

1 (e) The appointment of assets to the 2nd trust would violate a rule against
2 perpetuities applicable to the first trust or [✓]suspend^es a trustee's power of alienation
3 over assets of the first trust in a manner that would cause all or a portion of the 2nd
4 trust to be void.

5 (f) The appointment of assets to the 2nd trust, as described in sub. (2), ^{under would} ~~impair~~
6 the essential purpose of a trust for an individual with a disability.

7 (4) PERMISSIBLE TERMS OF 2ND TRUST. (a) Subject to ^{par. (b) to (d) and} subs. (2), (3), and (5), the
8 trustee of the first trust may create a 2nd trust instrument that includes terms that
9 are intended to achieve any purpose, ^{terms that are intended} including to do any of the following:

***NOTE: Your instructions suggested that it is not your intent to identify the settlor of the 2nd trust. However, this language in combination with the definition of settlor under s. 701.0103, which defines a settlor as a person who creates a trust, could be interpreted to identify the trustee of the first trust as the settlor of the 2nd trust. Okay?

- 10 1. Correct a drafting error in the first trust.
- 11 2. Clarify potentially ambiguous terms contained in the first trust.
- 12 3. Change the age of distribution to a beneficiary of the first trust.
- 13 4. Extend the duration of the first trust.
- 14 5. Protect the interests of a beneficiary of the first trust, including protecting
- 15 the beneficiary from self-destructive behavior.
- 16 6. Allow the trustee of the 2nd trust to transfer trust assets to a community
- 17 trust. In this subdivision, "community trust" means a master trust that is
- 18 established and managed by a nonprofit organization that maintains sub-accounts
- 19 for individual beneficiaries that [✓] ^{each} satisfy the definition of a trust for an individual with
- 20 a disability.
- 21 7. Add or remove a spendthrift trust provision to the first trust.

1 8. Modify investment provisions contained in the first trust, including those
2 relating to permissible investments, use of investment advisors, directed trust
3 property, or self-dealing transactions.

4 9. Change a present or future trustee of the first trust, including by defining
5 the method by which a trustee or cotrustee may be appointed or removed and
6 replaced.

7 10. Appoint a trust protector of the 2nd trust and define the powers of the trust
8 protector.

9 11. Appoint a directing party of the 2nd trust and define the powers of the
10 directing party.

11 12. Change the principal place of administration of the first trust.

12 13. Change the governing law of the first trust.

13 14. Allow for the division of the first trust into 2 or more trusts.

14 15. Allow for the merger of the first trust with one or more trusts.

15 16. Add or modify an exculpatory provision for a trustee, trust protector, or
16 directing party.

17 17. Obtain desirable tax treatment, as determined by the trustee of the first
18 trust, or to avoid adverse tax consequences, as determined by the trustee of the first
19 trust, including provisions relating to grantor trust status under sections 671 to 679
20 of the Internal Revenue Code.

21 (b) Notwithstanding par. (a), the trust instrument of the 2nd trust may include
22 terms that are intended to do any of the following only if the trustee of the first trust
23 has the absolute power to invade income and principal:

24 1. Modify the terms of the first trust governing the power to invade income and
25 principal.

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2. Grant, eliminate, or modify a general or special powers of appointment.

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(c) 1. Notwithstanding par. (a), the trust instrument of the 2nd trust may

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include terms that are intended to change terms of the first trust that are applicable

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to a beneficiary who is an individual with a disability only if the purpose of the change

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is to allow the beneficiary to qualify or continue to be qualified to receive benefits

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under a government program.

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2. Subdivision 1. applies regardless of whether the first trust includes specific

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or ascertainable standards for distribution.

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(d) Notwithstanding par. (a), the trust instrument of the 2nd trust may include

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terms that are intended to change a provision governing the administration of the

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first trust only if the trustee of the first trust believes it will provide for more effective

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and efficient administration of the trust.

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~~(d)~~ (e) Notwithstanding par. (a), the trust instrument of the 2nd trust may include

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a term that would reduce the potential liability of a trustee, including a term that

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adopts or expands an exculpatory provision relating to the trustee only if one of the

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following applies:

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1. ^{Any} ~~A~~ trustee of the first trust who would benefit from the adoption of the term

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in the 2nd trust abstains from the consideration and adoption of the term and the

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trustees of the first trust who would not benefit from the adoption of the term adopt

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the trust instrument of the 2nd trust.

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2. A court approves the trust instrument of the 2nd trust.

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(5) PROCEDURAL MATTERS. (a) ~~The~~ trustee shall appoint assets to a 2nd trust,

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as described in ^{under} sub. (2) by an instrument in writing that is signed and acknowledged

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by the trustee and shall include the written instrument with the records of the first

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^{and 2nd} trust. A trustee may appoint assets to a 2nd trust, as described in ^{under} sub. (2) upon

1 notice, without court approval, under the procedure described in par. (b), or with
2 court approval, under the procedure described in par. (c).

3 (b) 1. If ^athe trustee chooses to proceed without a court order, the trustee shall
4 give notice of the manner in which the trustee intends to appoint assets to a 2nd
5 trust, as described in ^{under} sub. (2), ^{to} all of the following: ✓

6 a. The qualified beneficiaries of the first trust.

7 b. ^{of Each}Any trust protector appointed under the terms of the first trust.

8 c. ^{of Each}Any directing party appointed under the terms of the first trust.

9 d. The settlor of the first trust, if living.

10 2. To satisfy the trustee's notice obligation under this paragraph, a trustee shall
11 provide each person entitled to receive notice under subd. 1. all of the following:

12 a. A copy of the proposed written instrument under which the trustee will
13 appoint assets to a 2nd trust.

14 b. The proposed effective date of the appointment.

15 c. A copy of the trust instrument of the first trust.

16 d. A copy of the trust instrument of the 2nd trust.

17 3. A trustee may not appoint assets to the 2nd trust until 30 days after the
18 trustee provides notice as required under this paragraph unless every person who
19 is entitled to receive notice under subd. 1. waives the 30-day notice period by
20 delivering a signed written instrument to the trustee. A person's waiver of the
21 30-day notice period does not constitute that person's consent to the trustee's
22 appointment of assets to a 2nd trust.

23 4. If a person entitled to receive notice under subd. 1. delivers a written
24 objection to the trustee before the effective date of the appointment of assets to a 2nd

unless the written objection is withdrawn

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trust, the trustee may not appoint the assets to a 2nd trust, as specified in the trustee's notice, without obtaining court approval under par. (c)

5. If the trustee does not receive a written objection from any person entitled to receive notice under subd. 1. the trustee shall notify each person entitled to receive notice under subd. 1. that the trustee did not receive an objection to the notice and that the trustee will appoint the assets from the first trust to the 2nd trust, as provided in the notice. Notice under this subdivision is binding and precludes a recipient from requiring court approval of the appointment of assets to a 2nd trust.

****NOTE: Is this language consistent with your intent?*

(c) 1. If a trustee chooses to proceed with court approval, including after receiving a written objection to a proposed appointment of assets, the trustee shall petition a court to approve a proposed appointment of assets to a 2nd trust, as described in sub. (2). The trustee shall provide notice of the petition to all qualified beneficiaries of the first trust, *under* any trust protector appointed under the first trust, *each* any directing party appointed under the first trust, and to the settlor of the first trust, if living. The trustee shall include in the notice of the petition the proposed effective date of the appointment of assets to a 2nd trust. The trustee shall also provide a copy of the proposed instrument under which the trustee will appoint assets to a 2nd trust, the proposed effective date of the appointment, a copy of the trust instrument of the first trust, and a copy of the trust instrument of the 2nd trust to each person who is entitled to receive notice under this paragraph.

2. If a person who is entitled to receive notice under subd. 1. files an objection with the court, in determining whether to grant or deny a petition under subd. 1., the court shall consider all of the following:

a. The purpose of the proposed appointment of assets under sub. (2).

1 b. The reasons for any objection made by a person entitled to receive notice
2 under subd. 1.

3 c. Changes in circumstances that have occurred since the creation of the first
4 trust.

5 d. Whether the appointment of assets under sub. (2) complies with the
6 requirements of this section.

7 3. If no person who is entitled to receive notice under subd. 1, files an objection
8 with the court, ^{or any objection that has been filed with the court is withdrawn} the court shall enter an order approving the appointment of assets
9 under sub. (2) as set forth in the trustee's notice unless the court determines that the
10 appointment of assets does not comply with the requirements of this section.

11 (6) SUBSEQUENTLY DISCOVERED ASSETS. (a) The appointment of all of the assets
12 comprising ^{of} the first trust in favor of the trustee of the 2nd trust includes
13 subsequently discovered assets otherwise belonging to the first trust and assets paid
14 to or acquired by the first trust subsequent to the appointment in favor of the 2nd
15 trust.

