

CHAPTER 501B

CHARITABLE TRUSTS

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501B.20 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.21 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.22 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.23 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.24 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.25 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

CHARITABLE TRUSTS AND THEIR SUPERVISION

501B.31 CHARITABLE TRUSTS.

Subdivision 1. **Validity and construction.** No charitable trust is invalid because of indefiniteness or uncertainty of the object of the trust or of its beneficiaries designated in the instrument creating the trust or because the trust violates a statute or rule against perpetuities. No charitable trust may prevent or limit the free alienation of the title to any of the trust estate by the trustee in the administration of the trust, except as may be permitted under existing or subsequent statutes.

Subd. 2. **Liberal interpretation; administration.** A charitable trust must be liberally construed by the courts so that the intentions of the donor are carried out when possible, and the trust must not fail solely because the donor has imperfectly outlined the purpose and object of the charity or the method of administration. If the district court of the proper county determines that the purpose and object of the donor's charity are imperfectly expressed, the method of administration is incomplete or imperfect, or circumstances have so changed since the execution of the instrument creating the trust as to render impracticable, inexpedient, or impossible a literal compliance with the terms of the instrument, the court may, upon the petition of the trustee under section 501C.0202, make an order directing that the trust must be administered or expended in a manner the court determines will, as nearly as possible, accomplish the general purposes of the instrument

and the object and intention of the donor without regard to, and free from any specific restriction, limitation, or direction it contains.

Subd. 3. **Laws not affected.** Nothing in this section impairs, limits, or abridges the operation and efficacy of the whole or any part of a statute that authorizes the creation of a corporation for charitable purposes or that permits a municipal corporation to act as trustee for a public or charitable purpose. Nothing in subdivisions 1 to 3 of this section applies to a gift, bequest, devise, or trust made, created, or arising by or under the provisions of the will of a person who died before April 15, 1927.

Subd. 4. **Determination of trust, gift, bequest, devise.** (a) This subdivision applies to a gift or trust made or created by a living person before April 15, 1927, or a gift, bequest, devise, or trust made or created by or under the will of a person who died before April 15, 1927.

(b) If a gift, trust, or devise has been made for a charitable, benevolent, educational, religious, or other public use or trust, or upon a condition, limitation, or restriction of any kind, the property given, entrusted, or devised may be used only for that use or trust and in accordance with the condition, limitation, or restriction. The grantee, devisee, trustee, or other holder of property may petition the court under section 501C.0202 for determination of the legal rights and relationship of the holder, the public, the grantor, and the grantor's heirs, representatives, or assigns in and to the property.

(c) If the court determines that circumstances have so changed since the execution of the instrument as to render impracticable, inexpedient, or impossible a literal compliance with the terms or conditions of the instrument, but the terms and purposes of the instrument may be substantially performed, the court may order that the terms of the instrument be performed and the property be administered or expended in a manner that will, in the judgment of the court, as nearly as possible, accomplish the general purposes of the instrument and the intention of the grantor without regard to, and free from any, specific restriction, limitation, condition, or direction contained in the instrument.

Subd. 5. **Attorney general.** In cases arising under this section, the attorney general must be given notice of any court proceedings pursuant to section 501C.0203. The attorney general shall represent the beneficial interests in those cases and shall enforce affected trusts.

History: 1989 c 340 art 1 s 23; 2015 c 5 art 15 s 6-8

501B.32 PRIVATE FOUNDATIONS; CHARITABLE TRUSTS; SPLIT-INTEREST TRUSTS.

Subdivision 1. **Incorporated provisions.** A will or trust instrument that creates a trust that is: (1) a "private foundation," as defined in section 501(a) of the Internal Revenue Code of 1986; or (2) a "charitable trust," as defined in section 4947(a)(1) of the Internal Revenue Code of 1986; or (3) a "split-interest trust," as defined in section 4947(a)(2) of the Internal Revenue Code of 1986, and any other instrument governing the trustee of one of those trusts or the use, retention, or disposition of any of the income or property of one of those trusts, must be considered to have incorporated within it the provisions in paragraphs (a) to (e) with respect to the trust and its trustee. Except as provided in subdivision 2, paragraphs (a) to (e) govern the administration and distribution of the trust notwithstanding provisions of the governing instrument, statute, or law of this state to the contrary.

