

CHAPTER 15--S.F.No. 571

An act relating to trusts; modifying various provisions of the Uniform Trust Code, Powers of Appointment, and the Uniform Probate Code; making technical, clarifying, and conforming changes; amending Minnesota Statutes 2024, sections 501A.01; 501C.0301; 501C.0302; 501C.0407; 501C.0411; 501C.0414; 501C.0602; 501C.0605; 501C.0701; 501C.0808, subdivisions 1, 2, 3, 4, 5, 6, 8, by adding a subdivision; 501C.1013, subdivision 4; 501C.1014, by adding a subdivision; 501C.1105, subdivision 1, by adding a subdivision; 502.851, subdivisions 1, 2, 3, 4, 11, 15, 16; 524.2-114; 524.2-804, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2024, section 501A.01, is amended to read:

501A.01 WHEN NONVESTED INTEREST, POWERS OF APPOINTMENT ARE INVALID; EXCEPTIONS.

(a) A nonvested property interest is invalid unless:

(1) when the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

(2) the interest either vests or terminates within 90 years after its creation.

(b) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(1) when the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than 21 years after the death of an individual then alive; or

(2) the condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

(c) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(1) when the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

(2) the power is irrevocably exercised or otherwise terminates within 90 years after its creation.

(d) In determining whether a nonvested property interest or a power of appointment is valid under paragraph (a), clause (1), paragraph (b), clause (1), or paragraph (c), clause (1), the possibility that a child will be born to an individual after the individual's death is disregarded.

(e) If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument seeks to:

(1) disallow the vesting or termination of any interest trust beyond;

(2) postpone the vesting or termination of any interest or trust until; or

(3) operate in effect in any similar fashion upon,

the later of the expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement, or the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement;

that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

(f) For any trust created on or after August 1, 2025, this section shall apply to a nonvested property interest or power of appointment contained in a trust by substituting the term "500 years" for "90 years" in each place it appears in this section, unless the terms of the trust require that all beneficial interests in the trust vest or terminate within a lesser period.

Sec. 2. Minnesota Statutes 2024, section 501C.0301, is amended to read:

501C.0301 REPRESENTATION: BASIC EFFECT.

(a) Notice to a person who may represent and bind another person under sections 501C.0302 to 501C.0305 has the same effect as if notice were given directly to the other person.

(b) The consent, agreement, or waiver of a person who may represent and bind another person under sections 501C.0302 to 501C.0305 is binding on the person represented unless the person represented objects to the representation before the consent, agreement, or waiver would otherwise have been effective. The provisions of this paragraph shall not apply to representation under section 501C.0302.

(c) Except as otherwise provided in sections 501C.0411 and 501C.0602, a person who under sections 501C.0302 to 501C.0305 may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

(d) A settlor may not represent and bind a beneficiary under sections 501C.0302 to 501C.0305 with respect to the termination or modification of a trust under section 501C.0411, paragraph (a).

(e) The settlor or another person, including one or more beneficiaries of the trust, designated by the terms of the trust instrument to receive information from the trustee concerning the administration of the trust and the material facts necessary to protect the beneficiaries' interests in the manner described in section 501C.0813, paragraph (b), shall be a representative of the beneficiaries with respect to the limitations period on judicial proceedings against a trustee under section 501C.1005, paragraph (a).

Sec. 3. Minnesota Statutes 2024, section 501C.0302, is amended to read:

501C.0302 REPRESENTATION BY HOLDER OF A ~~GENERAL~~ POWER OF APPOINTMENT.

For purposes of giving notice, waiving notice, initiating a proceeding, granting consent or approval, or objecting with regard to any proceedings under this chapter, the sole holder or all co-holders of a presently exercisable or testamentary ~~general~~ power of appointment, whether general or special, power of revocation, or unlimited power of withdrawal are deemed to represent and act for beneficiaries to the extent that their interests as permissible appointees, takers in default, or otherwise are subject to the power.

Sec. 4. Minnesota Statutes 2024, section 501C.0407, is amended to read:

501C.0407 EVIDENCE OF ORAL TRUST.

The formal expression of intent to create a trust can be either written or oral subject to the requirements of sections 513.04 with respect to the conveyance of interest in land except up to a one-year lease and 524.2-502 with respect to a testamentary trust. The creation of an oral trust and its terms must be established by clear and convincing evidence.

Sec. 5. Minnesota Statutes 2024, section 501C.0411, is amended to read:

501C.0411 MODIFICATION OR TERMINATION OF NONCHARITABLE IRREVOCABLE TRUST BY CONSENT.

(a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by ~~the power of attorney or~~ the terms of the trust, or if the trust instrument is silent with respect to consent to the trust's modification by an agent, then by a power of attorney, other than a statutory short form power of attorney executed in accordance with section 523.23, that expressly authorizes the agent to consent to a trust's modification; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed.

(b) A noncharitable irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(c) The court is not precluded from modifying or terminating a trust because the trust instrument contains spendthrift provisions.