16 (b) Except as otherwise provided by the trustee of the first trust, the
17 appointment of part but not all of the assets of the first trust in favor of the 2nd trust
18 does not include subsequently discovered assets belonging to the first trust and
19 ^{or} assets paid to or acquired by the first trust subsequent to the appointment in favor
20 of the 2nd trust. Subsequently discovered assets belonging to the first trust and
21 assets paid to or acquired by the first trust subsequent to the appointment in favor
22 of the 2nd trust ^{which} remain the assets of the first trust. ✓

23 (7) LIABILITY. (a) This section does not create or imply a duty on a trustee to
24 appoint assets to a 2nd trust, as described in sub. (2) ^{under} and a trustee that does not

1 appoint assets to a 2nd trust, as described in sub. (2) ^{under} is not liable for the failure to
2 do so.

3 (b) A trustee who appoints assets to a 2nd trust, as described in sub. (2) ^{under} is not
4 liable to any beneficiary for any loss related to the appointment unless the trustee

5 did not appoint the assets to a 2nd trust, as described in sub. (2) in good faith. ^{under}
6 *This paragraph applies regardless of whether the trustee proceeds under sub. (5)(b) or (c).*

7 (8) MISCELLANEOUS PROVISIONS. (a) The appointment of assets to a 2nd trust, as described in sub. (2) ^{under} is not an exercise of a general power of appointment.

***NOTE: Is this consistent with your intent?

8 (b) A trustee may appoint assets to a 2nd trust, as described in sub. (2) ^{under} even
9 if the first trust includes a spendthrift clause or a provision that prohibits
10 amendment or revocation of the trust.

11 (c) This section does not limit ^{of a} any trustee who has a power to invade principal
12 to appoint property in further trust to the extent ^{of the} such power arises under the terms
13 of the first trust or under any other section of this chapter or under another provision
14 of law or under common law.

15 (d) The restriction relating to a trustee under sub. (3) (c) does not preclude a
16 cotrustee who does not have a beneficial interest in the first trust from appointing
17 assets to a 2nd trust, as described in sub. (2) ^{under} even if the terms of the first trust,
18 applicable law, or other circumstances would otherwise require the majority or
19 unanimous action of the trustees of the first trust.

20 (e) For purposes of this section, if beneficiaries of a first trust are defined as a
21 class of persons, the class shall include any person who falls within the class of
22 persons after the trustee appoints assets to the 2nd trust.

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SECTION 54. 701.05 of the statutes is repealed.

1 SECTION 55. Subchapter V (title) of chapter 701 [precedes 701.0501] of the
2 statutes is created to read:

3 CHAPTER 701

4 SUBCHAPTER V

5 CREDITOR'S CLAIMS; SPENDTHRIFT

6 AND DISCRETIONARY TRUSTS

7 SECTION 56. 701.0501 of the statutes is created to read:

8 701.0501 Rights of beneficiary's creditor or assignee. (1) (a) To the
9 extent a beneficiary's interest is not protected by a spendthrift provision, the court
10 may authorize a judgment creditor or an assignee of the beneficiary to reach the
11 beneficiary's interest by attachment of present or future distributions to or for the
12 benefit of the beneficiary or other means. The court may limit the award to such
13 relief as is appropriate under the circumstances.

14 (b) This subsection does not apply to a trust for an individual with a disability.

15 (2) A trustee is not liable to any creditor of a beneficiary for any distributions
16 made to or for the benefit of the beneficiary if any of the following applies:

17 (a) The beneficiary's interest is protected by a spendthrift provision.

18 (b) The trust is a trust for an individual with a disability.

19 SECTION 57. 701.0502 of the statutes is created to read:

20 701.0502 Spendthrift provision. (1) ^{A spendthrift provision is} valid only if any of the following

21 applies:

22 (a) The beneficiary is ^{a person} other than the settlor ^{and is not treated as the settlor} under s. 701.0505(2) ✓

23 (b) The trust is a trust for an individual with a disability.

1 (2) Subject to sub. (1), a term of a trust providing that the interest of a
2 beneficiary is held subject to a spendthrift trust, or words of similar import, restrains
3 both a voluntary and involuntary transfer of the beneficiary's interest.

4 (3) A beneficiary may not transfer an interest in a trust in violation of a valid
5 spendthrift provision and, except as otherwise provided in this subchapter, a creditor
6 or assignee of the beneficiary may not attach, garnish, execute on, or otherwise reach
7 the interest or a distribution by the trustee before its receipt by the beneficiary.

8 (4) Real property or tangible personal property that is owned by the trust but
9 that is made available for a beneficiary's occupancy or use in accordance with the
10 trustee's authority under the trust instrument may not be considered to have been
11 distributed by the trustee or received by the beneficiary for purposes of allowing a
12 creditor or assignee of the beneficiary to reach the property.

13 **SECTION 58.** ^(title) 701.0503 of the statutes is created to read:

14 **701.0503** ^(title) **Exceptions to spendthrift provision.** (1) CLAIMS FOR CHILD

15 SUPPORT. Notwithstanding s. 701.0502, upon application of a person having a valid
16 order directing a beneficiary to make payment for support of the beneficiary's child,
17 a court may do any of the following:

18 (a) If the beneficiary is entitled to receive income or principal under the trust,
19 order the trustee to satisfy part or all of the claim out of part or all of the payments
20 of income or principal as they are due, presently or in the future.

21 (b) If the beneficiary may receive income or principal at the trustee's discretion
22 under the trust, order the trustee to satisfy part or all of the claim out of part or all
23 of any future payments of income or principal that are made pursuant to the exercise
24 of the trustee's discretion in favor of the beneficiary.

1 (2) CLAIMS FOR PUBLIC SUPPORT. Notwithstanding s. 701.0502, and except as
2 provided in sub. (3), if the settlor is legally obligated to pay for the public support of
3 a beneficiary under s. 46.10, 49.345, or 301.12 or the beneficiary is legally obligated
4 to pay for the beneficiary's public support or for support furnished to the beneficiary's
5 spouse or minor child under s. 46.10, 49.345, or 301.12, upon application by the
6 appropriate state department or county official, a court may do any of the following:

7 (a) If the beneficiary is entitled to receive income or principal under the trust,
8 order the trustee to satisfy part or all of the liability out of part or all of the payments
9 of income or principal as they are due, presently or in the future.

10 (b) 1. Except as provided in subd. 2., if the beneficiary may receive income or
11 principal at the trustee's discretion under the trust, order the trustee to satisfy part
12 or all of the liability out of part or all of any future payments of income or principal
13 that are made pursuant to the exercise of the trustee's discretion in favor of the
14 beneficiary.

15 2. In the case of a beneficiary who may receive income or principal of the trust
16 at the trustee's discretion and who is a settlor or a spouse or minor child of the settlor,
17 order the trustee to satisfy part or all of the liability without regard to whether the
18 trustee has then exercised or may thereafter exercise the trustee's discretion in favor
19 of the beneficiary.

20 (3) TRUST FOR AN INDIVIDUAL WITH A DISABILITY. Subsection (2) does not apply to
21 any trust for an individual with a disability.

22 (4) SUBSEQUENT MODIFICATION OF COURT'S ORDER. Any order entered by a court
23 under sub. (1) or (2) may be modified upon application of an interested person.

24 (5) EXEMPT ASSETS. Assets of a trust that are exempt from claims of creditors
25 under other statutes are not subject to sub. (1) or (2).

1 **SECTION 59.** 701.0504 of the statutes is created to read:

2 **701.0504 Discretionary trusts; effect of standard.** (1) For purposes of this
3 subchapter, and except as provided in sub. (3), a beneficiary's interest in a trust that
4 is subject to the trustee's discretion does not constitute an interest in property or an
5 enforceable right even if the discretion is expressed in the form of a standard of
6 distribution or the beneficiary is then serving as sole trustee or cotrustee.

7 (2) Except as provided in this subchapter, a creditor or other claimant may not
8 attach present or future distributions from ^{a beneficiary's} such an interest in property or an
9 enforceable right, obtain an order from a court forcing the judicial sale of the interest
10 or compelling the trustee to make distributions, or reach the interest or right by any
11 other means, even if the trustee has abused the trustee's discretion.

12 (3) Subsections (1) and (2) do not apply if a beneficiary is acting as sole trustee
13 of a trust for his or her benefit and his or her discretion to make distributions to
14 himself or herself is not limited by an ascertainable standard or the consent of a party
15 holding an adverse interest to the beneficiary.

16 (4) (a) Except as provided in par. (b), this section does not limit the right of a
17 beneficiary to maintain a judicial proceeding against a trustee for an abuse of
18 discretion or failure to comply with a standard for distribution.

19 (b) The right of a beneficiary described in par. (a) may not be exercised by a
20 creditor.

21 **SECTION 60.** 701.0505 of the statutes is created to read:

22 **701.0505 Creditor's claim against settlor.** (1) (a) Whether or not the terms
23 of a trust include a spendthrift provision and except as provided in par. (b), the
24 following rules apply to claims of a settlor's creditors:

1 1. During the lifetime of the settlor, the property of a revocable trust is subject
2 to claims of the settlor's creditors.

3 2. With respect to an irrevocable trust that is not a trust for an individual with
4 a disability, upon application of a judgment creditor of the settlor, the court may, if
5 the trust instrument requires or authorizes the trustee to make payments of income
6 or principal to or for the settlor, order the trustee to satisfy part or all of the judgment
7 out of part or all of the payments of income or principal as they are due, presently
8 or in the future, or which are payable in the trustee's discretion. If a trust has more
9 than one settlor, the amount the judgment creditor of a particular settlor may reach
10 may not exceed the settlor's interest in the trust.