(a) The trustee shall distribute for each taxable year of the trust amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 1986.

(b) The trustee shall not engage in an act of "self-dealing," as defined in section 4941(d) of the Internal Revenue Code of 1986, which would give rise to liability for the tax imposed by section 4941(a) of the Internal Revenue Code of 1986.

(c) The trustee shall not keep "excess business holdings," as defined in section 4943(c) of the Internal Revenue Code of 1986, that would give rise to liability for the tax imposed by section 4943(a) of the Internal Revenue Code of 1986.

(d) The trustee shall not make investments that would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the Internal Revenue Code of 1986, so as to give rise to liability for the tax imposed by section 4944(a) of the Internal Revenue Code of 1986.

(e) The trustee shall not make a "taxable expenditure," as defined in section 4945(d) of the Internal Revenue Code of 1986, that would give rise to liability for the tax imposed by section 4945(a) of the Internal Revenue Code of 1986.

Subd. 2. **Exception.** Subdivision 1 does not apply to the extent that a court of competent jurisdiction determines that application would be contrary to the terms of the will, trust instrument, or other governing instrument described in subdivision 1 and that the will, trust instrument, or other governing instrument may not be changed to conform to subdivision 1.

Subd. 3. **Rights and powers of courts, attorney general.** Nothing in this section impairs the rights and powers of the attorney general or the courts of this state with respect to a trust.

History: 1989 c 340 art 1 s 24

SUPERVISION OF CHARITABLE TRUSTS AND TRUSTEES ACT

501B.33 CITATION.

Sections 501B.33 to 501B.45 may be cited as the "Supervision of Charitable Trusts and Trustees Act."

History: 1989 c 340 art 1 s 25

501B.34 CHARITABLE TRUSTS; SUPERVISION BY ATTORNEY GENERAL.

Sections 501B.33 to 501B.45 apply to trustees holding property for charitable purposes. In connection with the supervision, administration, and enforcement of charitable trusts, the attorney general has the rights, duties, and powers in sections 501B.33 to 501B.45, and common law and statutory rights, duties, and powers.

History: 1989 c 340 art 1 s 26

501B.35 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to sections 501B.31 to 501B.45 and do not modify or abridge any law or rule respecting the nature of a charitable trust or the nature and extent of the duties of a trustee except duties imposed by sections 501B.31 to 501B.45.

Subd. 2. **Charitable purpose.** "Charitable purpose" means an actual or purported charitable, philanthropic, religious, social service, educational, eleemosynary, or other public use or purpose.

Subd. 3. **Charitable trust.** "Charitable trust" means a fiduciary relationship with respect to property that arises as a result of a manifestation of an intention to create it, and that subjects the person by whom the property is held to equitable duties to deal with the property for a charitable purpose. As used in this definition, property includes all income derived from fees for services.

Subd. 4. **Trustee.** "Trustee" means a person or group of persons either in an individual or a joint capacity, or a director, officer, or other agent of an association, foundation, trustee corporation, corporation, or other legal entity who is vested with the control or responsibility of administering property held for a charitable purpose.

History: 1989 c 340 art 1 s 27; 1997 c 222 s 57

501B.36 REGISTRATION AND REPORTING.

The registration and reporting provisions of sections 501B.37 and 501B.38 apply to a charitable trust, including an organization with a charitable purpose, that has gross assets of \$25,000 or more at any time during the year, except that the provisions do not apply to:

(1) a charitable trust administered by the United States or a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any of their agencies or subdivisions;

(2) a religious association organized under chapter 315 or chapter 317A;

(3) a charitable trust organized and operated exclusively for religious purposes and administered by a religious association organized under chapter 315 or 317A;

(4) an organization described in section 509(a)(3) of the Internal Revenue Code of 1986 and operated, supervised, or controlled by or in connection with one or more organizations described in clauses (2) to (5); a pooled income fund as defined in section 642(c)(5) of the Internal Revenue Code of 1986 maintained by an organization described in clauses (2) to (5); or a charitable remainder annuity trust or unitrust, as defined in section 664 of the Internal Revenue Code of 1986;

