless otherwise designated in the trust instrument, the "principal place of  
19 administration of a trust" is the trustee's usual place of business where the records pertaining to  
20 the trust are kept, or at the trustee's residence if he has no such place of business. In the case of  
21 cotrustees, the principal place of administration, if not otherwise designated in the trust  
22 instrument, is:

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

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

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

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

31 5. The right to register under this section does not apply to the trustee of a trust if  
32 registration would be inconsistent with the retained jurisdiction of a foreign court from which  
33 the trustee cannot obtain release of registration.

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

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

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

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

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

[456.430.] **456.033.** 1. By registering a trust, or accepting the trusteeship of a registered  
2 trust, the trustee submits personally to the jurisdiction of the court in any proceeding involving  
3 the internal affairs of the trust that may be initiated by any interested person while the trust  
4 remains registered. Notice of any such proceeding shall be delivered to the trustee or mailed to  
5 him by ordinary first-class mail at his address as listed in the registration statement or as  
6 thereafter reported to the court and to his address as then known to the petitioner.

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

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

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

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

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

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

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

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

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

28 (7) The ascertainment of beneficiaries or of beneficial interests;

29 (8) The requirements for release of registration or change of principal place of

30 administration;

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

32 (10) The validity and effect of alienations by beneficiaries, by exercise of powers of  
33 appointment or otherwise; and

34 (11) Terminations of trusts.

[456.620.] **456.035.** 1. A certified or authenticated copy of a death certificate purporting  
2 to be issued by an official or agency of the place where the death purportedly occurred is prima  
3 facie proof of the fact, place, date and time of death and the identity of the deceased settlor,  
4 trustee, beneficiary or other interested person.

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

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

[456.640.] **456.037.** 1. Property of any kind remaining in a trust which is not subject to  
2 administration or distribution to or for an identifiable beneficiary may be deemed to be  
3 unclaimed property when the trustee, after reasonable and diligent search, is unable to find or  
4 ascertain the existence of any heirs, legal representatives, successors or assigns of any beneficiary  
5 to whom such property is distributable by the trust instrument, by any other instrument pertaining  
6 to the trust estate, or by the laws of Missouri.

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

[456.650.] **456.039.** 1. Any trustee holding such unclaimed property may file with the  
2 state treasurer a verified statement setting forth the reason or reasons why such property is  
3 presumed to be unclaimed, the efforts made to find or ascertain any heirs, legal representatives,  
4 successors or assigns of any beneficiary or beneficiaries to whom such property is distributable,  
5 a list of all instruments known to the trustee that pertain to the trust and their location, with  
6 copies of those that are in possession of the trustee, and any further facts causing the trustee to  
7 believe that the property is unclaimed, and transfer such property to the state treasurer, who shall  
8 issue his receipt therefor.

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

[456.660.] **456.041.** 1. The payment or delivery of such unclaimed property to the state

2 treasurer by the trustee shall terminate any legal relationship between the trustee and beneficiary  
3 or apparent beneficiary to receive such property and shall release and discharge the trustee from  
4 any and all liability to such beneficiary, his heirs, personal representatives, successors and  
5 assigns by such payment or delivery, regardless of whether such property is in fact or in law  
6 unclaimed property.

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

469.010. Any individual, **including the trustee of a trust**, to whom property or an  
2 interest therein is donatively transferred by any means, including a transfer resulting from  
3 another disclaimer, may disclaim all or any portion of the transfer. Unless the terms of the  
4 transfer otherwise provide, the disclaimer shall cause the terms of the transfer to be applied to  
5 the disclaimed transfer and to any future interests taking effect thereafter as if the disclaimant  
6 had died immediately before the transfer. The presumption of a disclaimant's death does not  
7 prevent recognition of the disclaimant's later born children and their issue, assuming they have  
8 rights after all proper acceleration has taken place, nor does it prevent recognition of future and  
9 other interests of the disclaimant which are not disclaimed. For all purposes the disclaimed  
10 interest is deemed to have passed directly from the transferor to the ultimate taker or takers and  
11 is not subject to the claim of any creditor of the disclaimant. A disclaimed portion of a transfer  
12 passes to the same ultimate taker or takers and in the same proportions as in the case of a  
13 disclaimer of all of the transfer.

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

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

5 (2) "Fiduciary" includes a trustee under any trust, expressed, implied, resulting or  
6 constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in  
7 bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public  
8 or private, public officer, or any other person acting in a fiduciary capacity for any person, trust  
9 or estate;

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

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

13 2. A thing is done "in good faith" within the meaning of sections [456.240 to 456.350]  
14 **469.240 to 469.350**, when it is in fact done honestly, whether it be done negligently or not.

[456.250.] **469.250.** A person who in good faith pays or transfers to a fiduciary or to any

2 other person as directed by a fiduciary any money or other property which the fiduciary as such  
3 is authorized to receive, is not responsible for the proper application thereof by the fiduciary, and  
4 any right or title acquired from the fiduciary in consideration of such payment or transfer is not  
5 invalid in consequence of a misapplication by the fiduciary.

[456.260.] **469.260.** If any negotiable instrument payable or endorsed to a fiduciary as  
2 such is endorsed by the fiduciary, or if any negotiable instrument payable or endorsed to his  
3 principal is endorsed by a fiduciary empowered to endorse such instrument on behalf of his  
4 principal, the endorsee is not bound to inquire whether the fiduciary is committing a breach of  
5 his obligation as fiduciary in endorsing or delivering the instrument, and is not chargeable with  
6 notice that the fiduciary is committing a breach of his obligation as fiduciary unless he takes the  
7 instrument with actual knowledge of such breach or with knowledge of such facts that his action  
8 in taking the instrument amounts to bad faith. If, however, such instrument is transferred by the  
9 fiduciary in payment of or as security for a personal debt of the fiduciary to the actual knowledge  
10 of the creditor, or is transferred in any transaction known by the transferee to be for the personal  
11 benefit of the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary  
12 in fact commits a breach of his obligation as fiduciary in transferring the instrument.

[456.270.] **469.270.** If a check or other bill of exchange is drawn by a fiduciary as such,  
2 or in the name of his principal by a fiduciary empowered to draw such instrument in the name  
3 of his principal, the payee is not bound to inquire whether the fiduciary is committing a breach  
4 of his obligation as fiduciary in drawing or delivering the instrument, and is not chargeable with  
5 notice that the fiduciary is committing a breach of his obligation as fiduciary unless he takes the  
6 instrument with actual knowledge of such breach or with knowledge of such facts that this action  
7 in taking the instrument amounts to bad faith. If, however, such instrument is payable to a  
8 personal creditor of the fiduciary and delivered to the creditor in payment of or as security for  
9 a personal debt of the fiduciary to the actual knowledge of the creditor, or is drawn and delivered  
10 in any transaction known by the payee to be for the personal benefit of the fiduciary, the creditor  
11 or other payee is liable to the principal if the fiduciary in fact commits a breach of his obligation  
12 as fiduciary in drawing or delivering the instrument.