11 3. After the death of a settlor, and subject to the settlor's right to direct the
12 source from which liabilities will be paid, the property of a trust that was revocable
13 at the settlor's death is subject to claims of the settlor's creditors, costs of
14 administration of the settlor's estate, the expenses of the settlor's funeral and
15 disposal of remains, and statutory allowances to a surviving spouse and children to
16 the extent the settlor's probate estate is inadequate to satisfy those claims, costs,
17 expenses, and allowances.

18 (b) Assets of a trust that are exempt from claims of creditors under other
19 statutes are not subject to par. (a).

20 (2) For purposes of this subchapter, all of the following apply:

21 (a) During the period the power may be exercised, the holder of a power of
22 withdrawal is treated in the same manner as the settlor of a revocable trust to the
23 extent of the property subject to the power.

24 (b) A beneficiary of a trust may not be considered a settlor solely because of a
25 lapse, waiver, or release of any of the following:

NOTE: Now that this subsection applies to the entire subchapter, please consider whether this location is appropriate. For example, would a person applying s. 701.0502 know to look here to fully understand who may be considered a settlor for purposes of that section?

1. A power described under par. (c).

2. The beneficiary's right to withdraw part of the trust property, to the extent the value of the property affected by the lapse, waiver, or release in any year does not exceed the greater of the following:

a. The amount referenced in section 2041 (b) (2) or 2514 (e) of the Internal Revenue Code.

b. The amount referenced in section 2503 (b) of the Internal Revenue Code for each individual other than the beneficiary who makes a transfer to the trust or who is deemed to make a transfer to the trust pursuant to an election to split gifts under section 2513 (a) of the Internal Revenue Code.

(c) A beneficiary of a trust is not a settlor, has not made a voluntary or involuntary transfer of the beneficiary's interest in the trust, and does not have the power to make a voluntary or involuntary transfer of the beneficiary's interest in the trust solely because the beneficiary holds, exercises, or allows in any capacity, any of the following:

1. A presently exercisable power to consume, invade, appropriate, or distribute property to or for the benefit of the beneficiary if the power is any of the following:

a. Exercisable only with the consent of another person holding an interest adverse to the beneficiary's interest.

b. Limited by an ascertainable standard of the beneficiary.

2. A presently exercisable power to appoint any property of the trust to or for the benefit of a person other than the beneficiary, a creditor of the beneficiary, the beneficiary's estate, or a creditor of the beneficiary's estate.

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1 ~~3. A testamentary power of appointment.~~

2 ~~4. A presently exercisable right described in sub. (2) (b).~~

3 ~~(d) A beneficiary of a trust is not a settlor solely because the beneficiary is~~
4 ~~entitled to nondiscretionary distributions from the trust.~~

5 (e) 1. Contributions to the following trusts are not considered to have been
6 contributed by the settlor:

7 a. An irrevocable living marital trust that is treated as qualified terminable
8 interest property under section 2523 (f) of the Internal Revenue Code if after the
9 death of the settlor's spouse the settlor is a beneficiary of the trust or an irrevocable
10 trust that receives property from the trust.

11 b. An irrevocable living marital trust that is treated as a general power of
12 appointment trust under section 2523 (e) of the Internal Revenue Code if after the
13 death of the settlor's spouse the settlor is a beneficiary of the trust or an irrevocable
14 trust that receives property from the trust.

15 c. An irrevocable living trust for the settlor's spouse if after the death of the
16 settlor's spouse the settlor is a beneficiary of the trust or an irrevocable trust that
17 receives property from the trust.

18 d. An irrevocable trust for the benefit of a person, the settlor of which is the
19 person's spouse, regardless of whether or when the person was the settlor of an
20 irrevocable trust for the benefit of that spouse.

21 e. An irrevocable trust for the benefit of a person to the extent that the property
22 of the trust was subject to a general power of appointment in another person.

23 2. A person who would otherwise be treated as a settlor of a trust described in
24 subd. 1. a. to e. is not treated as a settlor of the trust.

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1 ~~3. For purposes of this paragraph, a person is a beneficiary if the person is~~
2 ~~named under the initial trust instrument or through the exercise of a special or~~
3 ~~general power of appointment by that person's spouse or by another person.~~

4 (B) (3) (f) Any order entered by a court under this section is subject to modification
5 upon application of an interested person.

6 SECTION 61. 701.0506 of the statutes is created to read:

7 **701.0506 Overdue distribution.** (1) In this section, "mandatory
8 distribution" means a distribution of income or principal that the trustee is required
9 to make to a beneficiary under the terms of the trust, including a distribution upon
10 termination of the trust. "Mandatory distribution" does not include a distribution
11 subject to the exercise of the trustee's discretion even if any of the following applies:

- 12 (a) The discretion is expressed in the form of a standard of distribution.
- 13 (b) The terms of the trust authorizing a distribution couple language of
14 discretion with language of direction.

15 (2) Whether or not a trust contains a spendthrift provision, a creditor or
16 assignee of a beneficiary may reach a mandatory distribution of income or principal,
17 including a distribution upon termination of the trust, if the trustee has not made
18 the distribution to the beneficiary within a reasonable time after the designated
19 distribution date.

20 SECTION 62. 701.0507 of the statutes is created to read:

21 **701.0507 Personal obligations of trustee.** Trust property is not subject to
22 personal obligations of the trustee, even if the trustee becomes insolvent or
23 bankrupt.

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SECTION 63. 701.06 of the statutes is repealed.

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

4 (3) A settlor may revoke or amend a revocable trust by any of the following
5 means:

6 (a) By substantial compliance with a method provided in the terms of the trust.

7 (b) If the terms of the trust do not provide a method, by any of the following
8 means:

9 1. A later will or codicil that expressly refers to the trust or specifically devises
10 property that would otherwise have passed according to the terms of the trust.

11 2. Any other method manifesting clear and convincing evidence of the settlor's
12 intent.

13 (4) Upon revocation of a revocable trust, the trustee shall transfer the trust
14 property as the settlor directs. However, with respect to marital or community
15 property, the trustee shall transfer the property to both spouses as marital or
16 community property.

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

20 (6) A guardian of the estate or ^a conservator of the settlor may exercise a settlor's
21 powers with respect to revocation, amendment, or distribution of trust property only
22 with the approval of the court supervising the guardianship or conservatorship.

23 (7) A trustee who does not know that a trust has been revoked or amended is
24 not liable for distributions made and other actions taken on the assumption that the

1 trust had not been amended or revoked, or for distributions made pursuant to sub.
2 (5).

3 SECTION 67. 701.0603 of the statutes is created to read:

4 **701.0603 Settlor's powers; powers of withdrawal.** (1) While a trust is
5 revocable, the rights of the beneficiaries are subject to the control of, and the duties
6 of the trustee, ^aany directing party, and ^aany trust protector are owed exclusively to,
7 the settlor.

8 (2) If a revocable trust has more than one settlor, the duties of the trustee, ^aany
9 directing party, and ^aany trust protector are owed to all of the settlors.

10 (3) During the period in which a power of withdrawal may be exercised, the
11 holder of the power has the rights of a settlor of a revocable trust under this section
12 to the extent of the property subject to the power.

13 SECTION 68. 701.0604 of the statutes is created to read:

14 **701.0604 Limitation on action contesting validity of revocable trust;
15 distribution of trust property.** (1) A person must commence a judicial proceeding
16 to contest the validity of a trust that was revocable immediately before the settlor's
17 death within the earlier of the following:

18 (a) One year after the settlor's death.

19 (b) Four months after the trustee sent the person a copy of the trust instrument
20 and a notice informing the person of the trust's existence, of the trustee's name and
21 address, and of the time allowed for commencing a proceeding. Except as provided
22 in s. 701.0813 (2), a trustee is not liable to any person for not providing the
23 information described in this paragraph.

24 (2) Upon the death of the settlor of a trust that was revocable immediately
25 before the settlor's death, the trustee may proceed to distribute the trust property

1 in accordance with the terms of the trust. The trustee is not subject to liability for
2 doing so unless one of the following applies:

3 (a) The trustee knows of a pending judicial proceeding contesting the validity
4 of the trust.

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

8 (3) A beneficiary of a trust that is determined to have been invalid is liable to
9 return any distribution received.