(5) a trust in which the only charitable interest is a contingent interest for which no charitable deduction has been allowed for Minnesota income, inheritance, or gift tax purposes or a trust in which not all of the unexpired interests are devoted to one or more charitable purposes and in which the only charitable interest is an annuity or an income interest with respect to which a charitable deduction is allowed the trust under applicable Minnesota income tax laws;

(6) an organization registered with the attorney general pursuant to sections 309.52 and 309.53;

(7) a trust for individual and charitable beneficiaries that is described in section 4947(a)(2) of the Internal Revenue Code of 1986, also known as a split-interest trust; or

(8) a charitable gift, bequest, or devise not held and continued by a private express trust or corporation even though the gift, bequest, or devise creates a fiduciary relationship, unless there is no named charitable beneficiary in existence or unless a named charitable beneficiary elects in a writing filed with the attorney general and with the fiduciary to come within the provisions of sections 501B.37 and 501B.38.

History: 1989 c 340 art 1 s 28; art 2 s 6; 1995 c 235 s 12

501B.37 REGISTER OF TRUSTS AND TRUSTEES.

Subdivision 1. **Establishment of register; transfer to attorney general.** The attorney general shall establish and maintain a register of charitable trusts and trustees subject to sections 501B.33 to 501B.45.

Subd. 2. **Filing of instruments.** Except as otherwise provided in section 501B.36, a charitable trust shall register and file with the attorney general a copy of its articles of incorporation or the instrument that created the charitable trust, including any amendments, within three months after the charitable trust first receives

possession or control of property authorized or required to be applied, either at present or in the future, for charitable purposes.

Subd. 3. **Registration fee.** A \$25 registration fee shall be paid by every charitable trust filing the information required by this section.

History: 1989 c 340 art 1 s 29; 1995 c 235 s 13,14

501B.38 INFORMATION FILING.

Subdivision 1. **Deadlines; extensions.** A charitable trust subject to sections 501B.33 to 501B.45 must file with the attorney general a copy of its federal tax or information return, including all schedules and amendments, submitted by the charitable trust to the Internal Revenue Service for the period covered in the trust's accounting year last completed. If the charitable trust does not file a federal tax or information return, it shall file a balance sheet and a statement of income and expenses for the accounting year last completed.

Subd. 1a. **Extensions.** The information required by this section must be filed annually on or before the 15th day of the fifth month following the close of the charitable trust's taxable year as established for federal tax purposes. The time for filing may be extended by application to the attorney general, for up to six months, provided the applicant has requested an extension to file its federal tax return under section 6081 of the Internal Revenue Code of 1986. A charitable trust that files the information required under this subdivision with the attorney general is not required to file the same information with the commissioner of revenue.

Subd. 2. **Suspension of filing.** The attorney general may suspend the filing requirements under subdivision 1 for a particular charitable trust for a reasonable, specifically designated time on written application of the trustee filed with the attorney general. If the filing requirements are suspended, the attorney general shall file in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced by the suspension and that the information required by this section is not required for proper supervision by the attorney general's office.

Subd. 3. **Filing fee.** A \$25 filing fee shall be paid by every charitable trust filing the information required by this section.

History: 1989 c 340 art 1 s 30; 1995 c 235 s 15; 1996 c 471 art 13 s 22

501B.39 PUBLIC INSPECTION OF RECORDS.

The register, copies of instruments, and the reports filed with the attorney general must be open to public inspection.

History: 1989 c 340 art 1 s 31

501B.40 INVESTIGATORY POWERS OF THE ATTORNEY GENERAL; CUSTODIANS TO FURNISH COPIES OF RECORDS.

Subdivision 1. **Discovery.** The attorney general may conduct investigations that are reasonably necessary for: (1) the administration of sections 501B.33 to 501B.45; or (2) determining whether property held for charitable purposes is properly administered. In connection with an investigation under this section, the attorney general may obtain discovery from an agent, trustee, fiduciary, beneficiary, institution, association, corporation, or other person regarding a matter, fact, or circumstance, not privileged, that is relevant to the subject matter involved in the investigation. The discovery may be obtained without commencement of a civil action and without leave of court, except as expressly required by subdivision 2. The applicable protective provisions of rules 26.02, 30.02, and 30.04, of the Rules of Civil Procedure for the District Court apply to

discovery procedures instituted under this section. The attorney general or a person to whom discovery is directed may apply to and obtain leave of the district court in order to reduce or extend the time requirements of this subdivision, and, upon a showing of good cause, the district court shall order a reduction or extension. In order to obtain discovery, the attorney general may:

(1) serve written interrogatories on a person. Within 20 days after service of interrogatories, separate written answers and objections to each interrogatory must be mailed to the attorney general;

(2) upon reasonable written notice of no less than 15 days, require a person to produce for inspection and copying documents, papers, books, accounts, letters, photographs, objects, or tangible things in the person's possession, custody, or control; and

(3) upon reasonable written notice of no less than 15 days, take the testimony of a person by deposition as to a fact or opinion relevant to the subject matter involved in the pending investigation.

Subd. 2. **Order by court.** If a person fails or refuses to answer interrogatories, produce materials, or be examined under oath, the attorney general may, upon notice to the person, apply to the district court in the county where the person resides or is found, for an order to compel compliance. On a showing of cause by the attorney general, the court may issue an order to compel compliance with the discovery procedures authorized by this section.

Subd. 3. **Public records.** A custodian of records of a court having jurisdiction of probate matters or of charitable trusts, and a custodian of records of a department, agency, or political subdivision of this state shall, upon request, furnish to the attorney general, free of charge, copies of records relating to the subject of sections 501B.33 to 501B.45.

Subd. 4. **Report of applications for tax exemption.** Every officer, agency, board, or commission of this state that receives an application for exemption from taxation from a charitable trust subject to sections 501B.33 to 501B.45 shall annually file with the attorney general a list of all applications received during the year and shall notify the attorney general of the suspension or revocation of a tax-exempt status previously granted.

History: 1989 c 340 art 1 s 32

501B.41 BREACH OF TRUST; PROCEEDINGS TO SECURE COMPLIANCE.

Subdivision 1. **Enforcement powers.** The attorney general may institute appropriate proceedings to obtain compliance with sections 501B.33 to 501B.45 and the proper administration of a charitable trust. The powers and duties of the attorney general in this section are in addition to all other powers and duties.

Subd. 2. **Participation by attorney general.** The attorney general must be notified of, and has the right to participate as a party in, all court proceedings:

(1) to terminate a charitable trust or to liquidate or distribute its assets;

(2) to modify or depart from the objects or purposes of a charitable trust as contained in the instrument governing the trust, including a proceeding for the application of the doctrine of cy pres;

(3) to construe the provisions of an instrument with respect to a charitable trust;

(4) to review an accounting of a charitable trust submitted by a trustee; or

(5) involving a charitable trust when the interests of the uncertain or indefinite charitable beneficiaries may be affected.

Subd. 3. **Exemption from notice requirement.** The attorney general need not be provided with notice under subdivision 2 of a charitable gift, devise, or bequest (1) for which the donor or testator has named as a charitable beneficiary an organization that is then in existence; or (2) that is not held and continued by a private express trust or corporation, whether or not the gift, devise, or bequest creates a fiduciary relationship.

This subdivision does not affect any other notice to the attorney general required by this chapter or chapter 501C.

Subd. 4. **Failure to give notice.** If proceedings are commenced without service of process and service of the pleadings upon the attorney general, a judgment or order rendered in the proceedings is voidable, unenforceable, and, upon the attorney general's motion seeking relief, may be set aside. With respect to the proceedings, no compromise, settlement agreement, contract, or judgment agreed to by any or all of the parties having or claiming to have an interest in a charitable trust is valid unless the attorney general was made a party to the proceedings and joined any agreement or the attorney general, in writing, waived the right to participate. The attorney general may enter into a compromise, settlement agreement, contract, or judgment that the attorney general believes is in the best interests of the people of the state and the uncertain or indefinite beneficiaries.

Subd. 5. **Wills.** The personal representative shall send to the attorney general a copy of the petition or application for probate together with a copy of the will and any codicils that are being offered for probate:

(1) when a will provides for a bequest or devise for a charitable purpose for which there is no named charitable beneficiary or for which there is then in existence no named charitable beneficiary;

(2) when a will provides for bequests or devises for charitable purposes in excess of \$150,000;

(3) when a will provides for a bequest or devise to a named charitable beneficiary that is in receivership;
or

(4) upon a written request served on the personal representative by a named charitable beneficiary prior to the order allowing the final account or, in unsupervised proceedings, within 30 days after service of the final account on the charitable beneficiary.