[456.280.] **469.280.** If a check or other bill of exchange is drawn by a fiduciary as such  
2 or in the name of his principal by a fiduciary empowered to draw such instrument in the name  
3 of his principal, payable to the fiduciary personally, or payable to a third person and by him  
4 transferred to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of  
5 a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the  
6 fiduciary is committing a breach of his obligation as fiduciary in transferring the instrument, and  
7 is not chargeable with notice that the fiduciary is committing a breach of his obligation as  
8 fiduciary unless he takes the instrument with actual knowledge of such breach or with knowledge

9 of such facts that his action in taking the instrument amounts to bad faith.

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

[456.300.] **469.300.** If a check is drawn upon the account of his principal in a bank by a  
2 fiduciary who is empowered to draw checks upon his principal's account, the bank is authorized  
3 to pay such check without being liable to the principal, unless the bank pays the check with  
4 actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in  
5 drawing such check, or with knowledge of such facts that its action in paying the check amounts  
6 to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in  
7 payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the  
8 principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or  
9 delivering the check.

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

[456.320.] **469.320.** When a deposit is made in a bank in the name of two or more  
2 persons as trustees and a check is drawn upon the trust account by any trustee or trustees  
3 authorized by the other trustee or trustees to draw checks upon the trust account, neither the  
4 payee nor other holder nor the bank is bound to inquire whether it is a breach of trust to authorize  
5 such trustee or trustees to draw checks upon the trust account, and is not liable unless the

6 circumstances be such that the action of the payee or other holder or the bank amounts to bad  
7 faith.

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

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

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

**469.402. The provisions of sections 456.3-301 to 456.3-305 shall apply to sections**  
2 **469.401 to 469.467 for all purposes.**

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

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

10 **(2) Any such claim [is barred if not asserted in a judicial proceeding brought by any**  
11 **beneficiary] brought by a beneficiary (other than a qualified beneficiary) with any interest**  
12 **whatsoever in the trust, no matter how remote or contingent, or whether or not the beneficiary**  
13 **is ascertainable or has the capacity to contract, is barred if not asserted in a judicial**  
14 **proceeding commenced within two years after the first to occur of:**

15 **(a) The date the trustee [has] sent a report to all qualified beneficiaries that adequately**  
16 **discloses the facts constituting the claim; or**

17 **(b) The date the trustee sent a report to a person that represents the beneficiary**  
18 **under the provisions of subdivision (2) of subsection 2 of this section.**

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

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

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

24 (a) In the case of a qualified beneficiary who has the capacity to contract, the report is

25 either delivered personally to the beneficiary or sent to the beneficiary at the beneficiary's last  
26 known address;

27 (b) In the case of a qualified beneficiary who lacks the capacity to contract, the report  
28 is either hand delivered to a person with respect to whom pursuant to subdivision (2) of section  
29 472.300, RSMo, an order would bind that beneficiary with respect to the subject of the claim or  
30 sent to the person at that person's last known address, provided that there is no conflict of interest  
31 between that person and the qualified beneficiary that person is representing] **Section 469.402**  
32 **shall apply in determining whether a beneficiary (including a qualified beneficiary) has**  
33 **received notice for purposes of this section;**

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

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

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

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

9 (2) Beginning with the fourth accounting period of the trust, the unitrust amount for a  
10 current valuation year of the trust shall be [three percent, or any higher percentage] **a percentage**  
11 **between three and five percent that is** specified by the terms of the governing instrument or  
12 by the election made in accordance with subdivision (2) of subsection 5 of this section, of the  
13 average of the net fair market values of the assets held in the trust on the first business day of the  
14 current valuation year and the net fair market values of the assets held in the trust on the first  
15 business day of each prior valuation year, **regardless of whether this section applied to the**  
16 **ascertainment of net income for all valuation years;**

17 (3) The unitrust amount for the current valuation year computed pursuant to subdivision  
18 (1) or (2) of this subsection shall be proportionately reduced for any distributions, in whole or  
19 in part, other than distributions of the unitrust amount, and for any payments of expenses,  
20 including debts, disbursements and taxes, from the trust within a current valuation year that the  
21 trustee determines to be material and substantial, and shall be proportionately increased for the  
22 receipt, other than a receipt that represents a return on investment, of any additional property into  
23 the trust within a current valuation year;

24 (4) For purposes of subdivision (2) of this subsection, the net fair market values of the  
25 assets held in the trust on the first business day of a prior valuation year shall be adjusted to  
26 reflect any reduction, in the case of a distribution or payment, or increase, in the case of a receipt,  
27 for the prior valuation year pursuant to subdivision (3) of this subsection, as if the distribution,  
28 payment or receipt had occurred on the first day of the prior valuation year;

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

31 (6) In the case where the net fair market value of an asset held in the trust has been  
32 incorrectly determined either in a current valuation year or in a prior valuation year, the unitrust  
33 amount shall be increased in the case of an undervaluation, or be decreased in the case of an  
34 overvaluation, by an amount equal to the difference between the unitrust amount determined  
35 based on the correct valuation of the asset and the unitrust amount originally determined.

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

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

39 (2) "Prior valuation year", each of the two accounting periods of the trust immediately  
40 preceding the current valuation year.

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

44 (1) Any residential property or any tangible personal property that, as of the first business  
45 day of the current valuation year, one or more income beneficiaries of the trust have or had the  
46 right to occupy, or have or had the right to possess or control, other than in a capacity as trustee,  
47 and instead the right of occupancy or the right to possession or control shall be deemed to be the  
48 unitrust amount with respect to the residential property or the tangible personal property; or

49 (2) Any asset specifically given to a beneficiary under the terms of the trust and the  
50 return on investment on that asset, which return on investment shall be distributable to the  
51 beneficiary.

52 4. In determining the net fair market value of each asset held in the trust pursuant to  
53 subdivisions (1) and (2) of subsection 1 of this section, the trustee shall, not less often than  
54 annually, determine the fair market value of each asset of the trust that consists primarily of real  
55 property or other property that is not traded on a regular basis in an active market by appraisal  
56 or other reasonable method or estimate, and that determination, if made reasonably and in good  
57 faith, shall be conclusive as to all persons interested in the trust. Any claim based on a  
58 determination made pursuant to this subsection shall be barred if not asserted in a judicial  
59 proceeding brought by any beneficiary with any interest whatsoever in the trust within two years

60 after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts  
61 constituting the claim. The rules set forth in subsection 2 of section 469.409 shall apply to the  
62 barring of claims pursuant to this subsection.