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10 ~~SECTION 69. 701.065 of the statutes is renumbered 701.0605, and 701.0605 (1)~~
11 ~~(a) 2., as renumbered, is amended to read:~~
12 ~~701.0605 (1) (a) 2. Except as provided in pars. (b) and (c), if the trustee satisfies~~
13 ~~the requirements for the publication of the notice under subd. 1., all claims, including~~
14 ~~claims of the any state and any subdivision thereof of its subdivisions, whether due~~
15 ~~or to become due, absolute or contingent, liquidated or unliquidated, are barred~~
16 ~~against the trustee, the trust property and any recipient of trust property unless filed~~
17 ~~with the trustee on or before the date specified in the notice under subd. 1.~~

18 SECTION 70. 701.07 of the statutes is repealed.

19 SECTION 71. Subchapter VII (title) of chapter 701 [precedes 701.0701] of the
20 statutes is created to read:

21 CHAPTER 701
22 SUBCHAPTER VII
23 OFFICE OF TRUSTEE

24 SECTION 72. 701.0701 of the statutes is created to read:

Section 701.0701

1 **701.0701 Accepting or declining trusteeship.** (1) Except as provided in
2 sub. (3), a person designated as trustee accepts the trusteeship by doing any of the
3 following:

4 (a) Substantially complying with a method of acceptance provided in the terms
5 of the trust.

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

10 (2) A person designated as trustee who has not yet accepted the trusteeship
11 may decline the trusteeship. A designated trustee who does not accept the
12 trusteeship within a reasonable time after knowing of the designation is considered
13 to have rejected the trusteeship.

14 (3) A person designated as trustee, without accepting the trusteeship, may do
15 any of the following:

16 (a) Act to preserve the trust property if, within a reasonable time after acting,
17 the person sends a declination of the trusteeship in writing to the settlor or, if the
18 settlor is dead or ^{incapacitated} lacks capacity, to the designated cotrustee, or, if none, to the
19 successor trustee, or, if none, to a distributee or a permissible distributee of the trust.

20 (b) Inspect or investigate trust property to determine potential liability under
21 environmental or other law or for any other purpose.

22 **SECTION 73.** 701.0702 of the statutes is created to read:

23 **701.0702 Trustee's bond.** (1) A trustee shall give bond to secure performance
24 of the trustee's duties only if the court finds that a bond is needed to protect the

1 interests of the beneficiaries or is required by the terms of the trust and the court has
2 not dispensed with the requirement.

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

5 (3) A court may not require a bond from a trust company bank, state bank, or
6 national bank that is authorized to exercise trust powers and that has complied with
7 s. 220.09 or 223.02 nor shall a bond be required of a religious, charitable, or
8 educational corporation or society.

9 SECTION 74. 701.0703 of the statutes is created to read:

10 **701.0703 Cotrustees.** (1) Cotrustees may act only by majority decision.

11 (2) If a vacancy occurs in a cotrusteeship, as provided under s. 701.0704, a
12 majority of the remaining cotrustees may act for the trust.

13 (3) A cotrustee shall participate in the performance of a trustee's function
14 unless the cotrustee is unavailable to perform the function because of absence,
15 illness, disqualification under other law, or other temporary incapacity or the
16 cotrustee has properly delegated the performance of the function to another trustee.

17 (4) If a cotrustee is unavailable to perform duties because of absence, illness,
18 disqualification under other law, or other temporary incapacity, and prompt action
19 is necessary to achieve the purposes of the trust or to avoid injury to the trust
20 property, the remaining cotrustee or a majority of the remaining cotrustees may act
21 for the trust.

22 (5) A trustee may delegate to a cotrustee a function unless the delegation is
23 expressly prohibited by the terms of the trust. Unless a delegation is irrevocable, a
24 trustee may revoke a delegation previously made.

1 (6) Except as provided in sub. (7), a trustee who does not join in an action of
2 another trustee is not liable for the action.

3 (7) Each trustee shall exercise reasonable care to do all of the following:

4 (a) Prevent a cotrustee from committing a material breach of trust.

5 (b) Compel a cotrustee to redress a material breach of trust.

6 (8) A dissenting trustee who joins in an action at the direction of the majority
7 of the trustees and who notified all cotrustees of the dissent at or before the time of
8 the action is not liable for the action unless the action is a material breach of trust.

9 **SECTION 75.** 701.0704 of the statutes is created to read:

10 **701.0704 Vacancy in trusteeship; appointment of successor.** (1) A
11 vacancy in a trusteeship exists if any of the following occurs:

12 (a) A person designated as trustee declines the trusteeship.

13 (b) A person designated as trustee cannot be identified or does not exist.

14 (c) A trustee resigns.

15 (d) A trustee is disqualified or removed.

16 (e) A trustee dies.

17 (f) A guardian or conservator is appointed for an individual serving as trustee.

18 (2) If one or more cotrustees remain in office, a vacancy in a trusteeship does
19 not need to be filled. A vacancy in a trusteeship shall be filled if the trust has no
20 remaining trustee.

21 (3) A vacancy in a trusteeship that is required to be filled shall be filled in the
22 following order of priority:

23 (a) By a person designated in the terms of the trust to act as successor trustee.

24 (b) By a person appointed by unanimous agreement of the qualified
25 beneficiaries, except that, if the trust is a trust for an individual with a disability, the

1 person appointed under this paragraph may not be the individual with a disability,
2 his or her spouse, or a relative of the individual with a disability who is legally
3 responsible for his or her support.

4 (c) By a person appointed by the court.

5 (4) Whether or not a vacancy in a trusteeship exists or is required to be filled,
6 the court may appoint an additional trustee, directing party, or trust protector
7 whenever the court considers the appointment necessary for the administration of
8 the trust.

9 SECTION 76. 701.0705 of the statutes is created to read:

10 **701.0705 Resignation of trustee.** (1) A trustee may resign in any of the
11 following manners:

12 (a) Upon at least 30 days' notice to the qualified beneficiaries, the settlor, if
13 living ~~and not incapacitated, all cotrustees, any trust protector, and any directing~~
14 party. *each* *each*
each cotrustee ✓

15 (b) With the approval of the court.

16 (2) In approving a resignation, the court may issue orders and impose
17 conditions reasonably necessary for the protection of the trust property.

18 (3) Any liability of a resigning trustee or of any sureties on the trustee's bond
19 for acts or omissions of the trustee is not discharged or affected by the trustee's
20 resignation.

21 SECTION 77. 701.0706 of the statutes is created to read:

22 **701.0706 Removal of trustee.** (1) The settlor, a cotrustee, or a qualified
23 beneficiary may request the court to remove a trustee, or a trustee may be removed
24 by the court on its own initiative.

25 (2) The court may remove a trustee if any of the following applies:

1 (a) The trustee has committed a material breach of trust.

2 (b) A lack of cooperation among cotrustees substantially impairs the
3 administration of the trust.

4 (c) The court determines that removal of the trustee best serves the interests
5 of the beneficiaries because of unfitness, unwillingness, or persistent failure of the
6 trustee to administer the trust effectively.

7 (d) There has been a substantial change of circumstances or removal is
8 requested by all of the qualified beneficiaries, the court finds that removal of the
9 trustee best serves the interests of all of the beneficiaries and is not inconsistent with
10 a material purpose of the trust, and a suitable cotrustee or successor trustee is
11 available.

12 (3) Pending a final decision on a request to remove a trustee, or in lieu of or in
13 addition to removing a trustee, the court may order such appropriate relief under s.
14 701.1001 (2) as may be necessary to protect the trust property or the interests of the
15 beneficiaries.

16 **SECTION 78.** 701.0707 of the statutes is created to read:

17 **701.0707 Delivery of property by former trustee.** (1) Unless a cotrustee
18 remains in office or the court otherwise orders, and until the trust property is
19 delivered to a successor trustee or other person entitled to it, a trustee who has
20 resigned or been removed has the duties of a trustee and the powers necessary to
21 protect the trust property.

22 (2) A trustee who has resigned or been removed shall proceed expeditiously to
23 deliver the trust property within the trustee's possession to the cotrustee, successor
24 trustee, or other person entitled to it.

25 **SECTION 79.** 701.0708 of the statutes is created to read:

1 **701.0708 Compensation of trustee.** (1) If the terms of a trust do not specify
2 the trustee's compensation, a trustee is entitled to compensation that is reasonable
3 under the circumstances.

4 (2) If the terms of a trust specify the trustee's compensation or refer to another
5 ascertainable source for determining that compensation, the trustee is entitled to be
6 compensated as specified, but the court may allow more or less compensation if any
7 of the following applies:

8 (a) The duties of the trustee are substantially different from those
9 contemplated when the trust was created.

10 (b) The compensation specified by the terms of the trust would be unreasonably
11 low or high.

12 (3) If the trustee has rendered other services in connection with the
13 administration of the trust, the trustee may receive reasonable compensation for the
14 other services rendered, in addition to reasonable compensation as trustee.

15 **SECTION 80.** 701.0709 of the statutes is created to read:

16 **701.0709 Reimbursement of expenses.** (1) A trustee is entitled to be
17 reimbursed out of the trust property, with interest as appropriate, for all of the
18 following:

19 (a) Expenses that were properly incurred in the administration of the trust.

20 (b) To the extent necessary to prevent unjust enrichment of the trust, expenses
21 that were not properly incurred in the administration of the trust.

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

24 **SECTION 81.** 701.0710 of the statutes is created to read:

1 **701.0710 Title of trust property.** A settlor or transferor may effectively
 2 transfer property to a trust by placing legal title of the property in the name of the
 3 trustee, which shall include any successor trustee regardless of whether a successor
 4 trustee is referenced in the transfer document. A transfer that places legal title in
 5 the name of the trust itself shall ~~place~~^{places} legal title in the name of the trustee.