(d) Upon termination of a trust under paragraph (a) or (b), the trustee shall distribute the trust property as agreed by the beneficiaries.

(e) If not all of the beneficiaries consent to a proposed modification or termination of the trust under paragraph (a) or (b), the modification or termination may be approved by the court if the court is satisfied that:

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

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

Sec. 6. Minnesota Statutes 2024, section 501C.0414, is amended to read:

501C.0414 MODIFICATION OR TERMINATION OF UNECONOMIC TRUST.

(a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value less than ~~\$50,000~~ \$150,000 may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

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

(c) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

(d) This section does not apply to an easement for conservation or preservation.

Sec. 7. Minnesota Statutes 2024, section 501C.0602, is amended to read:

501C.0602 REVOCATION OR AMENDMENT OF REVOCABLE TRUST.

(a) Unless the terms of a trust expressly provide that the trust is revocable, the settlor may not revoke or amend the trust.

(b) If a revocable trust is created or funded by more than one settlor:

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

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

(3) upon the revocation or amendment of the trust by fewer than all of the settlors, the trustee shall promptly notify the other settlors of the revocation or amendment.

(c) The settlor may revoke or amend a revocable trust:

(1) by substantial compliance with a method provided in the terms of the trust; or

(2) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by:

(i) if the trust is created pursuant to a writing, by another writing manifesting clear and convincing evidence of the settlor's intent to revoke or amend the trust; or

(ii) if the trust is an oral trust, by any other method manifesting clear and convincing evidence of the settlor's intent.

(d) Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.

(e) A settlor's powers with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust, ~~or the power~~ if the trust instrument is silent with respect to revocation, amendment, or distribution of trust property by an agent, then by a power of attorney, other than a statutory short form power of attorney executed in accordance with section 523.23, that expressly authorizes the agent to exercise the settlor's powers with respect to revocation, amendment, or distribution of property.

(f) A conservator of the settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the conservatorship.

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

Sec. 8. Minnesota Statutes 2024, section 501C.0605, is amended to read:

501C.0605 LIMITATION ON ACTION CONTESTING VALIDITY OF REVOCABLE TRUST; DISTRIBUTION OF TRUST PROPERTY.

(a) A person may commence a judicial proceeding to contest the validity of a trust that was revocable immediately prior to the settlor's death within the earlier of:

(1) three years after the settlor's death; or

(2) 120 days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the settlor's death, of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.

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

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

(2) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent the notification.

(c) A beneficiary of a trust that is determined to have been invalid, in whole or in part, is liable to return any distribution received, to the extent the invalidity applies to the distribution.

Sec. 9. Minnesota Statutes 2024, section 501C.0701, is amended to read:

501C.0701 ACCEPTING OR DECLINING TRUSTEESHIP.

(a) Except as otherwise provided in paragraph (c), a person designated as trustee accepts the trusteeship:

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

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

(b) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation, but not more than 120 days, is deemed to have rejected the trusteeship.

(c) A person designated as trustee, without accepting the trusteeship, may:

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

(2) inspect or investigate trust property to determine potential liability or for any other purpose.

Sec. 10. Minnesota Statutes 2024, section 501C.0808, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this section apply to this section.

(b) "Directing party" means ~~any one or more persons acting as~~ investment trust advisor, distribution trust advisor, or trust protector as provided in this section.

(c) "Distribution trust advisor" means one or more persons given authority by the governing instrument ~~to direct, consent to, veto, or otherwise exercise all or any portion of the distribution powers and discretions of the trust, including but not limited to authority to make discretionary distributions of income or principal exercise the powers specified in subdivision 3.~~

(d) "Excluded fiduciary" means ~~any fiduciary~~ one or more fiduciaries that by the governing instrument ~~is~~ are directed to act in accordance with the exercise of specified powers by a directing party, in which case such specified powers shall be deemed granted not to the fiduciary but to the directing party and such fiduciary shall be deemed excluded from exercising such specified powers. If a governing instrument provides that a fiduciary as to one or more specified matters is to act, omit action, or make decisions only with the consent of a directing party, then such fiduciary is an excluded fiduciary with respect to such matters. A person may be an excluded fiduciary even if such person participated in the exercise of (1) a power described in section 501C.0111 relating to nonjudicial settlement agreements, (2) a power described in section 502.851 relating to decanting, (3) a permitted trustee amendment, or (4) a similar power that invokes the provisions of this section with respect to any new or existing trust.

(e) "Fiduciary" means ~~any person~~ one or more persons expressly given one or more fiduciary duties by the governing instrument or by this section, including but not limited to a trustee.

(f) "Governing instrument" means the instrument stating the terms of a trust, including but not limited to any court order, or nonjudicial settlement agreement establishing, construing, or modifying the terms of the trust in accordance with section 501C.0111 or 502.851, or other applicable law.

(g) "Investment trust advisor" means ~~any one or more persons given authority by the governing instrument to direct, consent to, or veto the exercise of all or any portion of the investment powers of the trust~~ exercise the powers specified in subdivision 2.