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

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

66 (2) Any trust created under an instrument that became irrevocable on [or], before, **or**  
67 **after** August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply  
68 [two years from August 28, 2001,] unless the instrument creating the trust [provides otherwise]  
69 **specifically prohibits an election under this subdivision.** The trustee shall deliver notice to  
70 all qualified beneficiaries and the settlor of the trust, if he or she is then living, of the trustee's  
71 intent to make such an election at least sixty days before making that election. The trustee shall  
72 have sole authority to make the election. [Delivery of the notice to a person with respect to  
73 whom, pursuant to subdivision (2) of section 472.300, RSMo, an order would bind a beneficiary  
74 of the trust is delivery of notice to that beneficiary for all purposes of this subsection.] **Section**  
75 **469.402 shall apply for all purposes of this subdivision.** An action or order by any court shall  
76 not be required. The election shall be made by a signed writing delivered to the settlor of the  
77 trust, if he or she is then living, and to all qualified beneficiaries. The election is irrevocable,  
78 unless revoked by order of the court having jurisdiction of the trust. The election may specify  
79 the percentage used to determine the unitrust amount pursuant to this section, provided that such  
80 percentage is [three percent or greater] **between three and five percent**, or if no percentage is  
81 specified, then that percentage shall be three percent. In making an election pursuant to this  
82 subsection, the trustee shall be subject to the same limitations and conditions as apply to an  
83 adjustment between income and principal pursuant to subsections 3 and 4 of section 469.405;  
84 (3) No action of any kind based on an election made [or not made] by a trustee pursuant  
85 to subdivision (2) of this subsection shall be brought against the trustee by any beneficiary of that  
86 trust three years from [August 28, 2001] **the effective date of that election.**

87 (4) **If this section is made applicable under this subdivision to an institutional**  
88 **endowment fund, as defined in section 402.010, RSMo, the restrictions contained in section**  
89 **402.015, RSMo, shall not apply to the extent payment of a unitrust amount would**  
90 **otherwise be prohibited.**

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

5 2. A trustee shall allocate an income receipt or disbursement to income if its due date

6 occurs on or after the date on which a decedent dies or an income interest begins and it is a  
7 periodic due date. An income receipt or disbursement shall be treated as accruing from day to  
8 day if its due date is not periodic or it has no due date. The portion of the receipt or  
9 disbursement accruing before the date on which a decedent dies or an income interest begins  
10 shall be allocated to principal and the balance shall be allocated to income.

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

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

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

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

9 (1) Property other than money;

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

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

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

16 4. Money is received in partial liquidation:

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

19 (2) If the total amount of money and property received in a distribution or series of  
20 related distributions is greater than twenty percent of the entity's gross assets, as shown by the  
21 entity's year-end financial statements immediately preceding the initial receipt.

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

25 that distributes the money.

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

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

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

10         (2) The value of the asset producing the receipt for which the allocation would be made  
11 is less than ten percent of the total value of the trust's assets at the beginning of the accounting  
12 period.

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

7         2. If a trust receives a payment from interest or other current return and from other  
8 proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the  
9 payment which the payer identifies as being from interest or other current return and shall  
10 allocate the balance of the payment to principal.

11         3. If a trust receives one or more payments in exchange for the trust's entire interest in  
12 an asset-backed security in one accounting period, the trustee shall allocate the payments to  
13 principal. If a payment is one of a series of payments that will result in the liquidation of the  
14 trust's interest in the security over more than one accounting period, the trustee shall allocate ten  
15 percent of the payment to income and the balance to principal.

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

2         (1) The remaining one-half of the disbursements described in subdivisions (1) and (2)  
3 of section 469.451;

4         (2) All of the trustee's compensation calculated on principal as a fee for acceptance,

- 5 distribution or termination, and disbursements made to prepare property for sale;
- 6 (3) Payments on the principal of a trust debt;
- 7 (4) Expenses of a proceeding or other matter that concerns primarily an interest in
- 8 principal;
- 9 (5) Premiums paid on a policy of insurance not described in subdivision (4) of section
- 10 469.451 of which the trust is the owner and beneficiary;
- 11 (6) Estate, inheritance and other transfer taxes, including penalties, apportioned to the
- 12 trust; and
- 13 (7) **Extraordinary expenses incurred in connection with the management and**
- 14 **preservation of trust property;**
- 15 (8) **Expenses for a capital improvement to a principal asset, whether in the form**
- 16 **of changes to an existing asset or the construction of a new asset, including special**
- 17 **assessments; and**
- 18 (9) Disbursements related to environmental matters, including reclamation, assessing
- 19 environmental conditions, remedying and removing environmental contamination, monitoring
- 20 remedial activities and the release of substances, preventing future releases of substances,
- 21 collecting amounts from persons liable or potentially liable for the costs of those activities,
- 22 penalties imposed under environmental laws or regulations and other payments made to comply
- 23 with those laws or regulations, statutory or common law claims by third parties, and defending
- 24 claims based on environmental matters.

25 2. If a principal asset is encumbered with an obligation that requires income from that

26 asset to be paid directly to the creditor, the trustee shall transfer from principal to income an

27 amount equal to the income paid to the creditor in reduction of the principal balance of the

28 obligation.

[456.900.] **469.900.** Sections [456.900 to 456.913] **469.900 to 469.913** shall be known,

2 and may be cited, as the "Missouri Prudent Investor Act". As used in this act, the term "trustee"

3 includes independent personal representatives and trustees, whether of express or implied trusts,

4 and the term "trust" includes independently administered estates.

[456.901.] **469.901.** 1. Except as otherwise provided in subsection 2 of this section, or

2 by other applicable laws, a trustee who invests and manages trust assets owes a duty to the

3 beneficiaries of the trust to comply with the prudent investor rule set forth in this act.

4 2. A settlor may expand or restrict the prudent investor rule detailed in this act by express

5 provisions in the trust instrument. A trustee is not liable to a beneficiary for the trustee's good

6 faith reliance on these express provisions.

[456.902.] **469.902.** 1. A trustee shall invest and manage trust assets as a prudent

2 investor would, by considering the purposes, terms, distribution requirements, and other

3 circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care,  
4 skill, and caution.

5       2. A trustee's investment and management decisions respecting individual assets and  
6 courses of action must be evaluated not in isolation but in the context of the trust portfolio as a  
7 whole and as a part of an overall investment strategy having risk and return objectives reasonably  
8 suited to the trust.

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

11       (1) General economic conditions;

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

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

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

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

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

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

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

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

23       4. A trustee shall make a reasonable effort to ascertain facts relevant to the investment  
24 and management of trust assets.

25       5. A trustee may invest in any kind of property or type of investment consistent with the  
26 standards of this act.

27       6. A trustee who has special skills or expertise, or is named trustee in reliance upon the  
28 trustee's representation that the trustee has special skills or expertise, has a duty to use those  
29 special skills or expertise when investing and managing trust assets.

[456.903.] **469.903.** A trustee shall diversify the investments of the trust unless the  
2 trustee reasonably determines that, because of special circumstances, the purposes of the trust  
3 are better served without diversifying.

[456.904.] **469.904.** Within a reasonable time after accepting a trusteeship or receiving  
2 trust assets, a trustee shall review the trust assets and make and implement decisions concerning  
3 the retention and disposition of assets in order to bring the trust portfolio into compliance with  
4 the purposes, terms, distribution requirements, and other circumstances of the trust, and with the  
5 requirements of this act.

[456.905.] **469.905.** A trustee shall invest and manage the trust assets solely in the

2 interest of the beneficiaries.

[456.906.] **469.906.** If a trust has two or more beneficiaries, the trustee shall act  
2 impartially in investing and managing the trust assets, taking into account any differing interests  
3 of the beneficiaries.

[456.907.] **469.907.** In investing and managing trust assets, a trustee may only incur costs  
2 that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the  
3 skills of the trustee.

[456.908.] **469.908.** The prudent investor rule imposes a standard of conduct, but does  
2 not contemplate a specific outcome or performance. Compliance with the prudent investor rule  
3 is determined in light of the facts and circumstances existing at the time of a trustee's decision  
4 or action and not by hindsight.

