501C.0402 REQUIREMENTS FOR CREATION.

(a) A trust is created only if:

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- (1) the settlor has capacity to transfer property free from trust, except that if a trust is a revocable trust, the settlor has capacity as required under section 501C.0601;
 - (2) the settlor indicates an intention to create the trust;
 - (3) the trust has a definite beneficiary or is:
 - (i) a charitable trust;
 - (ii) trust for the care of an animal, as provided in section 501C.0408; or
 - (iii) a trust for a noncharitable purpose, as provided in section 501C.0409; and
 - (4) the trustee has duties to perform.
- (b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.
- (c) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property if the power had not been conferred.
- (d) No trust is invalid or terminated, and title to trust assets is not merged, because the trustee or trustees are the same person or persons as the beneficiaries of the trust.
- (e) Passive trusts of real or personal property are abolished. An attempt to create a passive trust vests the entire estate granted in the beneficiary.

History: 2015 c 5 art 4 s 2; 2016 c 135 art 1 s 2