(h) "Power" means authority to take or withhold an action or decision, including but not limited to an expressly specified power, the implied power necessary to exercise a specified power, and authority inherent in a general grant of discretion.

(i) "Trust protector" means one or more persons given one or more of the powers specified in subdivision 4, ~~whether or not designated with the title of trust protector by the governing instrument.~~

Sec. 11. Minnesota Statutes 2024, section 501C.0808, subdivision 2, is amended to read:

Subd. 2. **Powers of investment trust advisor.** An investment trust advisor may be designated in the governing instrument of a trust. The powers of an investment trust advisor may be exercised or not exercised in the sole and absolute discretion of the investment trust advisor, and are binding on all other persons, including but not limited to each beneficiary, fiduciary, excluded fiduciary, and any other party having an interest in the trust. The governing instrument may use the title "investment trust advisor" or any similar name or description demonstrating the intent to provide for the office and function of an investment trust advisor. The governing instrument may provide that the investment trust advisor has the authority to direct,

consent to, or veto the exercise of all or any portion of the investment powers of the trustee. Unless the terms of the governing instrument provide otherwise, the investment trust advisor has the authority to:

(1) direct the trustee with respect to the retention, purchase, transfer, assignment, sale, or encumbrance of trust property and the investment and reinvestment of principal and income of the trust;

(2) direct the trustee with respect to all management, control, and voting powers related directly or indirectly to trust assets, including but not limited to voting proxies for securities held in trust;

(3) ~~select and determine reasonable compensation of any one or more advisors, managers, consultants, or counselors, including which may be the trustee, and to delegate to them any of the powers of the investment trust advisor in accordance with section 501C.0807~~ and determine their reasonable compensation for investment services; and

(4) determine the frequency and methodology for valuing any asset for which there is no readily available market value.

Sec. 12. Minnesota Statutes 2024, section 501C.0808, subdivision 3, is amended to read:

Subd. 3. **Powers of distribution trust advisor.** A distribution trust advisor may be designated in the governing instrument of a trust. The powers of a distribution trust advisor may be exercised or not exercised in the sole and absolute discretion of the distribution trust advisor, and are binding on all other persons, including but not limited to each beneficiary, fiduciary, excluded fiduciary, and any other party having an interest in the trust. The governing instrument may use the title "distribution trust advisor" or any similar name or description demonstrating the intent to provide for the office and function of a distribution trust advisor. The governing instrument may provide that the distribution trust advisor has the authority to direct, consent to, veto, or otherwise exercise all or any portion of the distribution powers and discretions of the trustee. Unless the terms of the governing instrument provide otherwise, the distribution trust advisor has authority to:

(1) direct the trustee with regard to all decisions relating directly or indirectly to discretionary distributions of income or principal to or for one or more beneficiaries; and

(2) direct the trustee to terminate the trust, including determination of how the trustee shall distribute the trust property to be consistent with the purposes of the trust.

Sec. 13. Minnesota Statutes 2024, section 501C.0808, subdivision 4, is amended to read:

Subd. 4. **Powers of trust protector.** A trust protector may be designated in the governing instrument of a trust. The powers of a trust protector may be exercised or not exercised in the sole and absolute discretion of the trust protector, and are binding on all other persons, including but not limited to each beneficiary, investment trust advisor, distribution trust advisor, fiduciary, excluded fiduciary, and any other party having an interest in the trust. The governing instrument may use the title "trust protector" or any similar name or description demonstrating the intent to provide for the office and function of a trust protector. The powers granted to a trust protector by the governing instrument may include but are not limited to authority to do any one or more of the following:

(1) modify or amend the governing instrument to achieve favorable tax status or respond to changes in the Internal Revenue Code, federal laws, state law, or the rulings and regulations under such laws;

(2) increase, decrease, or modify the interests of any beneficiary or beneficiaries of the trust;

(3) modify the terms of any power of appointment granted by the trust; provided, however, such modification or amendment may not grant a beneficial interest to any individual, class of individuals, or other parties not specifically provided for under the trust instrument;

(4) remove, appoint, or remove and appoint, a trustee, investment trust advisor, distribution trust advisor, another directing party, investment committee member, or distribution committee member, including designation of a plan of succession for future holders of any such office;

~~(5) terminate the trust, including determination of how the trustee shall distribute the trust property to be consistent with the purposes of the trust;~~

~~(6)~~ (5) change the situs of the trust, the governing law of the trust, or both;

~~(7)~~ (6) appoint one or more successor trust protectors, including designation of a plan of succession for future trust protectors;

~~(8)~~ (7) interpret terms of the trust instrument at the request of the trustee;

~~(9)~~ (8) advise the trustee on matters concerning a beneficiary;

~~(10)~~ (9) amend or modify the governing instrument to take advantage of laws governing restraints on alienation, distribution of trust property, or to improve the administration of the trust; or

~~(11) veto or direct trust distributions; or~~

~~(12)~~ (10) provide direction regarding notification of qualified beneficiaries.