[456.909.] **469.909.** 1. A trustee may delegate investment and management functions  
2 that a prudent trustee of comparable skills could properly delegate under the circumstances. The  
3 trustee shall exercise reasonable care, skill, and caution in:

4 (1) Selecting an agent suitable to the exercise of the delegated function, taking into  
5 account the nature and the value of the assets subject to such delegation and the expertise of the  
6 agent;

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

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

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

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

16 4. By accepting the delegation of a trust function from the trustee of a trust that is subject  
17 to the law of this state, an agent submits to the jurisdiction of the courts of this state even if the  
18 delegation agreement provides otherwise.

[456.910.] **469.910.** The following terms or comparable language in the provisions of  
2 a trust, unless otherwise limited or modified, authorize any investment or strategy permitted  
3 under this act: "investments permissible by law for investment of trust funds", "legal  
4 investments", "authorized investments", "using the judgment and care under the circumstances  
5 then prevailing that persons of prudence, discretion, and intelligence exercise in the management  
6 of their own affairs, not in regard to speculation but in regard to the permanent disposition of  
7 their funds, considering the probable income as well as the probable safety of their capital",

8 "prudent man rule", "prudent trustee rule", "prudent person rule", and "prudent investor rule".

[456.911.] **469.911.** Except as otherwise specifically provided in the terms of the trust  
2 or in sections [456.500 to 456.913] **456.035 to 456.041 and sections 469.900 to 469.913**, the  
3 provisions of sections [456.500 to 456.913] **456.035 to 456.041 and sections 469.900 to**  
4 **469.913** shall apply to any trust established before or after August 28, [1996] **2004**, and to any  
5 trust asset acquired by the trustee before or after August 28, [1996] **2004**.

[456.912.] **469.912.** This act shall be applied and construed to effectuate its general  
2 purpose to make uniform the law with respect to the subject of this act among the states enacting  
3 it.

[456.913.] **469.913.** The general assembly recognizes that persons, corporations, entities  
2 or state agencies who have responsibility for investing funds may be subject to a standard that  
3 is specifically set forth in other statutes. Under such circumstances, such persons, corporations,  
4 entities or state agencies shall comply with the standard of investment set forth in the other  
5 statute, and this act shall not modify or repeal that standard.

6

[456.010. 1. All declarations or creations of trust of any lands,  
2 tenements or hereditaments shall be manifested and proved by some  
3 writing signed by the party who is, or shall be, by law, enabled to  
4 declare such trusts, or by his last will, in writing, or else they shall be  
5 void.

6 2. When any conveyance shall be made of any lands,  
7 tenements or hereditaments, by which a trust may arise or result by  
8 the implication or construction of law, such trust shall be excepted  
9 from the requirements of subsection 1.

10 3. All grants and assignments of the interest of a beneficiary  
11 under any trust of real or personal property shall be in writing signed  
12 by the party granting or assigning the same, or by his or her last will,  
13 in writing, or else they shall be void.]

14

[456.016. Sections 456.015 and 456.016 shall be effective  
2 with respect to wills and revocable inter vivos trusts executed or  
3 created before or after October 13, 1969, by persons who die on or  
4 after said date, and to irrevocable inter vivos trusts which are created  
5 on or after October 13, 1969.]

6

[456.055. A trust for care of pet animals or other lawful  
2 specific noncharitable purpose, society or organization may be carried  
3 out by the intended trustee or a successor trustee for twenty-one years  
4 or any shorter period specified by the terms of the trust although it has  
5 no ascertainable human beneficiary or might, by its terms, last longer

than the period of the rule against perpetuities.]

[456.080. 1. All restraints upon the right of the cestui que trust to alienate or anticipate the income of any trust estate in the form of a spendthrift trust, or otherwise, and all attempts to withdraw the income of any trust estate from the claims of creditors of the cestui que trust, whether such restraints be by will or deed, now existing or in force, or, which may be hereafter executed in this state, be and the same are hereby declared null and void and of no effect, as against the claims of any wife, child or children, of such cestui que trust for support and maintenance.

2. The settlor may provide in the terms of the trust that the interest of a beneficiary may not be either voluntarily or involuntarily transferred before payment or delivery of the interest to the beneficiary by the trustee.

3. A provision restraining the voluntary or involuntary transfer of beneficial interests in a trust will prevent the settlor's creditors from satisfying claims from the trust assets except:

(1) Where the conveyance of assets to the trust was intended to hinder, delay, or defraud creditors or purchasers, pursuant to section 428.020, RSMo; or

(2) To the extent of the settlor's beneficial interest in the trust assets, if at the time the trust was established or amended:

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

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

4. Subsection 3 of this section shall not apply to spendthrift trusts described, defined, or established pursuant to section 456.072.]

[456.090. Each county in this state shall have the power of acting as trustee for charitable uses, and as such trustee to take and hold by gift, grant, bequest or devise, money and other property, real, personal and mixed, to it given, granted, bequeathed or devised, in trust for charitable uses, and shall have the power, by and through its county commission, of executing trusts created in it for charitable uses in as full and ample a manner as an individual; provided, however, that gifts, grants, bequests or devises to provide medals, awards, prizes, scholarships, or other things to be given in or under the direction of any public school in such county shall be deemed a

charitable use, within the meaning of sections 456.090 to 456.110.]

[456.100. In all cases where heretofore money or other property, real, personal or mixed, has been given, granted, bequeathed or devised, in trust for charitable uses to any county in this state, or to the county commission of any county in this state, or to the commissioners of any county commission in this state, whether the individual names of such commissioners were or were not inserted in the instrument of gift, grant, bequest or devise, and there remains in the possession or control, or both, of the county named in said instrument, such money or other property and the increase thereof, or any portion of the same, then in all such cases the gift, grant, bequest or devise of money or other property shall be deemed and taken by all courts in this state in law and equity to have been made to the county mentioned in the said instrument, and such county shall be deemed and taken to have been created a trustee by such instrument, and shall continue to hold said money or other property and the increase thereof, or such portion thereof as remains in its possession or control, or both, under the trust created by said instrument, and shall have the power, by and through its county commission, to execute the trust created by such instrument in as full and ample manner as an individual.]

[456.110. All counties which have been created and all counties which shall hereafter be created trustees for charitable uses, together with the trust property held or that may be held by them, shall be under the supervision and control of the circuit courts of the respective counties, and said counties, by and through their respective county commissions, may at any time apply to their respective circuit courts for advice and directions in the execution of their trusts for charitable uses.]

[456.120. 1. The trustee may be a natural person, corporation, limited liability company formed pursuant to chapter 347, RSMo, association or partnership with the capacity to take and hold property except as provided in subsection 2 of this section.

2. No corporation, partnership or association organized under the law of a state or country other than the state of Missouri and no United States national banking association having its principal place of business outside of the state of Missouri shall have the capacity to act as trustee in Missouri except as otherwise provided by section 362.600, RSMo.]

2 [456.130. Every trustee appointed or who may be appointed,  
3 by any last will, deed or other instrument of writing, to hold, manage  
4 or dispose of any property or estate, real, personal or mixed, for the  
5 use or benefit of any other person, may be required by the circuit  
6 court of the county in which any such will shall be proved and  
7 recorded, or in which such deed or instrument of writing shall be  
8 recorded, to give bond, in such sum and with such securities as the  
9 court shall direct, conditioned for the faithful execution of the trust,  
10 unless the will, deed or other instrument of writing, creating such  
11 trust, shall, in express terms, dispense with security.]