The personal representative shall serve the documents on the attorney general and file with the appropriate court a copy of the affidavit of service on the attorney general. If the personal representative was requested to notify the attorney general of the probate proceedings according to clause (4), the requesting party shall file with the court a copy of the request and the affidavit of service on the personal representative.

If objections are filed to a will or codicil containing any bequest or devise to a charitable trust, the person filing the objections, at least 14 days before the hearing, shall send to the attorney general a copy of the objections, a copy of the petition or application for probate, a copy of the will, and any codicil that has been offered for probate.

Any service upon the attorney general under this section must be made personally or by registered or certified mail, return receipt requested. The attorney general may become a party in the estate proceedings.

Subd. 6. **Breach of trust.** The failure of a trustee to register under section 501B.37, to file annual reports under section 501B.38, or to administer and manage property held for charitable purposes in accordance with law or consistent with fiduciary obligations constitutes a breach of trust.

Subd. 7. **Civil actions.** The attorney general may begin a civil action in order to remedy and redress a breach of trust, as described in subdivision 6 or as otherwise provided by law, committed by a trustee subject to sections 501B.33 to 501B.45. If it appears to the attorney general that a breach of trust has been committed, the attorney general may sue for and obtain:

- (1) injunctive relief against the breach of trust or threatened breach of trust;
- (2) the removal of a trustee who has committed or is committing a breach of trust;
- (3) the recovery of damages; and
- (4) another appropriate remedy.

History: 1989 c 340 art 1 s 33; 2015 c 5 art 15 s 9

501B.42 CONTRARY PROVISIONS OF INSTRUMENT INVALID.

Sections 501B.33 to 501B.45 apply regardless of contrary provisions of an instrument.

History: 1989 c 340 art 1 s 34

501B.43 COST OF INVESTIGATIONS AND PROCEEDINGS; REGISTRATION AND FILING FEES.

Subdivision 1. **Expenses payable.** In a proceeding brought by the attorney general or in which the attorney general intervenes under sections 501B.33 to 501B.45, the judgment or order may provide that the trustee must pay the reasonable expenses necessarily incurred by the attorney general in the investigation and prosecution of the action, including attorneys' fees, if it is determined in the proceeding that the trustee has been guilty of an intentional or grossly negligent breach of trust.

Subd. 2. **Disposition of money.** All money received by the attorney general under this section must be deposited in the state treasury and credited to the general fund.

History: 1989 c 340 art 1 s 35

501B.44 IMMUNITY OF CHARITABLE TRUSTS.

A charitable trust is an "organization" for purposes of section 317A.257, and that section applies to charitable trusts.

History: 1989 c 340 art 1 s 36; art 2 s 7

501B.45 SALE OF BANKS OWNED BY CHARITABLE TRUSTS.

Subdivision 1. **Definitions.** For the purpose of this section, "charitable trust" means a charitable trust subject to supervision by the attorney general under the Supervision of Charitable Trusts and Trustees Act, sections 501B.33 to 501B.45, that is required to divest excess business holdings by section 4943 of the Internal Revenue Code of 1986 and that owned 100 percent of a bank holding company on May 26, 1969, the date of enactment of section 4943 of the Internal Revenue Code of 1954.

Subd. 2. **Authorization.** The stock or assets of one or more banks or a bank holding company owned directly or indirectly by a charitable trust may be sold, assigned, merged, or transferred by the charitable trust under the procedures in section 48.93 to a bank holding company, bank, or other qualified entity as permitted by applicable banking laws without regard to whether the entity acquiring the stock or assets is located in a reciprocating state.

Subd. 3. **Legislative intent.** It is the express intention of the Minnesota legislature to act pursuant to United States Code, title 12, section 1842(d), to permit certain charitable trusts to sell, assign, or transfer certain financial institutions' assets without regard to whether the entity acquiring the assets of the charitable trust is located outside of this state.