If a charity is a current beneficiary or a presumptive remainder beneficiary of the trust, a trust protector must give notice to the attorney general's charitable trust division at least 60 days before taking any of the actions authorized under clause (2), (3), (4), or (5); ~~or (6)~~. The attorney general's charitable trust division may, however, waive this notice requirement.

Sec. 14. Minnesota Statutes 2024, section 501C.0808, subdivision 5, is amended to read:

Subd. 5. Duty and liability of directing party. (a) A directing party who is a distribution trust advisor or an investment trust advisor is a fiduciary of the trust subject to the same duties and standards applicable to a trustee of a trust as provided by applicable law unless the governing instrument provides otherwise, but the governing instrument may not, however, relieve or exonerate a directing party from the duty to act or withhold acting as the directing party in good faith reasonably believes is in the best interests of the trust, including but not limited to the limitation period for actions against a trustee, the effect of providing a report or account, and the defenses available to a trustee in an action for breach of trust against the trustee. The terms of the governing instrument may vary the duty or liability of an investment trust advisor or a distribution trust advisor, but only to the same extent the terms of the trust could vary the duty or liability of a trustee in a like position and under similar circumstances.

(b) A trust protector is not a fiduciary of the trust unless the governing instrument provides otherwise, provided that a trust protector shall be a fiduciary subject to paragraph (a) if the governing instrument grants the trust protector any of the powers of an investment trust advisor under subdivision 2 or a distribution trust advisor under subdivision 3, but only to the extent of the power or powers granted.

Sec. 15. Minnesota Statutes 2024, section 501C.0808, subdivision 6, is amended to read:

Subd. 6. **Duty and liability of excluded fiduciary.** (a) The excluded fiduciary shall act in accordance with the governing instrument and shall take reasonable steps to comply with the directing party's exercise of the powers granted to the directing party by the governing instrument. Unless otherwise provided in the governing instrument, an excluded fiduciary has no duty to monitor, review, inquire, investigate, recommend, evaluate, or warn with respect to a directing party's exercise of or failure to exercise any power granted to the directing party by the governing instrument, including but not limited to, any power related to the acquisition, disposition, retention, management, or valuation of any asset or investment. Except as otherwise provided in this section or the governing instrument, an excluded fiduciary is not liable, either individually or as a fiduciary, for any action, inaction, consent, or failure to consent by a directing party, including but not limited to, any of the following:

(1) if a governing instrument provides that an excluded fiduciary is to follow the direction of a directing party, and the excluded fiduciary acts in accordance with the direction, then except in cases of willful misconduct on the part of the excluded fiduciary in complying with the direction of the directing party, the excluded fiduciary is not liable for any loss resulting directly or indirectly from following the direction, including but not limited to, compliance regarding the valuation of assets for which there is no readily available market value;

(2) if a governing instrument provides that an excluded fiduciary is to act or omit to act only with the consent of a directing party, then except in cases of willful misconduct on the part of the excluded fiduciary, the excluded fiduciary is not liable for any loss resulting directly or indirectly from any act taken or omitted as a result of the directing party's failure to provide consent after having been requested to do so by the excluded fiduciary; or

(3) if a governing instrument provides that, or if for any other reason, an excluded fiduciary is required to assume the role or responsibilities of a directing party, or if the excluded fiduciary appoints a directing party or successor to a directing party, then except in cases of willful misconduct on the part of the excluded fiduciary, the excluded fiduciary is not liable for any loss resulting directly or indirectly from its actions in carrying out the roles and responsibilities of the directing party.

(b) Any excluded fiduciary is also relieved from any obligation to review or evaluate any direction from a distribution trust advisor or to perform investment or suitability reviews, inquiries, or investigations or to make recommendations or evaluations with respect to investments to the extent the directing party, custodial account owner, or authorized designee of a custodial account owner had authority to direct the acquisition, disposition, or retention of any such investment. If the excluded fiduciary offers such communication to the directing party or any investment person selected by the investment trust advisor, the action may not be deemed to constitute an undertaking by the excluded fiduciary to monitor or otherwise participate in actions within the scope of the advisor's authority or to constitute any duty to do so.

(c) An excluded fiduciary is also relieved of any duty to communicate with, warn, or apprise any beneficiary or third party concerning instances in which the excluded fiduciary would or may have exercised the excluded fiduciary's own discretion in a manner different from the manner directed by the directing party.

(d) Absent a contrary provision in the governing instrument, the actions of the excluded fiduciary, including any communications with the directing party or others, or carrying out, recording, or reporting actions taken at the directing party's direction pertaining to matters within the scope of authority of the directing party, shall be deemed to be administrative actions taken by the excluded fiduciary solely to allow

the excluded fiduciary to perform those duties assigned to the excluded fiduciary under the governing instrument. An administrative action described under this paragraph may not be deemed to constitute an undertaking by the excluded fiduciary to monitor, participate, or otherwise take any fiduciary responsibility for actions within the scope of authority of the directing party.