2 [456.140. Any person having beneficial interest, present or  
3 future, absolute or contingent, in the trust property, may apply to such  
4 court for security, by a petition in writing, stating plainly and briefly  
5 why security ought to be given by the trustee, and shall deliver to the  
6 trustee a copy of the petition, and a notice, in writing, of the time  
7 when it will be presented, at least ten days before the application is  
8 made.]

2 [456.150. The trustee may answer the petition, in writing, and  
3 the court shall hear and determine the application summarily, and  
4 shall, as may be just, either reject the petition or direct the trustee to  
5 give security.]

2 [456.160. When security is directed to be given, the bond shall  
3 be to the state of Missouri, for the use of all persons beneficially  
4 interested in the trust property, and in such sum as the court shall  
5 direct, and shall be executed, approved by the court or judge thereof,  
6 and filed in the office of said court within the time to be specified in  
7 the order of court.]

2 [456.170. If the trustee fail to give bond and security in the  
3 time and manner required by the court, his trusteeship, and all his  
4 title, right and power to, in and over the trust property, shall cease,  
5 and the court shall appoint a new trustee in his stead, who shall  
6 immediately be invested with all the title, right and power of the  
7 former trustee.]

2 [456.180. The court may, upon its own motion or upon the  
3 application of any person interested, require and cause the new trustee  
4 from time to time, and as often as may be, to give such security as  
5 shall be sufficient to insure the faithful execution of the trust, or, in  
6 default thereof, to dismiss him, and appoint another trustee in his

6           stead, who will give the required security, to be approved by the  
7           court.]

8  
9           [456.183. A trustee may resign at any time by written notice  
2           of the resignation to the settlor, if living, to a cotrustee, if any, and to  
3           the beneficiaries then entitled to receive or eligible to have the benefit  
4           of the income from the trust estate.]

5           [456.185. If a trustee resigns:

6           (1) The remaining trustee, if any, shall continue to act, with all  
7           the rights, powers and duties, of all the trustees; or

8           (2) If there is no remaining trustee, the resigning trustee shall  
9           continue serving until a successor is appointed and a successor trustee  
10          may be appointed by a majority in interest of the beneficiaries then  
11          entitled to receive the income from the trust estate or, if the interest  
12          of the income beneficiaries is\* indefinite, by a majority in number of  
13          the beneficiaries then eligible to have the benefit of the income of the  
14          trust estate, by an instrument in writing delivered to the successor,  
15          who shall become a successor trustee upon written acceptance of the  
16          appointment.]

1           [456.187. 1. A successor trustee shall have all the rights,  
2           powers and duties, which are granted to or imposed on the  
3           predecessor.

4           2. A successor trustee shall be under no duty to inquire into  
5           the acts or doings of a predecessor trustee, and is liable only for any  
6           act or failure to act of a predecessor trustee of which the successor  
7           trustee had actual knowledge and which the successor trustee fails to  
8           reveal to a majority in interest of the beneficiaries entitled, at the time  
9           of succession, to receive or eligible to have the benefit of the income  
10          from the trust.

11          3. With the approval of a majority in interest of the  
12          beneficiaries then entitled to receive or eligible to have the benefit of  
13          the income from the trust, a successor trustee may accept the account  
14          rendered and the property received as a full and complete discharge  
15          to the predecessor trustee without incurring any liability for so doing.]

16  
1           [456.190. If any trustee appointed by any last will, deed or  
2           other instrument of writing to hold, manage or dispose of any  
3           property or estate, real, personal or mixed, for the use or benefit of  
4           any person or purpose shall die, or has died, shall become or has  
5           become mentally incapacitated or disabled, shall tender his  
6           resignation as such trustee, shall neglect or refuse or has neglected or

7 refused to act as such trustee, or shall or has become unable, by  
8 sickness or other disability to perform or execute his trust, the trustee  
9 or a beneficiary, his or her heirs, legal representatives or assigns may  
10 present his or their affidavit, stating the facts of the case, specifically,  
11 to the circuit court of the county in which the trust property, or any  
12 part thereof, is situated or in which the will creating the trust has been  
13 proved or recorded.]  
14

2 [456.195. Unless all beneficiaries of the trust having the  
3 capacity to contract and to transfer property consent to the  
4 appointment of a named proposed successor trustee in an affidavit  
5 filed pursuant to the provisions of section 456.190, notice of hearing  
6 is required to be given pursuant to the provisions of section 472.300,  
7 RSMo.]

2 [456.200. If such court shall be satisfied that the facts stated  
3 in such affidavit are true, it shall make an order appointing a suitable  
4 trustee in the place of the prior trustee to hold the trust property to the  
5 same uses and trusts under and subject to the same powers and  
6 conditions as the same was held by the prior trustee, and who shall do  
7 and perform all the acts and things that the original trustee had power  
8 to do and perform, with the same force and effect, and shall thereby  
9 be substituted to and vested with the same title and interest in the  
10 trust property as was vested in and possessed by the prior trustee, and  
11 shall have the same power and right to convey and dispose of such  
12 title as the prior trustee had.]

2 [456.210. When the circuit court of any county has acquired  
3 jurisdiction over the trustee and beneficiaries of a trust incident to a  
4 proceeding for removal or appointment of a trustee, instructions to a  
5 trustee, accounting by a trustee, reimbursement, exoneration or  
6 surcharge of a trustee, or construction of the terms of the trust, it may,  
7 in its decree granting or denying relief in such proceeding, retain  
8 jurisdiction for the purpose of entertaining later proceedings of any  
9 of such types with reference to the trust so that no more notice need  
10 be given of such later proceedings than that required for hearings on  
11 motions during the pendency of a suit.]

2 [456.220. 1. Unless previously barred by adjudication,  
3 consent or limitation, any cause of action against a trustee for breach  
4 of trust shall be barred as to any beneficiary who has received a final  
5 account or other statement fully disclosing the matter and showing  
termination of the trust relationship between the trustee and the

beneficiary unless a proceeding to assert the cause of action is commenced within five years after receipt of the final account or statement by him or, if he is a minor or disabled person, by a guardian or conservator of his estate; provided that, if a minor or disabled person has no guardian or conservator of his estate, then such cause of action shall not be barred until one year after the removal of such disability. The cause of action thus barred does not include any action to recover from a trustee for fraud, misrepresentation or concealment related to the settlement of the trust.

2. Any person shall be presumed to have received such a final account or statement as of the date such final account or statement is delivered personally to such person or mailed to such person at his last address known to the trustee.

3. Notwithstanding the above, all causes of action against a trustee for breach of trust or other action pertaining to the administration of the trust shall be barred as to all beneficiaries twenty-two years after the date of final termination of the trust.

4. The limitations herein shall apply to trusts terminating before or after the enactment of this section; provided, however, that as to trusts terminating before enactment, the limitations shall not apply until two years after September 28, 1983.]

[456.225. 1. Before rendering any decree of partial or final distribution of any bequest or devise in trust, the probate division of the circuit court, in its discretion, may require any trustee named as distributee in the will creating such trust to file bond, in an amount and with security fixed by the court, conditioned upon the faithful performance of the duties of the trustee, except the court shall not require a bond if the will which creates the trust directs that no bond shall be required of the trustee or trustees. No bond shall be required if the trustee is the surviving spouse of the testator or if the trustee or any cotrustee of the trust is a corporation and has a certificate of the director of finance of the state of Missouri that it has complied with the provisions of section 362.115, RSMo.]