Subd. 4. **Additional acquisitions.** A bank holding company, other than a reciprocating state bank holding company as defined in section 48.92, subdivision 8, that directly or indirectly acquires control of a bank located in this state under the provisions of this section may acquire additional bank assets through the expenditure of an annual amount not to exceed five percent of the Minnesota assets of the acquired bank holding company as of December 31 of the preceding year. The restrictions within this subdivision apply only until the bank holding company making an acquisition under this section becomes a reciprocating state bank holding company. This section does not prohibit the bank holding company from being granted a charter for a de novo bank or from establishing de novo detached facilities pursuant to Minnesota law.

History: 1989 c 340 art 1 s 37

SALES AND LEASES OF REAL PROPERTY

501B.46 PETITION FOR COURT ORDER TO SELL, MORTGAGE, OR LEASE REAL PROPERTY HELD IN TRUST.

(a) Except as provided in paragraph (c), if the assets of an express trust by will or other written instrument include real property in this state that the trustee is not, under the terms of the trust, then permitted to sell, mortgage, or lease, and if section 501C.0205 is applicable to the trust, the trustee or a beneficiary of the trust may petition the court then having jurisdiction of the trust for an order directing the trustee to sell, mortgage, or lease the real property or a part of the real property.

(b) Except as provided in paragraph (c), if the assets of an express trust by will or other written instrument include real property in this state that the trustee is not, under the terms of the trust, then permitted to sell, mortgage, or lease, and if section 501C.0205 is not applicable to the trust, the trustee or a beneficiary of the trust may petition an appropriate district court under section 501C.0202 for an order directing the trustee to sell, mortgage, or lease the real property or a part of the real property.

(c) If a trust is of the kind described in section 501C.1202, subdivision 3, no order described in paragraph (a) or (b) may be entered upon a petition filed by a person other than the trustee.

History: 1989 c 340 art 1 s 38; 1990 c 581 s 3; 2015 c 5 art 15 s 10

501B.47 PETITION BY OWNER OF PRESENT OR FUTURE INTEREST FOR COURT ORDER TO SELL, MORTGAGE, OR LEASE INTERESTS IN REAL PROPERTY.

Notwithstanding a contrary provision in the instrument creating the interests, when the ownership of real property situated in this state is divided into one or more possessory interests and one or more future interests, the owner of an interest may petition the district court for the county in which any of the real property is situated for an order directing that the real property or part of the real property be sold, mortgaged, or leased. If an owner is a minor or incapacitated person as defined in section 524.5-102, subdivision 6 or 10, or otherwise under conservatorship, the petition may be made on behalf of the owner by a custodian, conservator, or guardian.

History: 1989 c 340 art 1 s 39; 2004 c 146 art 3 s 33

501B.48 WHEN PETITION MAY BE GRANTED.

Subdivision 1. **Petition under section 501B.46.** The court to which a petition to sell, mortgage, or lease has been made under section 501B.46 may grant the petition, on terms it considers appropriate, if the court determines that:

(1) if the interest in real property were owned in fee simple or absolute ownership by a single individual, a sale or mortgage of the interest would be desirable because total investment returns, including appreciation and the value of any use of the real property by trust beneficiaries, were inadequate; or

(2) an order directing a sale or mortgage would be economically advantageous to the trust beneficiaries to whom trust income is distributable or may be distributed and would not be seriously disadvantageous to any trust beneficiary.

The court to which a petition to lease has been made under section 501B.46 may grant the petition on terms it considers appropriate, even though the term of the lease may extend beyond the term of the trust, if the court determines that an order directing a lease would be economically advantageous to the trust beneficiaries to whom trust income is distributable or may be distributed and would not be seriously disadvantageous to any trust beneficiary.

Subd. 2. **Petition under section 501B.47.** The court to which a petition to sell or mortgage has been made under section 501B.47 may grant the petition on terms it considers appropriate if the court determines that:

(1) were the real property held in trust for the owners of the possessory and future interests in the property, retention of the real property by the trustee without the sale or mortgage would be inconsistent with a trustee's common law duty to administer the trust impartially as between the holders of successive interests in income and principal;

(2) if the interest in real property were owned in fee simple or absolute ownership by a single individual, a sale or mortgage of the interest would be desirable because total investment returns, including appreciation and the value of any use of the real property by possessory owners, were inadequate; or

(3) an order directing a sale or mortgage would be economically advantageous to the owners of possessory interests in the real property and would not be seriously disadvantageous to the owner of any interest in the property.