(e) Any person acting in the role of excluded fiduciary or directing party is an interested person who may petition the district court and invoke its jurisdiction as provided in sections 501C.0201 to 501C.0208 for those matters specified in section 501C.0202, and the provisions of section 501C.0202 shall be construed and applied so that the references in that section to a "trustee" include the excluded fiduciary or directing party, as applicable.

Sec. 16. Minnesota Statutes 2024, section 501C.0808, subdivision 8, is amended to read:

Subd. 8. **Duty to inform excluded fiduciary and directing parties.** (a) Each directing party shall keep the excluded fiduciary and any other directing party reasonably informed regarding the administration of the trust with respect to any specific duty or function being performed by the directing party to the extent that the duty or function would normally be performed by the excluded fiduciary or to the extent that providing such information to the excluded fiduciary or other directing party is reasonably necessary for the excluded fiduciary or other directing party to perform its duties. The directing party shall provide such information as reasonably requested by the excluded fiduciary or other directing party. Neither the performance nor the failure to perform of a directing party's duty to inform as provided in this subdivision affects the limitation on the liability of the excluded fiduciary as provided in this section.

(b) Each excluded fiduciary shall keep the directing party or parties reasonably informed regarding the administration of the trust with respect to any specific duty or function performed by the excluded fiduciary to the extent that providing such information to the directing party or parties is reasonably necessary for the directing party to perform its duties. The excluded fiduciary shall provide such information as reasonably requested by a directing party. Neither the performance of nor the failure to perform an excluded fiduciary's duty to inform as provided in this subdivision affects the liability of the directing party as provided in this section.

Sec. 17. Minnesota Statutes 2024, section 501C.0808, is amended by adding a subdivision to read:

Subd. 9a. **Office of directing party.** Unless the terms of a governing instrument provide otherwise, the rules applicable to a trustee apply to a directing party regarding the following matters:

- (1) acceptance under section 501C.0701;
- (2) giving of bond to secure performance under section 501C.0702;
- (3) when more than one person is acting in the role of a directing party, the provisions applicable to cotrustees under section 501C.0703;
- (4) reasonable compensation under section 501C.0708;
- (5) resignation under section 501C.0705;
- (6) removal under section 501C.0706; and
- (7) vacancy and appointment of successor under section 501C.0704.

Sec. 18. Minnesota Statutes 2024, section 501C.1013, subdivision 4, is amended to read:

Subd. 4. **Effect.** When a certificate of trust is recorded in a county where real property is situated, or in the case of personal property, when it is presented to a third party, the certificate of trust serves to document the existence of the trust, the identity of the trustees, the powers of the trustees and any limitations on those powers, and other matters the certificate of trust sets out, as though the full trust instrument had been recorded or presented. Until amended or revoked under subdivision 5, or until the full trust instrument is recorded or presented, a certificate of trust is prima facie proof as to matters contained in it and any party may rely upon the continued effectiveness of the certificate, and the subsequent revocation or amendment of a certificate of trust shall not affect transactions entered into in reliance on a prior certificate of trust.

Sec. 19. Minnesota Statutes 2024, section 501C.1014, is amended by adding a subdivision to read:

Subd. 5. **Affidavit of trustee.** An affidavit of a trustee or of trustees of an inter vivos trust or a testamentary trust in support of a personal property transaction may be substantially in the form of the affidavit provided in subdivision 1 or 2, as long as the affidavit sets forth a description of the personal property and includes paragraphs 2, 3(a) and (b), changing the property reference to the personal property described, 4, 5, 6, and 7 of the form of the affidavit provided in subdivision 1 or 2.

Sec. 20. Minnesota Statutes 2024, section 501C.1105, subdivision 1, is amended to read:

Subdivision 1. **Expenses.** Unless a will or trust instrument provides otherwise and subject to subdivision 2, all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, interest and penalties concerning taxes, family allowances, fees of attorneys and personal representatives, and court costs must be charged against the principal of the estate.

Sec. 21. Minnesota Statutes 2024, section 501C.1105, is amended by adding a subdivision to read:

Subd. 4. **Decedent's estate.** For purposes of this section, the "decedent's estate" includes the estate of the decedent and any trust that was revocable by the decedent at the time of the decedent's death.

Sec. 22. Minnesota Statutes 2024, section 502.851, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Appointed trust" means an irrevocable trust which receives principal from an invaded trust under subdivision 3 or 4, including another trust created by the settlor of the invaded trust, under the terms of the invaded trust or any other trust instrument, or by the trustees, in that capacity, of the invaded trust. For purposes of creating another trust, any requirement that a trust instrument be signed by the settlor shall be deemed satisfied by the signature of the trustee of the appointed trust. In the discretion of the authorized trustee, the appointed trust may be the same trust as the invaded trust with modified terms which does not require the trustee of the appointed trust to refer to the trust by a different name or obtain a separate tax identification number when applicable.