[456.233. Unless the terms of the trust provide otherwise or unless waived in writing by an adult, competent beneficiary, the trustee shall deliver a written statement of accounts to each income beneficiary or his personal representative at least annually. The statement shall contain at least:

(1) A list of all receipts and disbursements since the last statement; and

(2) All items of trust property held by the trustee on the date

9 of the statement at their cost basis, if known, and their market value,  
10 if readily ascertainable.]  
11

2 [456.234. The meaning of a disposition in an instrument  
3 creating or amending a trust shall be determined by the local law of  
4 a particular state selected by the settlor in his instrument unless the  
5 application of that law is contrary to the public policy of this state  
6 otherwise applicable to the disposition.]

2 [456.440. 1. By accepting the trusteeship of a trust of which  
3 the principal place of administration is in this state, or by moving the  
4 principal place of administration of a trust to this state, the trustee  
5 submits personally to the courts of this state in proceedings involving  
6 internal affairs of such trust as to any matter relating to such internal  
7 affairs of the trust arising while the principal place of administration  
8 is located in this state.

9 2. To the extent of the beneficial interests in a trust of which  
10 the principal place of administration is in this state, the beneficiaries  
11 of the trust are subject to the jurisdiction of the courts of this state for  
12 purposes of proceedings involving internal affairs of that trust.]

2 [456.450. 1. Venue for proceedings involving the internal  
3 affairs of registered trusts is in the place of registration. Venue for  
4 proceedings involving the internal affairs of trusts not registered in  
5 this state is in any place where the trust properly could have been  
6 registered, and otherwise by the rules of civil procedure.

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

10 3. If proceedings concerning the same trust are commenced in  
11 more than one court of this state, the court in which the proceeding  
12 was first commenced shall continue to hear the matter, and the other  
13 courts shall hold the matter in abeyance until the question of venue is  
14 decided, and if the ruling court determines that venue is properly in  
15 another court, it shall transfer the proceeding to the other court.

16 4. If a court finds that in the interest of justice a proceeding or  
17 a file should be located in another court of this state, the court making  
18 the finding may transfer the proceeding or file to the other court.]

2 [456.460. The court may, even over the objection of a party,  
3 entertain proceedings involving the internal affairs of a trust  
4 registered or having its principal place of administration in another  
state when all appropriate parties could not be bound by litigation in

5 the courts of the state where the trust is registered or has its principal  
6 place of administration; or when the interests of justice otherwise  
7 would seriously be impaired. The court may condition a stay or  
8 dismissal of a proceeding on the consent of any party to jurisdiction  
9 of the state in which the trust is registered or has its principal place of  
10 business, or the court may grant a continuance or enter any other  
11 appropriate order.]  
12

2 [456.470. Except as otherwise specifically provided in this  
3 chapter or by rule, every document filed with the court under this  
4 chapter, including applications, petitions, and demands for notice,  
5 shall be deemed to include an oath, affirmation or statement to the  
6 effect that its representations are true as far as the person executing  
7 or filing it knows or is informed.]

2 [456.480. 1. Unless otherwise provided by the terms of the  
3 contract, a trustee is not individually liable on a contract properly  
4 entered into in his fiduciary capacity in the course of administration  
5 of the trust, unless he fails to reveal his fiduciary capacity and identify  
6 the trust in the contract.

7 2. A trustee is individually liable for obligations arising from  
8 ownership or control of the trust assets or for torts committed in the  
9 course of administration of the trust only if he is personally at fault.

10 3. Claims based on contracts entered into by a trustee in his  
11 fiduciary capacity, on obligations arising from ownership or control  
12 of the trust assets, or on torts committed in the course of trust  
13 administration may be asserted against the trust by proceeding against  
14 the trustee in his fiduciary capacity, whether or not the trustee is  
15 individually liable therefor.

16 4. Issues of liability as between the trust and the trustee  
17 individually may be determined in a proceeding for accounting,  
18 surcharge or indemnification, or other appropriate proceeding.

19 5. A trustee who is a member of a partnership in his fiduciary  
20 capacity only is not individually liable for the obligations of the  
21 partnership but claims based upon such obligations may be asserted  
22 against the trust by proceeding against the trustee in his fiduciary  
23 capacity.]

2 [456.490. For the purpose of granting consent or approval  
3 with regard to the acts or accounts of a trustee, including relief from  
4 liability or penalty for failure to post bond, or to perform other duties,  
5 and for purposes of consenting to modification or termination of a  
trust or to deviation from its terms, the sole holder or all coholders of

6 a presently exercisable general power of appointment, including one  
7 in the form of a power of amendment or revocation, are deemed to act  
8 for beneficiaries to the extent their interests, as objects, takers in  
9 default, or otherwise, are subject to the power.]

10 [456.500. As used in sections 456.500 to 456.600:

2 (1) "Prudent investor" means:

3 (a) In the case of decisions and actions taken before August  
4 28, 1996, a trustee whose exercise of trust powers is reasonable and  
5 equitable in view of the interests of income or principal beneficiaries,  
6 or both, and in view of the manner in which men of ordinary  
7 prudence, diligence, discretion, and judgment would act in the  
8 management of the affairs of others; and

9 (b) In the case of decisions and actions taken on or after  
10 August 28, 1996, a trustee whose exercise of trust powers is in  
11 accordance with the provisions of the Missouri prudent investor act,  
12 sections 456.900 to 456.913;

13 (2) "Trust" means an express trust created by a trust  
14 instrument, including a will, whereby a trustee has the duty to  
15 administer a trust asset for the benefit of a named or otherwise  
16 described income or principal beneficiary, or both; "trust" does not  
17 include a resulting or constructive trust, a business trust which  
18 provides for certificates to be issued to the beneficiary, an investment  
19 trust, a voting trust, a security instrument, a trust created by the  
20 judgment or decree of a court, a liquidation trust, or a trust for the  
21 primary purpose of paying dividends, interests, interest coupons,  
22 salaries, wages, pensions or profits, or employee benefits of any kind,  
23 an instrument wherein a person is nominee or escrowee for another,  
24 a trust created in deposits in any financial institution, or other trust the  
25 nature of which does not admit of general trust administration;

26 (3) "Trustee" means an original, added, or successor trustee.]

27 [456.510. 1. The trustee has all powers conferred upon him by  
2 the provisions of sections 456.500 to 456.600, unless limited by the  
3 trust instrument.

4 2. An instrument which is not a trust as defined in section  
5 456.500 may incorporate any part of sections 456.500 to 456.600 by  
6 reference.]

7 [456.520. 1. From time of creation of the trust until final  
2 distribution of the assets of the trust, a trustee has the power to  
3 perform, without court authorization, every act which a prudent  
4 investor would perform for the purposes of the trust including but not

5 limited to the powers specified in subsection 3 of this section.

6 2. In the exercise of the trustee's powers including the powers  
7 granted by this chapter, a trustee has a duty to act with due regard to  
8 the trustee's obligation as a fiduciary.