The court to which a petition to lease has been made under section 501B.47 may grant the petition on terms it considers appropriate, even though the term of the lease may extend beyond the duration of the possessory interests in the real property, if the court determines that an order directing a lease would be economically advantageous to the owners of possessory interests in the real property and would not be seriously disadvantageous to the owner of any interest in the property.

History: 1989 c 340 art 1 s 40

501B.49 NOTICE OF HEARING.

Subdivision 1. **Hearing required.** On the filing of a petition under section 501B.46 or 501B.47, the court shall, by order, fix a time and place for a hearing on the petition unless a hearing has been waived in writing. In the case of a petition under section 501B.46, each beneficiary of the trust then in being must join in the waiver. In the case of a petition under section 501B.47, each person in being who owns an interest in the real property must join in the waiver.

Subd. 2. **Notice.** Notice of hearing must be given by publishing a copy of the order for hearing one time in a legal newspaper for the county in which the petition is filed at least 20 days before the date of the hearing, and by mailing copies of the order for hearing in the manner specified in this subdivision or in another manner ordered by the court. In the case of a petition under section 501B.46, mailed notice must be given by mailing a copy of the order for hearing to those beneficiaries of the trust then in being who are known to or reasonably ascertainable by the petitioner and, in the case of a beneficiary who is a minor or an incapacitated person as defined in section 524.5-102, subdivision 6 or 10, or otherwise under conservatorship, to the conservator or guardian, or if none is acting within the state, to the guardian ad litem of the beneficiary, at least 15 days before the date of the hearing. In the case of a petition under section 501B.47, mailed notice must be given by mailing a copy of the order for hearing to those persons owning an interest in the real property then in being who are known to or reasonably ascertainable by the petitioner and, in the case of a person who is a minor or an incapacitated person as defined in section 524.5-102, subdivision 6 or 10, or otherwise under conservatorship, to the conservator or guardian, or if none is acting within the state, to the guardian ad litem of the person, at least 15 days before the date of the hearing.

History: 1989 c 340 art 1 s 41; 2004 c 146 art 3 s 34

501B.50 REPRESENTATION OF PERSONS WHO ARE UNBORN, UNASCERTAINED, UNKNOWN, OR MINORS OR INCAPACITATED PERSONS.

If an interested person is a minor or an incapacitated person as defined in section 524.5-102, subdivision 6 or 10, or otherwise under conservatorship, and does not have a guardian or conservator within the state, the court shall appoint a guardian ad litem for the person. If an interested person is unborn, unascertained, or a person whose identity or address is unknown to the petitioner, the court shall represent the person, but the court may, upon the application of the petitioner or another interested person or on its own motion, appoint a guardian ad litem to represent the person.

History: 1989 c 340 art 1 s 42; 2004 c 146 art 3 s 35

501B.51 ORDER UPON PETITION; EXECUTION OF TRANSACTION.

Subdivision 1. **Form of order; conclusiveness.** At a hearing under section 501B.49, the court shall make an order it considers appropriate. If the petition is granted in whole or in part, the order must specify the real property to be sold, mortgaged, or leased and the terms and conditions on which the transaction is to be consummated. The order is final and conclusive as to all matters determined by it and binding in rem on all persons interested in the real property, whether their interests are vested or contingent, even though the person is a minor, incapacitated as defined in section 524.5-102, subdivision 6 or 10, or otherwise subject to conservatorship, unascertained, or not in being, except that appeal may be taken in the manner provided in the Rules of Appellate Procedure.

Subd. 2. **Execution of order.** (a) In the case of a petition under section 501B.46, all transactions required by the order must be executed by the trustee.

(b) In the case of a petition under section 501B.47, the court shall appoint a suitable person as receiver to act for the court in executing each transaction required by the order. Each required transaction must be executed by the receiver.

History: 1989 c 340 art 1 s 43; 2004 c 146 art 3 s 36

501B.52 REPORT OF AGREEMENT FOR CONFIRMATION.

Before a sale, mortgage, or lease is made under an order described in section 501B.51, the trustee or receiver shall enter into an agreement for the sale, mortgage, or lease, subject to the approval of the court, and must report the agreement to the court under oath. At least 15 days before the hearing on the confirmation of the agreement, the trustee or receiver shall mail a copy of the agreement to each interested party to whom mailed notice was given under section 501B.49 and to any interested party who did not receive notice but appeared at the hearing on the petition.