6 **SECTION 82.** 701.08 of the statutes is renumbered 701.0606 and amended to
 7 read:

8 **701.0606 Transfers to living revocable trusts.** (1) VALIDITY AND EFFECT.
 9 The order of execution of a living revocable trust instrument and a will or other
 10 instrument purporting to transfer or appoint property to the trust evidenced by the
 11 trust instrument shall be disregarded in determining the validity of the transfer or
 12 appointment. No reference in any will to a living revocable trust shall cause assets
 13 in such trust to be included in property administered as part of the testator's estate;
 14 ~~nor shall it cause the trust or any portion thereof to be treated as a testamentary~~
 15 ~~trust.~~

16 (2) GOVERNING TERMS. Property transferred or appointed by a will or by a
 17 beneficiary designation under an employee benefit plan, life insurance policy, or
 18 other instrument permitting designation of a beneficiary to a living revocable trust,
 19 ~~the terms of which the testator or designator was the sole holder of a power to modify,~~
 20 shall be administered in accordance with the terms of the ^{revocable} trust as ~~they~~^{the terms of the} may have ^{revocable}
 21 been modified prior to the testator's or designator's death, even though the will ~~or~~^{or 2}
 22 beneficiary designation ^{or other instrument} was not reexecuted or republished after exercise of the power
 23 to modify, unless the will ~~or~~^{or 2} beneficiary designation ^{or other instrument} expressly provides otherwise.
 24 ~~Such property transferred or appointed to a living revocable trust, which is subject~~
 25 ~~to a power of modification requiring action or consent of a person other than the~~

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~~testator or designator, shall be administered in accordance with the terms of the trust instrument as they exist at the execution of the will or beneficiary designation, unless expressly otherwise provided. If the will or beneficiary designation expressly provides that the property shall be administered in accordance with the terms of the trust instrument as they may be modified thereafter, the will or beneficiary designation need not be reexecuted or republished after exercise of the power to modify.~~

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8 (3) DISPOSITION WHEN NO EXISTING LIVING REVOCABLE TRUST. If at the death of a
9 testator a living revocable trust has been completely revoked, or otherwise
10 terminated, a provision in the testator's will purporting to transfer or appoint
11 property to such the trust shall have the following effect, unless the will provides
12 otherwise:

13 (a) If the testator was a necessary party to the revocation or other termination
14 of such the revocable trust, the provision in the testator's will shall be invalid;

15 (b) If the testator was not a necessary party to the revocation or other
16 termination of such trust, the provision in the testator's will shall be deemed to
17 create a testamentary trust upon the terms of the living revocable trust instrument
18 at the time the will was executed or as otherwise provided where sub. (2) is
19 applicable.

20 SECTION 83. Subchapter VIII (title) of chapter 701 [precedes 701.0801] of the
21 statutes is created to read:

CHAPTER 701

SUBCHAPTER VIII

DUTIES AND POWERS OF TRUSTEES

DIRECTING PARTIES,
AND TRUST PROTECTORS

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SECTION 84. 701.0801 of the statutes is created to read:

1 **701.0801 Duty to administer trust.** Upon acceptance of a trusteeship, the
2 trustee shall administer the trust in good faith, in accordance with its terms and
3 purposes and the interests of the beneficiaries, and in accordance with this chapter.

4 **SECTION 85.** 701.0802 of the statutes is created to read:

5 **701.0802 Duty of loyalty.** (1) A trustee shall administer the trust solely in
6 the interests of the beneficiaries.

7 (2) Subject to the rights of persons dealing with or assisting the trustee as
8 provided in s. 701.1012, a sale, encumbrance, or other transaction that involves the
9 investment or management of trust property and is entered into by the trustee for
10 the trustee's own personal account or that is otherwise affected by a conflict between
11 the trustee's fiduciary and personal interests is voidable by a beneficiary affected by
12 the transaction unless any of the following applies:

13 (a) The transaction was authorized by the terms of the trust.

14 (b) The transaction was approved by the court.

15 (c) The beneficiary did not commence a judicial proceeding within the time
16 allowed by s. 701.1005.

17 (d) The beneficiary consented to the trustee's conduct, ratified the transaction,
18 or released the trustee in compliance with s. 701.1009.

19 (e) The transaction involves a contract entered into or claim acquired by the
20 trustee before the person became trustee.

21 (3) A sale, encumbrance, or other transaction involving the investment or
22 management of trust property is presumed to be affected by a conflict between
23 personal and fiduciary interests if it is entered into by the trustee with any of the
24 following:

25 (a) The trustee's spouse.

1 (b) The trustee's descendants, siblings, parents, or their spouses.

2 (c) An agent or attorney of the trustee.

3 (d) A corporation or other person or enterprise in which the trustee, or a person
4 that owns a significant interest in the trustee, has an interest that might affect the
5 trustee's best judgment.

6 (4) A transaction not concerning trust property in which the trustee engages
7 in the trustee's individual capacity involves a conflict between personal and fiduciary
8 interests if the transaction concerns an opportunity properly belonging to the trust.

9 (5) An investment by a trustee in securities of an investment company or
10 investment trust to which the trustee, or its affiliate, provides services in a capacity
11 other than as trustee is not presumed to be affected by a conflict between personal
12 and fiduciary interests if the investment otherwise complies with the prudent
13 investor rule ^{of s. 881.01} ⁱⁿ [✓]. In addition to receiving compensation for acting as trustee,
14 the trustee may be compensated by the investment company or investment trust for
15 providing those services out of fees charged to the trust. If the trustee receives
16 compensation from the investment company or investment trust for providing
17 investment advisory or investment management services, the trustee shall at least
18 annually notify the persons entitled to receive a copy of the trustee's report under s.
19 701.0813 (3) of the rate and method by which that compensation was determined.

20 (6) In voting shares of stock or in exercising powers of control over similar
21 interests in other forms of enterprise, the trustee shall act in the best interests of the
22 beneficiaries. If the trust is the sole owner of a corporation or other form of
23 enterprise, the trustee shall elect or appoint directors or other managers who will
24 manage the corporation or enterprise in the best interests of the beneficiaries.

1 (7) This section does not preclude the following transactions, if fair to the
2 beneficiaries:

3 (a) An agreement between a trustee and a beneficiary relating to the
4 appointment or compensation of the trustee.

5 (b) Payment of reasonable compensation to the trustee.

6 (c) A transaction between a trust and another trust, a decedent's estate, a
7 guardianship of the estate, a conservatorship, or a custodianship of which the trustee
8 is a fiduciary or in which a beneficiary has an interest.

9 (d) A deposit of trust money in a regulated financial-service institution
10 operated by the trustee.

11 (e) An advance by the trustee of money for the protection of the trust.

12 (8) The court may appoint a trustee, trust protector, or directing party to make
13 a decision with respect to any proposed transaction that might violate this section
14 if entered into by the trustee.

15 **SECTION 86.** 701.0803 of the statutes is created to read:

16 **701.0803 Impartiality.** If a trust has 2 or more beneficiaries, the trustee shall
17 act impartially in investing, managing, and distributing the trust property, giving
18 due regard to the beneficiaries' respective interests and the purposes and terms of
19 the trust.

20 **SECTION 87.** 701.0804 of the statutes is created to read:

21 **701.0804 Prudent administration.** A trustee shall administer the trust as
22 a prudent person would, by considering the purposes, terms, distributional
23 requirements, and other circumstances of the trust. In satisfying this standard, the
24 trustee shall exercise reasonable care, skill, and caution.

25 **SECTION 88.** 701.0805 of the statutes is created to read:

1 **701.0805 Costs of administration.** In administering a trust, the trustee may
2 incur only costs that are reasonable in relation to the trust property, the purposes of
3 the trust, the skills of the trustee, and the complexity of the trust administration.

4 **SECTION 89.** 701.0806 of the statutes is created to read:

5 **701.0806 Trustee's skills.** A trustee who has special skills or expertise, or is
6 named trustee in reliance upon the trustee's representation that the trustee has
7 special skills or expertise, shall use those special skills or expertise.

8 **SECTION 90.** 701.0807 of the statutes is created to read:

9 **701.0807 Delegation by trustee.** (1) A trustee may delegate duties and
10 powers that a prudent trustee of comparable skills could properly delegate under the
11 circumstances. The trustee shall exercise reasonable care, skill, and caution in each
12 of the following:

13 (a) Selecting an agent.

14 (b) Establishing the scope and terms of the delegation, consistent with the
15 purposes and terms of the trust.

16 (c) Periodically reviewing the agent's actions in order to monitor the agent's
17 performance and compliance with the terms of the delegation.

18 (2) In performing a delegated function, an agent owes a duty to the trust to
19 exercise reasonable care to comply with the terms of the delegation.

20 (3) A trustee who complies with sub. (1) is not liable to the beneficiaries or to
21 the trust for an action of the agent to whom the function was delegated.

22 (4) By accepting a delegation of powers or duties from the trustee of a trust that
23 is subject to the law of this state, an agent submits to the jurisdiction of the courts
24 of this state even if the terms of the delegation provide for a different jurisdiction or
25 venue.