9 3. A trustee has the power, subject to subsections 1 and 2 of  
10 this section:

11 (1) To collect, hold, and retain trust assets received from a  
12 trustor until, in the judgment of the trustee, disposition of the assets  
13 should be made; and the assets may be retained even though they  
14 include an asset in which the trustee is personally interested;

15 (2) To receive additions to the assets of the trust;

16 (3) To continue or participate in the operation of any business  
17 or other enterprise, and to effect incorporations, dissolution, or other  
18 change in the form of the organization of the business or enterprise;

19 (4) To acquire an undivided interest in a trust asset in which  
20 the trustee, in any trust capacity, holds an undivided interest;

21 (5) To invest and reinvest trust assets in accordance with the  
22 provisions of the trust or as provided by law;

23 (6) To deposit trust funds in savings and loan associations,  
24 credit unions and banks, including a bank operated by the trustee;

25 (7) To acquire or dispose of an asset, for cash or on credit, at  
26 public or private sale; and to manage, develop, improve, exchange,  
27 partition, change the character of, or abandon a trust asset or any  
28 interest therein; and to encumber, mortgage, or pledge a trust asset for  
29 a term within or extending beyond the term of the trust, in connection  
30 with the exercise of any power vested in the trustee;

31 (8) To make ordinary or extraordinary repairs or alterations in  
32 buildings or other structures, to demolish any improvements, to raze  
33 existing or erect new party walls or buildings;

34 (9) To subdivide, develop, or dedicate land to public use; or  
35 to make or obtain the vacation of plats and adjust boundaries; or to  
36 adjust differences in valuation on exchange or partition by giving or  
37 receiving consideration; or to dedicate easements to public use  
38 without consideration;

39 (10) To enter for any purpose into a lease as lessor or lessee  
40 with or without option to purchase or renew for a term within or  
41 extending beyond the term of the trust;

42 (11) To enter into a lease or arrangement for exploration and  
43 removal of minerals or other natural resources or enter into a pooling  
44 or unitization agreement;

45 (12) To grant an option involving disposition of a trust asset,  
46 or to take an option for the acquisition of any asset;

47 (13) To vote a security, in person or by general or limited

48 proxy;

49 (14) To pay calls, assessments, and any other sums chargeable  
50 or accruing against or on account of securities;

51 (15) To sell or exercise stock subscription or conversion  
52 rights; directly or through a committee or other agent, to consent to  
53 or oppose the reorganization, consolidation, merger, dissolution, or  
54 liquidation of a corporation or other business enterprise;

55 (16) To hold a security in the name of a nominee or in other  
56 form without disclosure of the trust, so that title to the security may  
57 pass by delivery, but the trustee is liable for any act of the nominee in  
58 connection with the security so held;

59 (17) To insure the assets of the trust against damage or loss,  
60 and the trustee against liability with respect to third persons;

61 (18) To borrow money from any person including the trustee  
62 to be repaid from or secured by trust assets or otherwise; to advance  
63 money for the protection of the trust, and for all expenses, losses, and  
64 liability sustained in the administration of the trust or because of the  
65 holding or ownership of any trust assets, for which advances with any  
66 interest the trustee has a lien on the trust assets as against the  
67 beneficiary;

68 (19) To pay or contest any claim; to settle a claim by or  
69 against the trust by compromise, arbitration, or otherwise; and to  
70 release, in whole or in part, any claim belonging to the trust to the  
71 extent that the claim is uncollectible;

72 (20) To pay taxes, assessments, compensation of the trustee,  
73 and other expenses incurred in the collection, care, administration,  
74 and protection of the trust;

75 (21) To allocate items of income or expense to either trust  
76 income or principal, as provided by this chapter, including creation  
77 of reserves out of income for depreciation, obsolescence, or  
78 amortization, or for depletion in mineral or timber properties;

79 (22) To pay any sum distributable to a beneficiary under legal  
80 disability, without liability to the trustee, by paying the sum to the  
81 beneficiary or by paying the sum for the use of the beneficiary;

82 (23) To effect distribution of property and money in divided  
83 or undivided interests and to adjust resulting differences in valuation;

84 (24) To employ or contract with persons, including attorneys,  
85 accountants, investment advisors, or agents, even if they are  
86 associated or affiliated with the trustee, to provide brokerage  
87 investment products, administrative (whether or not discretionary),  
88 custodial or other account services to advise or assist the trustee in the  
89 performance of the trustee's administrative duties; to act without  
90 independent investigation upon their recommendations; or instead of

acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary;

(25) To prosecute or defend actions, claims, or proceedings for the protection of trust assets and of the trustee in the performance of the trustee's duties;

(26) To execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the trustee;

(27) To invest and reinvest trust assets in United States government obligations, either directly or in the form of securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered pursuant to the Investment Company Act of 1940, as amended, provided that the governing instrument or order directs, requires, authorizes, or permits investment in United States government obligations, and provided that the portfolio of such investment company or investment trust is limited to United States government obligations and to repurchase agreements fully collateralized by such obligations, and provided further that such investment company or investment trust shall take delivery of such collateral;

(28) To invest and reinvest trust assets in securities or obligations of any state or its political subdivisions, including securities or obligations that are underwritten by the trustee or an affiliate of the trustee or a syndicate in which the trustee or an affiliate of the trustee is a member which in addition to meeting the standards pursuant to subsections 1 and 2 of this section also meet the standards established by the division of finance pursuant to subsection 5 of section 362.550, RSMo;

(29) To divide any trust, before or after its initial funding, into two or more separate trusts, and to make payments or distributions that are authorized by or directed in the governing instrument from any one or more of such separate trusts.]

[456.524. 1. A trustee shall be entitled to reasonable compensation for services rendered. For purposes of this section, "reasonable compensation" may include fees that take into account the administration of both income and principal.

2. The provisions of this section shall apply to all testamentary and inter vivos trusts upon and after August 28, 1998, whether established before or after such date, and whether or not the will or trust instrument contains provisions relating to compensation of the trustee; provided that this section shall not apply to the extent of any inconsistency between the provisions of this section and the

provisions of the will or trust instrument.]

[456.530. Unless otherwise permitted by law or the governing instrument, the trustee shall not transfer his office to another or delegate the entire administration of the trust to a cotrustee or another.]

[456.535. 1. Unless the terms of the trust refer to this section and provide otherwise, a power exercisable by or attributable to a person, other than the settlor, in such person's capacity as a trustee or because the person is deemed to have any power of a trustee, whether because such person has the right to remove or replace any trustee or because a reciprocal trust or power doctrine applies or otherwise, to make discretionary distribution of either principal or income:

(1) To or for the benefit of himself or herself shall be exercisable only for his or her health, education and support in his or her accustomed manner of living; or

(2) To or for the benefit of others shall not be exercisable to discharge any of his or her legal obligations.

2. The provisions of this section apply to any trust established before or after August 13, 1986.]

[456.540. 1. Any power vested in three or more trustees may be exercised by a majority, but a trustee who has not joined in exercising a power is not liable to the beneficiaries or to others for the consequences of the exercise; and a dissenting trustee is not liable for the consequences of an act in which he joins at the direction of the majority of the trustees, if he expressed his dissent in writing to any of his cotrustees at or before the time of the joinder.

2. If two or more trustees are appointed to perform a trust, and if any of them is unable or refuses to accept the appointment, or, having accepted, ceases to be a trustee, the surviving or remaining trustees shall perform the trust and succeed to all the powers, duties, and discretionary authority given to the trustees jointly.

