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 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.

History: *2015 c 5 art 4 s 9; 2025 c 15 s 5*