(1) This section does not apply to ^{a trustee's} the delegation of investment and
 (2) management functions. ^{A trustee's} Delegation of investment and management functions is
 3 governed by s. 881.01 (10).

4 SECTION 91. 701.0808 of the statutes is created to read: ^b

(5) **701.0808 Powers to direct.** (1) While a trust is revocable, the trustee may
 6 follow a direction of the settlor that is contrary to the terms of the trust.

(7) ^{A settlor, in a trust instrument, or a court, in a trust instrument or court order,} The trust instrument may appoint a directing party to direct the trustee on
 8 investment or distribution decisions or to make investment or distribution decisions
 9 regarding directed trust property. If ^a the trustee acts in accordance with the direction
 10 of the directing party or fails to act due to lack of direction, ^{from a directing party} then, except for acts or

11 ~~omissions as a result of willful misconduct,~~ the trustee is not liable for any loss
 12 resulting directly or indirectly from any action taken or omitted with respect to the
 13 specified action ^{except for acts or omissions that are a result of the trustee's willful misconduct}

(3) A trustee does not have a duty to do any of the following:

(a) Provide advice to, consult with, monitor, or evaluate a directing party's
 16 conduct.

(b) Except as otherwise provided in this chapter, provide information to a
 18 directing party. This paragraph does not apply to information requested by a
 19 directing party that is related to a power granted to the directing party.

(20) ^A (b) ^(c) Inform or warn a beneficiary, a 3rd party, or a directing party that the trustee
 21 disagrees with any of the directing party's actions or directions.

(22) ^A (c) ^(d) Prevent a directing party from giving a direction or taking any action.

(23) ^A (d) ^(e) Compel a directing party to redress a breach of the directing party's duties.

(4) The administrative actions of a trustee related to matters within the scope
 25 of a directing party's power, including confirming that the directing party's directions

NO # regard to the terms of the trust and the interests of the beneficiaries. A directing party is liable for any loss that results from a breach of any of the directing party's, have been carried out and recording and reporting actions taken pursuant to the directing party's direction, do not constitute either monitoring the directing party's actions or participating in the actions of the directing party.

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(5) A directing party is a fiduciary ^{and is required to act in good faith} with respect to its powers to direct investment and distribution decisions or to make investment and distribution decisions. As a fiduciary, the directing party has similar fiduciary duties and obligations to the beneficiaries that are applicable to a trustee.

(6) Sections 701.0701, 701.0708, 701.0709, and 701.1001 to 701.1010 apply to a directing party as if the directing party was a trustee. ^{to 701.1003, and 701.1005}

(7) A ^{person} party who accepts an appointment as a directing party under a trust subject to the laws of this state submits to the jurisdiction of the courts of this state as provided in s. 701.0202 (1) with respect to matters involving the trust.

SECTION 92. 701.0809 of the statutes is created to read:

701.0809 Control and protection of trust property. A trustee shall take reasonable steps to take control of and protect the trust property.

SECTION 93. 701.0810 of the statutes is created to read:

701.0810 Record keeping and identification of trust property. (1) A trustee shall keep adequate records of the administration of the trust.

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

(3) Except as otherwise provided in sub. (4), a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.

(4) If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of 2 or more separate trusts.

1 SECTION 94. 701.0811 of the statutes is created to read:

2 701.0811 Enforcement and defense of claims. A trustee shall take
3 reasonable steps to enforce claims of the trust known to the trustee and to defend
4 claims against the trust known to the trustee.

5 SECTION 95. 701.0812 of the statutes is created to read:

6 701.0812 Collecting trust property; duties of successor trustees. (1) A
7 trustee shall take reasonable steps to compel a former trustee or other person to
8 deliver trust property to the trustee, and to redress a breach of trust known to the
9 trustee to have been committed by a former trustee (a directing party, or a trust
10 protector of the trust.

11 (2) A successor trustee does not have a duty to examine the accounts of a former
12 trustee.

13 SECTION 96. 701.0813 of the statutes is created to read:

14 701.0813 Duty to inform and report. (1) A trustee shall keep the
15 distributees or permissible distributees of trust income or principal, and other
16 qualified beneficiaries who so request, reasonably informed about the
17 administration of the trust. Unless unreasonable under the circumstances, a trustee
18 shall promptly respond to a qualified beneficiary's request for information related to
19 the administration of the trust.

20 (2) A trustee shall do all of the following:

21 (a) Upon request of a qualified beneficiary, promptly furnish to the qualified
22 beneficiary either a copy of the portions of the trust instrument relating to the
23 interest of the qualified beneficiary or a copy of the trust instrument, in the discretion
24 of the trustee.

for a copy of the trust instrument

1 (b) Within a reasonable period of time after accepting a trusteeship, notify the
2 qualified beneficiaries of the acceptance and of the trustee's name, address, and
3 telephone number.

4 (c) Within a reasonable period of time after the date on which the trustee
5 acquires knowledge of the creation of an irrevocable trust, or the date on which the
6 trustee acquires knowledge that a formerly revocable trust has become irrevocable,
7 whether by the death of the settlor or otherwise, notify the qualified beneficiaries of
8 all of the following:

9 1. The trust's existence.

10 2. The identity of the settlor or settlors. ✓

I → 3. The name, address, and telephone number of each directing party and trust protector.

11

4 4. The right to request a copy of the documentation referred to in par. (a).

12

5 5. The right to request information under sub. (1).

13

6 6. The right to a trustee's report as provided in sub. (3).

14 (d) Notify the distributees or permissible distributees of trust income or
15 principal, and other qualified beneficiaries who so request, of any change in the
16 method or rate of the trustee's compensation.

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17 (3) (a) At least annually and upon the termination of a trust, a trustee shall
18 send to the distributees or permissible distributees of trust income or principal, and
19 to other qualified beneficiaries who request it, all of the following:

20 1. A report of the trust property, liabilities, receipts, and disbursements,
21 including the source and amount of the trustee's compensation.

22 2. A listing of the trust assets and, if feasible, their respective market values.

23 (b) Upon a vacancy in a trusteeship, unless a cotrustee remains in office, the
24 former trustee shall send a report containing the information described under par.

25 (a) 1. to the qualified beneficiaries. A personal representative or guardian may send

1 the qualified beneficiaries a report containing the information described in par. (a)
2 1. on behalf of a deceased or incapacitated trustee.

3 (4) A qualified beneficiary may waive the right to a trustee's report or other
4 information otherwise required to be furnished under this section. A qualified
5 beneficiary, with respect to future reports and other information, may withdraw a
6 waiver previously given.

7 (5) Subsections (2) (b) and (c) and (3) do not apply to a trustee who accepts a
8 trusteeship before the effective date of this subsection [LRB inserts date], to an
9 irrevocable trust created before the effective date of this subsection [LRB inserts
10 date], or to a revocable trust that becomes irrevocable before the effective date of this
11 subsection [LRB inserts date].

12 **SECTION 97.** 701.0814 of the statutes is created to read:

13 **701.0814 Discretionary powers; tax savings.** (1) Notwithstanding the
14 breadth of discretion granted to a trustee in the terms of the trust, including the use
15 of such terms as "absolute," "sole," or "uncontrolled," the trustee shall exercise a
16 discretionary power in good faith and in accordance with the terms and purposes of
17 the trust and the interests of the beneficiaries. A court may not determine that a
18 trustee abused its discretion merely because the court would have exercised the
19 discretion in a different manner or would not have exercised the discretion.

20 (2) Subject to sub. (4), and unless the terms of the trust expressly indicate that
21 a provision of this subsection does not apply, all of the following apply:

22 (a) A person other than a settlor who is a beneficiary and a trustee, directing
23 party, or trust protector of a trust that confers on the trustee, directing party, or trust
24 protector a power to make discretionary distributions to or for the trustee's, directing

1 party's, or trust protector's personal benefit may exercise the power only in
2 accordance with an ascertainable standard.

3 (b) A trustee, directing party, or trust protector may not exercise a power to
4 make discretionary distributions to satisfy a legal obligation of support that the
5 trustee, directing party, or trust protector personally owes another person.

6 (3) A power whose exercise is limited or prohibited by sub. (2) may be exercised
7 by a majority of the remaining trustees, directing parties, or trust protectors whose
8 exercise of the power is not so limited or prohibited. If the power of all trustees,
9 directing parties, or trust protectors is so limited or prohibited, the court may appoint
10 a trustee, directing party, or trust protector with authority to exercise the power.

11 (4) Subsection (2) does not apply to any of the following:

12 (a) A power held by the settlor's spouse who is the trustee, directing party, or
13 trust protector of a trust for which a marital deduction, as defined in section 2056 (b)
14 (5) or 2523 (e) of the Internal Revenue Code, was previously allowed.

15 (b) A trust during a period when the trust may be revoked or amended by its
16 settlor.

17 (c) A trust if contributions to the trust qualify for the annual exclusion under
18 section 2503 (e) of the Internal Revenue Code.