(c) "Authorized trustee" means, as to an invaded trust, any trustee or trustees with authority to pay trust principal to or for one or more current beneficiaries other than a trustee who is the settlor, or a beneficiary to whom income or principal must be paid currently or in the future, or who is or will become eligible to receive a distribution of income or principal in the discretion of the trustee, other than by the exercise of a power of appointment held in a nonfiduciary capacity.

(d) "Current beneficiary" or "beneficiaries" means the person or persons, or as to a class, any person or persons who are or will become members of that class, to whom the trustees may distribute principal at the time of the exercise of the power, provided that the interest of a beneficiary to whom income, but not principal, may be distributed at the discretion of the trustee of the invaded trust, may be continued in the appointed trust.

(e) "Invade" means the power to pay directly to the beneficiary of a trust or make application for the benefit of the beneficiary.

(f) "Invaded trust" means any existing irrevocable inter vivos or testamentary trust whose principal is appointed under subdivision 3 or 4.

(g) "Person or persons interested in the invaded trust" means all qualified beneficiaries as defined in section 501C.0103, paragraph (m).

(h) "Principal" includes the income of the trust at the time of the exercise of the power that is not currently required to be distributed, including accrued and accumulated income.

(i) "Unlimited discretion" means the unlimited power to distribute principal. A power to distribute principal that includes words such as best interests, welfare, comfort, or happiness shall not be considered a limitation of the power to distribute principal.

Sec. 23. Minnesota Statutes 2024, section 502.851, subdivision 2, is amended to read:

Subd. 2. ~~Power of appointment; effect when more or less extensive than authorized~~ Savings provision. ~~An exercise of a power of appointment is not void if the exercise is:~~

~~(1) more extensive than was authorized but is valid to the extent authorized by the instrument creating its power; or~~

~~(2) less extensive than authorized by the instrument creating the power, unless the donor has manifested a contrary intention.~~

(a) If exercise of the power to invade trust principal under subdivision 3 or 4 would be effective under this section except that the appointed trust instrument in part does not comply with this section, the exercise of the power is effective and the following rules apply with respect to the principal of the appointed trust attributable to the exercise of the power:

(1) a provision in the appointed trust instrument that is not permitted under this section is void to the extent necessary to comply with this section; and

(2) a provision required by this section to be in the appointed trust instrument that is not contained in the trust instrument is deemed to be included in the trust instrument to the extent necessary to comply with this section.

(b) If a trustee or other fiduciary of an appointed trust determines that paragraph (a) applies to a prior exercise of the power to invade trust principal under subdivision 3 or 4, the fiduciary shall take corrective action consistent with the fiduciary's duties.

Sec. 24. Minnesota Statutes 2024, section 502.851, subdivision 3, is amended to read:

Subd. 3. **Authorized trustee with unlimited discretion.** (a) An authorized trustee with unlimited discretion to invade trust principal may appoint part or all of the principal to a trustee of an appointed trust for, and only for the benefit of, one, more than one, or all of the current beneficiaries of the invaded trust, to the exclusion of any one or more of the current beneficiaries. The successor and remainder beneficiaries of the appointed trust ~~may be none,~~ must be one, more than one, or all of the successor and remainder beneficiaries of the invaded trust, and may be to the exclusion of any one, more than one, or all of such successor and remainder beneficiaries.

(b) An authorized trustee exercising the power under paragraph (a) may grant a discretionary power of appointment in the appointed trust to one or more of the current beneficiaries of the invaded trust, provided that the beneficiary granted a power to appoint may receive principal outright under the terms of the invaded trust.

(c) If the authorized trustee grants a power of appointment, the class of permissible appointees in favor of whom the beneficiary may exercise the power of appointment granted in the appointed trust may be broader or otherwise different from the current, successor, and remainder beneficiaries of the invaded trust.

(d) If the beneficiary or beneficiaries of the invaded trust are described by a class, the beneficiary or beneficiaries of the appointed trust may include present or future members of the class.

Sec. 25. Minnesota Statutes 2024, section 502.851, subdivision 4, is amended to read:

Subd. 4. **Authorized trustee without unlimited discretion.** (a) An authorized trustee with the power to invade trust principal but without unlimited discretion may appoint part or all of the principal of the trust to a trustee of an appointed trust, provided that the current beneficiaries of the appointed trust shall be the same as the current beneficiaries of the invaded trust and the successor and remainder beneficiaries shall be the same as the successor and remainder beneficiaries of the invaded trust.

(b) If the authorized trustee exercises the power under this subdivision, the appointed trust shall include the same language authorizing the trustee to distribute the income or invade the principal of the appointed trust as in the invaded trust.

(c) If the authorized trustee exercises the power under this subdivision to extend the term of the appointed trust beyond the term of the invaded trust, for any period after the invaded trust would have otherwise terminated under the provisions of the invaded trust, the appointed trust, in addition to the language required to be included in the appointed trust pursuant to paragraph (b), may also include language providing the trustee with unlimited discretion to invade the principal of the appointed trust during this extended term.