History: 1989 c 340 art 1 s 44

501B.53 ORDER OF CONFIRMATION; CONTENTS AND SUBSEQUENT PROCEDURES; DISTRIBUTION OF ASSETS.

Subdivision 1. **Order to execute agreement.** If an agreement reported to the court under section 501B.52 is found by the court to conform to the order described in section 501B.51, the court shall make an order approving and confirming the agreement and directing the trustee or receiver to execute and deliver the deed, mortgage, or lease of real property required by the agreement.

Subd. 2. **Costs; allowances.** The order of confirmation may direct that each participant in the proceeding be paid reasonable costs of the proceeding incurred by the participant. The order of confirmation may make appropriate allowances to persons who have served in the proceeding as receiver, guardian ad litem, or counsel, and may direct the manner of payment of these allowances.

Subd. 3. **Safekeeping, management, and distribution of assets.** The order of confirmation must include appropriate provisions for the safekeeping, management, and distribution of assets derived from the ordered transaction. In the case of assets derived from a transaction executed by a trustee under section 501B.51, subdivision 2, paragraph (a), distribution must be made to the trustee for administration as trust assets. In the case of assets derived from a transaction executed by a receiver under section 501B.51, subdivision 2, paragraph (b), distribution must be made to the owners, at the time of the sale or mortgage, of present possessory interests in the real property that was sold or mortgaged, and to the owners of leased real property who would be entitled to possession on the present termination of the lease. Notwithstanding any contrary provision in the terms of the instrument creating the interests in real property sold, mortgaged, or leased under this subdivision, the same possessory and future interests exist in the assets distributed as existed in the real property, and any provision in the creating instrument for forfeiture of an interest in real property upon a sale or other assignment must be disregarded by the court in directing distribution or other assignment of interests in the proceeds of a sale.

Subd. 4. **Hearing on confirmation order.** The trustee or receiver shall obtain from the court a time and place for the court's hearing on the confirmation of the agreement and shall give mailed notice of the time and place of the hearing to the interested parties described in section 501B.51 at least 15 days before the date of that hearing. The order of confirmation is final and conclusive as to all matters determined by it and binding in rem on all persons interested in the real property, whether their interests are vested or contingent, even though a person is a minor or incapacitated, as defined in section 524.5-102, subdivision 6 or 10, or otherwise under conservatorship, unascertained, or not in being, except that appeal may be taken in the manner provided in the Rules of Appellate Procedure.

Subd. 5. **Combined proceedings.** In appropriate circumstances, proceedings under this section and section 501B.52 may be combined with proceedings under sections 501B.46 to 501B.51.

History: 1989 c 340 art 1 s 45; 2004 c 146 art 3 s 37

501B.54 LEGAL EFFECT OF DEED, MORTGAGE, OR LEASE MADE UNDER SECTION 501B.53.

A deed, mortgage, or lease executed and delivered in accordance with an order of confirmation under section 501B.53 binds the interests of the applicant for the order and of all other persons interested in the real property sold, mortgaged, or leased.

History: 1989 c 340 art 1 s 46

501B.55 DATE OF CREATION OF INTERESTS AFFECTED BY THE PROCEDURES IN SECTIONS 501B.46 TO 501B.54.

The procedures in sections 501B.46 to 501B.54 apply to proceedings initiated after January 1, 1990, with respect to interests created before, on, or after January 1, 1990.

History: 1989 c 340 art 1 s 47

501B.56 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.561 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.57 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.571 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.59 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.60 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.61 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.62 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.63 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.64 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.65 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.66 MS 2000 [Repealed, 2001 c 15 s 14]

501B.665 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.67 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.68 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.69 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.70 MS 2000 [Repealed, 2001 c 15 s 14]

501B.705 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.71 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.72 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

501B.73 MS 2014 [Repealed, 2015 c 5 art 16 s 2]

- 501B.74** MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.75 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.76 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.79 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.80 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.81 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.82 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.86 MS 2008 [Repealed, 2009 c 67 s 17]
501B.87 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.88 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.89 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.895 MS 2014 [Repealed, 2015 c 5 art 16 s 2]
501B.90 MS 2014 [Repealed, 2015 c 5 art 16 s 2]