3. This section does not excuse a cotrustee from liability for failure either to participate in the administration of the trust or to attempt to prevent a breach of trust.

4. Unless the terms of the trust refer to this subsection and provide otherwise, a power conferred upon two or more persons, none of whom is the settlor, in their capacity as trustees to make discretionary distribution of either principal or income to or for the benefit of one of them, cannot be exercised by such person, but it shall be exercisable by the trustee or trustees who are not so

disqualified. The provisions of this subsection apply to any trust established before or after August 13, 1986.]

[456.550. Unless the terms of the trust provide otherwise, when an instrument creating or amending the terms of a trust authorizes or directs one or more of several cotrustees or other persons to perform designated duties, other cotrustees are not under a duty to inquire into or participate in the performance of any such duties by the cotrustee or cotrustees or other persons authorized or directed to perform it alone in the absence of actual knowledge that the former is or are contemplating, committing or concealing a breach of trust.]

[456.560. With respect to a third person dealing with a trustee or assisting a trustee in the conduct of a transaction, the existence of trust powers and their proper exercise by the trustee may be assumed without inquiry. The third person is not bound to inquire whether the trustee has power to act or is properly exercising the power; and a third person, without actual knowledge that the trustee is exceeding his powers or improperly exercising them, is fully protected in dealing with the trustee as if the trustee possessed and properly exercised the powers he purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the trustee.]

[456.570. 1. A court of competent jurisdiction for cause shown and upon petition of the trustee or affected beneficiary and upon appropriate notice to the affected parties may relieve a trustee from any restrictions on his power that would otherwise be placed upon him by the trust or by this chapter.

2. If the duty of the trustee and his individual interest or his interest as trustee of another trust, conflict in the exercise of a trust power, the power may be exercised only by court authorization, except as provided in subdivisions (1), (4), (6), (18), (24) and (28) of subsection 3 of section 456.520, upon petition of the trustee. Under this section, personal profit or advantage to an affiliated or subsidiary company or association is personal profit to any corporate trustee. The mere fact that the trustee is also the trustee of another trust or personal representative of an estate with which transactions are conducted does not, of and in itself, create a conflict of interest.]

[456.580. When a trustee or beneficial owner of a present estate in land is unable to convey or mortgage a merchantable title in

3 fee simple, to give an indefeasible lease for ninety-nine years, or to  
4 make improvements to the land, because his estate is for life or in  
5 determinable or defeasible fee simple and such a conveyance,  
6 mortgage, lease or improvement is needed to assure a reasonable  
7 income, considering the market value of the land, a court of  
8 competent jurisdiction may and, unless it finds that the transaction  
9 will injure the holder or holders of a future interest in the land, shall,  
10 authorize the trustee or beneficial owner to convey or mortgage the  
11 fee simple, to give a lease for any period up to ninety-nine years or to  
12 make improvements. Any transaction so authorized shall be binding  
13 upon all persons with interests in the land. If sale is authorized, the  
14 proceeds shall be held in trust for the holders of present and future  
15 beneficial interests as their interests shall appear. If mortgage is  
16 authorized, the money borrowed shall be used to pay for  
17 improvements on the land; any surplus to be held upon trust as in the  
18 case of sale proceeds.]

19  
2 [456.590. 1. Where, in the management or administration of  
3 any property vested in trustees, any sale, lease, mortgage, surrender,  
4 release, or other disposition, or any purchase, investment, acquisition,  
5 expenditure, or other transaction is in the opinion of the court  
6 expedient, but the same cannot be effected by reason of the absence  
7 of any power for that purpose vested in the trustees by the trust  
8 instrument, if any, or by law, the court may by order confer upon the  
9 trustees, either generally or in any particular instance, the necessary  
10 power for the purpose, on such terms, and subject to such provisions  
11 and conditions, if any, as the court may think fit and may direct in  
12 what manner any money authorized to be expended, and the costs of  
13 any transaction, are to be paid or borne as between capital and  
14 income.]

2 [456.610. 1. Any trustee who has a duty or power to pay the  
3 debts of a decedent may publish a notice in some newspaper  
4 published in the county once a week for four consecutive weeks in  
5 substantially the following form:

6 To all persons interested in the estate of ....., decedent. The  
7 undersigned ..... is acting as Trustee under a trust the terms  
8 of which provide that the debts of the decedent may be paid by the  
9 Trustee(s) upon receipt of proper proof thereof. The address of the  
10 Trustee is ..... All creditors of the  
11 decedent are noticed to present their claims to the undersigned within  
12 six (6) months from the date of the first publication of this notice or

be forever barred.

.....  
Trustee

2. If such publication is duly made by the trustee, any debts not presented to the trustee within six months from the date of the first publication of the aforesaid notice shall be forever barred as against the trustee and the trust property.]

[456.630. 1. Notwithstanding any provision of law to the contrary, whenever fraud has been perpetrated in connection with any proceeding under this chapter or if fraud is used to avoid or circumvent the provisions of purposes of this chapter, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud, including restitution from any person, other than a bona fide purchaser, benefiting from the fraud, whether innocent or not. Any such proceeding must be commenced within two years after the discovery of the fraud but no proceeding may be brought against one not a perpetrator of the fraud later than ten years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a settlor during his lifetime which affects validity of a trust or succession to its assets.

2. For the purpose of subsections 2 to 4 of this section:

(1) "Fraud" includes the transfer of funds to any spendthrift trust, including a trust qualifying as a spendthrift trust under the provisions of section 456.072, where the party committing fraud transfers funds to the trust and such transfer is fraudulent as to a creditor of such party in that such party transferred such funds:

(a) With intent to hinder, delay, or prevent the creditor from collecting a lawful debt;

(b) When such party was, or shortly before he became, insolvent;

(c) When such party was not paying his debts as they became due; or

(d) While any creditor lawsuit was pending against such party;

(2) "Party committing fraud" includes any grantor, any person who makes a transfer to the trust, beneficiary, participant, or other similar party of the trust who makes use of a spendthrift trust to commit fraud or attempt to commit fraud against creditors.

3. In addition to any other remedies under subsection 1 of this section, any person injured by a party committing fraud may obtain appropriate relief against such party, where the fraud was committed within three years prior to filing a petition for relief under Title 11 of the United States Code, or three years prior to the discovery of such

36 fraud. The action for fraud shall survive the death of the party  
37 committing fraud. Such action shall be limited by the earlier of the  
38 time period provided by section 456.610 or a one-year period after  
39 death.

40 4. Any spendthrift trust that otherwise qualifies as part of a  
41 plan or contract that is exempt under sections 401(a), 403(a), 403(b),  
42 and 409 of the Internal Revenue Code of 1986, as amended, where  
43 the funds contributed to such qualified plan or contract were  
44 contributed no less often than annually as a part of employee benefits,  
45 and including funds transferred under section 408 of such code  
46 permitting rollovers, when such funds were originally contributed to  
47 such qualified plan or contract no less often than annually as a part of  
48 employee benefits is exempt from subsections 2 to 4 of this section,  
49 provided such contributions were permitted by the Internal Revenue  
50 Code for the years in question.]  
51

2 [456.670. Unless displaced by the particular provisions of this  
chapter, the principles of law and equity supplement its provisions.]