19 **SECTION 98.** 701.0815 of the statutes is created to read:

20 **701.0815 General powers of trustee.** (1) A trustee, without authorization
21 by the court, may exercise the following powers:

22 (a) Powers conferred by the terms of the trust.

23 (b) Except as limited by the terms of the trust, all of the following powers:

24 1. All powers over the trust property that an unmarried, competent owner has
25 over individually owned property.

1 2. Any other powers appropriate to achieve the proper investment,
2 management, and distribution of the trust property.

3 3. Any other powers conferred by this chapter.

4 (2) The exercise of a power is subject to the fiduciary duties prescribed by this
5 chapter.

6 **SECTION 99.** 701.0816 of the statutes is created to read:

7 **701.0816 Specific powers of trustee.** Without limiting the authority
8 conferred by s. 701.0815, a trustee may do all of the following:

9 (1) Collect trust property and accept or reject additions to the trust property
10 from a settlor or any other person.

11 (2) Acquire or sell property, for cash or on credit, at public or private sale.

12 (3) Exchange, partition, or otherwise change the character of trust property.

13 (4) Deposit trust money in an account in a regulated financial-service
14 institution.

15 (5) Borrow money, with or without security, and mortgage or pledge trust
16 property for a period within or extending beyond the duration of the trust.

17 (6) With respect to an interest in a proprietorship, partnership, limited liability
18 company, business trust, corporation, or other form of business or enterprise,
19 continue the business or other enterprise and take any action that may be taken by
20 shareholders, members, or property owners, including merging, dissolving, or
21 otherwise changing the form of business organization or contributing additional
22 capital.

23 (7) With respect to a stock or other security, exercise the rights of an absolute
24 owner, including the right to do any of the following:

1 (a) Vote, or give proxies to vote, with or without power of substitution, or enter
2 into or continue a voting trust agreement.

3 (b) Hold a stock or other security in the name of a nominee or in other form
4 without disclosure of the trust so that title may pass by delivery.

5 (c) Pay calls, assessments, and other sums chargeable or accruing against the
6 stock or other security, and sell or exercise stock subscription or conversion rights.

7 (d) Deposit the stock or other security with a depository or other regulated
8 financial-service institution.

9 **(8)** With respect to an interest in real property, construct, or make ordinary or
10 extraordinary repairs to, alterations to, or improvements in, buildings or other
11 structures, demolish improvements, raze existing or erect new party walls or
12 buildings, subdivide or develop land, dedicate land to public use or grant public or
13 private easements, and make or vacate plats and adjust boundaries.

14 **(9)** Enter into a lease for any purpose as lessor or lessee, including a lease or
15 other arrangement for exploration and removal of natural resources, with or without
16 the option to purchase or renew, for a period within or extending beyond the duration
17 of the trust.

18 **(10)** Grant an option involving a sale, lease, or other disposition of trust
19 property or acquire an option for the acquisition of property, including an option
20 exercisable beyond the duration of the trust, and exercise an option so acquired.

21 **(11)** Insure the property of the trust against damage or loss and insure the
22 trustee, the trustee's agents, any directing party, any trust protector, and the
23 beneficiaries against liability arising from the administration of the trust.

24 **(12)** Abandon or decline to administer property of no value or of insufficient
25 value to justify its collection or continued administration.

1 (13) With respect to possible liability for violation of environmental law, do any
2 of the following:

3 (a) Inspect or investigate property the trustee holds or has been asked to hold,
4 or property owned or operated by an organization in which the trustee holds or has
5 been asked to hold an interest, for the purpose of determining the application of
6 environmental law with respect to the property.

7 (b) Take action to prevent, abate, or otherwise remedy any actual or potential
8 violation of any environmental law affecting property held directly or indirectly by
9 the trustee, whether taken before or after the assertion of a claim or the initiation
10 of governmental enforcement.

11 (c) Decline to accept property into trust or disclaim any power with respect to
12 property that is or may be burdened with liability for violation of environmental law.

13 (d) Compromise claims against the trust that may be asserted for an alleged
14 violation of environmental law.

15 (e) Pay the expense of any inspection, review, abatement, or remedial action to
16 comply with environmental law.

17 (14) Pay or contest any claim, settle a claim by or against the trust, and release,
18 in whole or in part, a claim belonging to the trust.

19 (15) Pay taxes, assessments, compensation of the trustee, a directing party, a
20 trust protector, and employees and agents of the trust, and other expenses incurred
21 in the administration of the trust. ✓

22 (16) Exercise elections with respect to federal, state, and local taxes.

23 (17) Select a mode of payment under any employee benefit or retirement plan,
24 annuity, or life insurance payable to the trustee, exercise rights thereunder,

1 including exercise of the right to indemnification for expenses and against liabilities,
2 and take appropriate action to collect the proceeds.

3 (18) Make loans out of trust property, including loans to a beneficiary on terms
4 and conditions the trustee considers to be fair and reasonable under the
5 circumstances. The trustee has a lien on future distributions for repayment of loans
6 under this subsection.

7 (19) Pledge trust property to guarantee loans made by others to the beneficiary.

8 (20) Appoint a trustee to act in another jurisdiction with respect to trust
9 property located in the other jurisdiction, confer upon the appointed trustee all of the
10 powers and duties of the appointing trustee, require that the appointed trustee
11 furnish security, and remove any trustee so appointed.

12 (21) Pay an amount distributable to a beneficiary who is under a legal
13 disability or who the trustee reasonably believes is incapacitated, by paying it
14 directly to the beneficiary, applying it for the beneficiary's benefit, or by doing any
15 of the following:

16 (a) Paying the amount to the beneficiary's conservator or the beneficiary's
17 guardian of the estate.

18 (b) Paying the amount to the beneficiary's custodian under the Uniform
19 Transfers to Minors Act under ss. 54.854 to 54.898 or the Uniform Custodial Trust
20 Act under ss. 54.950 to 54.988, and, for that purpose, creating a custodianship or
21 custodial trust.

22 (c) If the trustee does not know of a conservator, guardian of the estate,
23 custodian, or custodial trustee, paying the amount to an adult relative or other
24 person having legal or physical care or custody of the beneficiary or to the guardian
25 of the person of the beneficiary, to be expended on the beneficiary's behalf.

1 (d) Managing the amount as a separate fund on the beneficiary's behalf, subject
2 to the beneficiary's continuing right to withdraw the distribution.

3 (22) On distribution of trust property or the division or termination of a trust,
4 make distributions in divided or undivided interests, allocate particular assets in
5 proportionate or disproportionate shares, value the trust property for those
6 purposes, and adjust for resulting differences in valuation.

7 (23) Resolve a dispute concerning the interpretation of the trust or its
8 administration by mediation, arbitration, or other procedure for alternative dispute
9 resolution.

10 (24) Prosecute or defend an action, claim, or judicial proceeding in any
11 jurisdiction to protect trust property or the trustee, a directing party, or a trust
12 protector in the performance of the trustee's, directing party's or trust protector's
13 duties.

14 (25) Sign and deliver contracts and other instruments that are useful to
15 achieve or facilitate the exercise of the trustee's, directing party's or trust protector's
16 powers.

17 (26) On termination of the trust, exercise the powers appropriate to wind up
18 the administration of the trust and distribute the trust property to the persons
19 entitled to it.

20 (27) Create or fund a plan under section 529 of the Internal Revenue Code, or
21 other college savings vehicle, for a beneficiary's benefit.

22 SECTION 100. 701.0817 of the statutes is created to read:

23 **701.0817 Distribution upon termination.** (1) Upon termination or partial
24 termination of a trust, the trustee may send a proposal for distribution to the
25 beneficiaries of the trust. The right of any beneficiary to whom the proposal is sent

1 to object to the proposed distribution terminates if the beneficiary does not notify the
2 trustee of an objection within 30 days after the proposal was sent but only if the
3 proposal informed the beneficiary of the right to object and of the time allowed for
4 objection.

5 (2) Upon the occurrence of an event terminating or partially terminating a
6 trust, the trustee shall proceed within a reasonable time to distribute the trust
7 property to the persons entitled to it, subject to the right of the trustee to retain a
8 reasonable reserve for the payment of debts, expenses, and taxes.

9 (3) A release by a beneficiary of a trustee from liability for breach of trust is
10 invalid to the extent any of the following applies:

- 11 (a) The release was induced by improper conduct of the trustee.
- 12 (b) The beneficiary, at the time of the release, did not know of the beneficiary's
13 rights or of the material facts relating to the breach.

14 SECTION 101. 701.0818 of the statutes is created to read:

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93-15*

15 **701.0818 Trust protectors.** (1) APPOINTMENT. A settlor or a court may
16 *provide for the appointment of* appoint a trust protector in a trust instrument, whether referred to as a trust
17 protector, another title, or no title. A trust protector has the powers granted to the
18 trust protector in the trust instrument. *(CS)*

19 **(2) LEGAL CAPACITY OF TRUST PROTECTOR POWERS.** *AND DUTIES* (a) A settlor or a court may
20 specify in a trust instrument that a particular power granted to a trust protector is
21 *exercisable or* required to be exercised in a fiduciary, *or* nonfiduciary, or personal capacity.