(d) If the beneficiary or beneficiaries of the invaded trust are described by a class, the beneficiary or beneficiaries of the appointed trust shall include present ~~or~~ and future members of the class.

(e) If the authorized trustee exercises the power under this subdivision and if the invaded trust grants a power of appointment to a beneficiary of the trust, the appointed trust shall grant the power of appointment in the appointed trust and the class of permissible appointees shall be the same as in the invaded trust.

Sec. 26. Minnesota Statutes 2024, section 502.851, subdivision 11, is amended to read:

Subd. 11. **Requirements for exercise of power to appoint; notice.** (a) The exercise of the power to appoint to an appointed trust under subdivision 3 or 4 must be evidenced by an instrument in writing, signed,

~~and dated, and acknowledged~~ by the authorized trustee. The exercise of the power shall be effective 60 days after the date of delivery of notice as specified in paragraph (c), unless each person entitled to notice agrees in writing to an earlier effective date or waives in writing the right to object to the exercise of the power.

(b) An authorized trustee may exercise the power authorized by subdivision 3 or 4 without the consent of the settlor or the persons interested in the invaded trust and without court approval, provided that the authorized trustee may seek court approval for the exercise with notice to all persons interested in the invaded trust.

(c) A copy of the instrument exercising the power, a copy of the appointed trust, and a copy of the invaded trust shall be delivered to:

(1) any person having the right, pursuant to the terms of the invaded trust, to remove or replace the authorized trustee exercising the power under subdivision 3 or 4; ~~and~~

(2) all persons interested in the invaded trust; and

(3) any person who would be considered the owner of all or any portion of the appointed trust under sections 671 to 679 of the Internal Revenue Code.

(d) Notice of an exercise of the power must be given in the same manner as provided in section 501C.0109 and is subject to the provisions of section 501C.0301.

(e) The instrument exercising the power shall state whether the appointment is of all the assets comprising the principal of the invaded trust or only a part of the assets comprising the principal of the invaded trust and, if a part, the approximate percentage of the value of the principal of the invaded trust that is subject to the appointment.

(f) A person entitled to notice may object to the authorized trustee's exercise of the power under this section by serving a written notice of objection upon the authorized trustee prior to the effective date of the exercise of the power. The failure to object shall not constitute a consent.

(g) If the authorized trustee does not receive a written objection to the proposed exercise from a person entitled to notice within the applicable period, the authorized trustee is not liable to any person who received the required notice for the exercise of the power.

(h) If the authorized trustee receives a written objection within the applicable period, either the authorized trustee or any person entitled to notice may petition the court to have the proposed exercise of a power performed as proposed, performed with modifications, or denied. In a proceeding, a person objecting to the proposed exercise has the burden of proof as to whether the authorized trustee's proposed exercise should not be performed. A person who has not objected is not estopped from opposing the proposed exercise in the proceeding. If the authorized trustee decides not to implement the proposed exercise, the trustee shall notify all persons entitled to notice of the decision not to exercise the power and the reasons for the decision, and the authorized trustee's decision not to implement the proposed exercise does not itself give rise to liability to any person interested in the invaded trust. A person entitled to notice may petition the court to have the exercise of a power performed and has the burden of proof as to whether it should be performed.

(i) A copy of the instrument exercising the power and a copy of each of the invaded trust and the appointed trust shall be filed with records of the appointed trust and the invaded trust.

Sec. 27. Minnesota Statutes 2024, section 502.851, subdivision 15, is amended to read:

Subd. 15. **Prohibitions.** (a) An authorized trustee may not exercise a power authorized by subdivision 3 or 4 to effect any of the following:

(1) to reduce, limit, or modify any beneficiary's current right to a mandatory distribution of income or principal, a mandatory annuity or unitrust interest, a current right to withdraw a percentage of the value of the trust, or a current right to withdraw a specified dollar amount; provided, however, and subject to the other limitations in this section, an authorized trustee may exercise a power authorized by subdivision 3 or 4 to appoint to an appointed trust that is a supplemental needs trust that conforms to the provisions of section 501C.1205;

(2) notwithstanding section 501C.1008, paragraph (b), to decrease or indemnify against a trustee's liability or exonerate a trustee from liability for failure to exercise reasonable care, diligence, and prudence, except that the appointed trust may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution trust advisors, investment trust advisors, trust protectors, or other persons, and relieve a fiduciary from liability for an act or failure to act of another fiduciary as permitted under section 501C.0808;

(3) to alter or eliminate a provision granting another person the right to remove or replace the authorized trustee exercising the power under subdivision 3 or 4, unless notice has been provided to the persons under subdivision 11, paragraph (c), or approval is granted by a court having jurisdiction over the trust;

(4) to make a binding and conclusive fixation of the value of any asset for purposes of distribution, allocation, or otherwise;

(5) to extend the term of the appointed trust beyond any permissible period of the rule against perpetuities of the invaded trust, and any exercise of the power which extends the term of the appointed trust beyond the permissible period of the rule against perpetuities of the invaded trust shall void the entire exercise of the power; or

(6) to jeopardize:

(i) the deduction or exclusion originally claimed with respect to any contribution to the invaded trust that qualified for the annual exclusion under section 2503(b) of the Internal Revenue Code; the marital deduction under section 2056(a) or 2523(a) of the Internal Revenue Code; or the charitable deduction under section 170(a), 642(c), 2055(a), or 2522(a) of the Internal Revenue Code;

(ii) the qualification of a transfer as a direct skip under section 2642(c) of the Internal Revenue Code; ~~or~~

(iii) the qualification as a foreign grantor trust under section 672(f)(2)(A) of the Internal Revenue Code;
or

~~(iii)~~ (iv) any other specific tax benefit for which a contribution originally qualified for income, gift, estate, or generation-skipping transfer purposes under the Internal Revenue Code.

(b) If the property of the invaded trust includes shares of stock in an S corporation, as defined in section 1361 of the Internal Revenue Code, and the invaded trust is, or but for the exercise of power to invade the trust principal under this section would be, a permitted shareholder under any provision of section 1361 of the Internal Revenue Code, the authorized trustee may exercise the power with respect to part or all of the S corporation stock only if any appointed trust receiving the stock is a permitted shareholder under section

1361(c)(2) of the Internal Revenue Code. If the property of the invaded trust includes shares of stock in an S corporation and the invaded trust is, or but for the exercise of power to invade the trust principal under this section would be, a qualified subchapter S trust within the meaning of section 1361(d) of the Internal Revenue Code, the appointed trust instrument must not include or omit a term that prevents the appointed trust from qualifying as a qualified subchapter S trust.

Sec. 28. Minnesota Statutes 2024, section 502.851, subdivision 16, is amended to read:

Subd. 16. **Compensation; commissions.** For the purposes of this section~~-(1)~~², unless a court otherwise directs, an authorized trustee may not exercise a power authorized by subdivision 3 or 4 to change the provisions regarding the determination of the compensation of any trustee. The commissions or other compensation payable to the trustees of the invaded trust may continue to be paid to the trustees of the appointed trust during the term of the appointed trust and shall be determined in the same manner as in the invaded trust.

~~(2) No trustee shall receive any paying commission or other compensation for appointing of property from the invaded trust to an appointed trust pursuant to subdivision 3 or 4.~~

Sec. 29. Minnesota Statutes 2024, section 524.2-114, is amended to read:

524.2-114 PARENT BARRED FROM INHERITING IN CERTAIN CIRCUMSTANCES.

(a) A parent is barred from inheriting from or through a child of the parent if:

(1) the parent's parental rights were terminated and the parent-child relationship was not judicially reestablished; ~~or~~

(2) the child died before reaching 18 years of age and there is clear and convincing evidence that immediately before the child's death the parental rights of the parent could have been terminated under law of this state other than this chapter on the basis of nonsupport, abandonment, abuse, neglect, or other actions or inactions of the parent toward the child; or

(3) the child died after reaching 18 years of age and there is clear and convincing evidence that:

(i) during the years of the child's minority, the parental rights of the parent could have been terminated under laws of this state other than this chapter on the basis of nonsupport, abandonment, abuse, neglect, or other actions or inactions of the parent toward the child; and

(ii) in the year preceding the child's death, the parent and child were estranged. For purposes of this subdivision, "estranged" means having a relationship characterized by enmity, hostility, or indifference.

(b) For the purpose of intestate succession from or through the deceased child, a parent who is barred from inheriting under this section is treated as if the parent predeceased the child.

(c) This section does not apply to the probate of federal trust land under United States Code, title 25, sections 2205 to 2209, as amended, in a federal, state, or Tribal probate matter. Federal trust land has the meaning given under United States Code, title 24, section 2201(4)(i).

EFFECTIVE DATE. This section is effective the day following final enactment and applies to actions commenced on or after that date.

Sec. 30. Minnesota Statutes 2024, section 524.2-804, subdivision 1, is amended to read:

Subdivision 1. **Revocation upon dissolution.** Except as provided by the express terms of a governing instrument, other than a trust instrument under section 501C.1207, executed prior to the dissolution or annulment of an individual's marriage, a court order, a contract relating to the division of the marital property made between individuals before or after their marriage, dissolution, or annulment, or a plan document governing a qualified or nonqualified retirement plan, the dissolution or annulment of a marriage revokes any revocable:

(1) disposition, beneficiary designation, or appointment of property made in a governing instrument by an individual to the individual's former spouse ~~in a governing instrument~~ or any members of the former spouse's family who are not also members of the individual's family;

(2) provision in a governing instrument conferring a general or nongeneral power of appointment on an individual's former spouse; and

(3) nomination in a governing instrument, nominating an individual's former spouse or any members of the former spouse's family who are not also members of the individual's family to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian.

Presented to the governor May 6, 2025

Signed by the governor May 6, 2025, 9:43 a.m.