22 (b) If a power is exercisable in a fiduciary capacity *and* the trust protector
23 *shall act in good faith and* exercises the power, all of the following apply:

24 *(No P)* 1. The trust protector shall exercise the power in a manner that is consistent
25 with the terms *and purposes* of the trust instrument *and the interests of the beneficiaries*

and whether a power granted to a trust protector in a nonfiduciary capacity must be exercised in good faith

SECTION 101

1 2. With respect to the exercise of the power, the trust protector has fiduciary
2 duties and obligations to the beneficiaries that are similar to the fiduciary duties and
3 obligations that the trustee has to the beneficiaries.

4 3. The trust protector may be held liable for damages associated with a
5 violation of a duty or obligation described under subd. 2.

6 (c) If a power is exercisable in a nonfiduciary capacity, all of the following apply:

7 1. The trust protector may exercise the power in a manner that is inconsistent
8 with the terms of the trust but shall exercise the power in good faith ^{unless the trust instrument provides otherwise.}

9 2. With respect to the power, the trust protector does not have fiduciary duties
10 or obligations to the beneficiaries or to any other party.

11 3. The trust protector may be held liable for damages associated with any of the
12 following:

13 a. The exercise or nonexercise of the power if the trust protector's exercise or
14 nonexercise of a nonfiduciary power was not in good faith.

15 b. The actions or inactions of a fiduciary over whom the trust protector has a
16 power of removal if the trust protector's failure to exercise the power of removal was
17 not in good faith.

18 (d) If a power is exercisable in a personal capacity, all of the following apply:

19 1. The trust protector may exercise the power in a manner that is inconsistent
20 with the terms of the trust.

21 2. With respect to the power, the trust protector does not have fiduciary duties
22 or obligations to the beneficiaries or to any other party.

23 3. The trust protector is not subject to any standard of care with respect to the
24 exercise or nonexercise of the power, including an obligation to act in good faith.

1 4. The trust protector is not liable for the exercise or nonexercise of the power
2 or for the actions or inactions of a fiduciary over whom the trust protector has a power
3 of removal.

4 (d) (e) Except as provided in par. (c) 3., a trust protector does not have a duty to
5 exercise its powers and does not have a duty to monitor the conduct of the trustees
6 or any directing party, nor a duty to monitor changes in the law or circumstances of
7 the beneficiaries.

****NOTE: I included an exception for par. (c) 3., because under that subdivision a trust protector may be held liable for damages associated with the nonexercise of a power if the nonexercise was not in good faith. Please confirm that sub. (2) is consistent with your intent.

8 (3) TRUST PROTECTOR POWERS. (a) Except as provided in pars. (b) to (d), if a
9 trust instrument does not specify that a trust protector is required to exercise a
10 particular power in a fiduciary, nonfiduciary, or personal capacity, the trust protector
11 shall exercise the power in a nonfiduciary capacity, including the power to do any of
12 the following:

13 1. Modify or amend the trust instrument to respond to opportunities related
14 to, or changes in, restraints on alienation or other state laws restricting the terms
15 of a trust, the distribution of trust property, or the administration of the trust.

16 2. Modify or amend the trust instrument to achieve a different tax status or to
17 respond to changes in federal or state law.

18 3. Change the principal place of administration, the tax situs of the trust, or
19 the governing law of the trust.

20 4. Eliminate or modify the interests of a beneficiary or add a new beneficiary
21 or class of beneficiaries.

****NOTE: Subdivisions 4. and 5. contained language about actions that a trust protector could not take in exercising a power. I moved this language to sub. (4) because

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it did not follow the introductory language for this list of powers, which relates to what powers must be exercised in a nonfiduciary capacity.

1 5. Modify the terms of a power of appointment granted under the trust.

2 6. Remove, replace, or appoint a trustee, trust protector, or directing party.

***NOTE: How is this power different that the power described in subd. 9.?

3 7. Terminate the trust.

4 8. Appoint assets to a new trust under s. 701.0418.

5 9. Appoint a successor trustee, trust protector, or directing party.

6 10. Advise the trustee on matters concerning a beneficiary.

7 11. Advise the trustee on the exercise of a trustee duty or power, including the
8 duty to provide notification to qualified beneficiaries under s. 701.0813.

9 12. Except as provided in par. (b) 5., consent to or veto specified actions of a
10 trustee or a directing party.

11 (b) If a trust instrument grants a trust protector the power to do any of the
12 following actions and the trust instrument does not specify that the trust protector
13 power is required to exercise the power in a fiduciary, nonfiduciary, or personal
14 capacity, the trust protector shall exercise the power in a fiduciary capacity:

15 1. Interpret terms of the instrument at the request of the trustee.

16 2. Correct errors or ambiguities in the terms of the trust that might otherwise
17 require court construction or defeat the settlor's intent.

18 3. Review and approve the trustee's reports or accounting.

19 4. Resolve disputes between the trustee or a directing party and a beneficiary.

20 5. Consent to or veto distributions to a beneficiary.

21 (c) A trust protector who is also the settlor or a qualified beneficiary shall
22 exercise any power granted to the trust protector in a personal capacity.

1 (d) A trust protector who is also serving as a trustee or a directing party shall
2 exercise any power granted to the trust protector in a fiduciary capacity.

****NOTE: Could the same trust protector be described in both pars. (c) and (d)? If
so, in what capacity would the trust protector be required to exercise his or her powers?

3 ^B (5) (e) A trust protector may resign or release any power granted to the trust
4 protector by giving written notice to the trustee and to any successor trust protector.

5 (6) (4) PROHIBITED ACTIONS. A trust protector may not exercise a power granted to
6 the trust protector to do any of the following:

7 (a) Create or expand any beneficial interest, power of appointment, right of
8 withdrawal, or right to receive trust property as a result of the exercise of a power
9 of appointment in favor of the trust protector, the trust protector's estate, the trust
10 protector's creditors, or creditors of the trust protector's estate.

11 (b) Modify or amend a trust in order to do any of the following:

12 1. Remove a requirement pursuant to 42 USC 1396p (d) (4) to pay back a
13 governmental entity for benefits provided to the permissible beneficiary at the death
14 of that beneficiary.

15 2. Reduce or eliminate an income interest of the income beneficiary of any of
16 the following:

17 a. A trust for which a marital deduction has been taken for federal income tax
18 purposes under section 2056 or 2523 of the Internal Revenue Code or for state tax
19 purposes under any comparable provision of applicable state law, during the life of
20 the settlor's spouse.

21 b. A charitable remainder trust under section 664 of the Internal Revenue
22 Code, during the life of the noncharitable beneficiary.

1 c. A grantor retained annuity trust under section 2702 of the Internal Revenue
2 Code, during any period in which the settlor is a beneficiary.

3 d. A trust for which an election as a qualified Subchapter S Trust under section
4 1361(d) of the Internal Revenue Code is currently in place.

5 (c) Modify any beneficial interest of a trust that qualified for a marital
6 deduction or charitable deduction from federal or state estate tax in a manner that
7 would have caused such trust not to qualify for the deduction.

****NOTE: This paragraph is based on the substantive restriction that was included
in your proposed sub. (3) (a) 4. Please confirm that this placement, particularly the
introduction, is consistent with your intent.

8 (d) Grant a beneficial interest to any individual or class of individuals not
9 specifically provided for under the trust instrument.

****NOTE: This paragraph is based on the substantive restriction that was included
in your proposed sub. (3) (a) 5. Please confirm that this placement, particularly the
introduction, is consistent with your intent.

10 (e) Cause the trust property to be included in the trust protector's gross estate
11 for federal or state tax purposes.

12 (7) (5) SETTLOR RIGHTS. A trust protector is not subject to the direction of the
13 settlor and the settlor may not bring a cause of action against the trust protector. A
14 trust protector may consider a settlor's goals, objectives, and philosophies in
15 establishing the trust and the trust's structure when exercising the powers granted
16 to the trust protector and may do so regardless of whether the settlor is deceased.

****NOTE: Section 701.0818 (1), which you asked about in your drafting
instructions, allows a trustee to follow the direction of a settlor that is contrary to the
terms of the trust while the trust is revocable. As a drafting matter, there is not a conflict
between s. 701.0818 and this subsection. Currently, a trust protector is not subject to the
direction of the settlor, but could arguably, if he or she desired, follow the direction of the
settlor under this provision. Whether or not the trust protector could take actions that
are inconsistent with the terms of the trust will depend on the legal capacity under which
the trust protector is acting. See sub. (2). Please let me know if you would like to make
any changes to this section.

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1 **(6) RESPONSIBILITIES OF TRUSTEES AND DIRECTING PARTIES.** (a) A trustee and a
2 directing party are not liable for any loss that results from the trustee or the directing
3 party taking an action that is consistent with a modification of the trustee's or the
4 directing party's powers, authority, or discretion as a result of an action taken by a
5 trust protector unless the trustee or the directing party breaches a duty owed for the
6 exercise of the power, authority, or discretion, as modified by the trust protector.

7 (b) A trustee and a directing party may refuse to act consistently with a trust
8 protector's modification if the trustee or the directing party knows the modification
9 is contrary to the terms of the trust or would constitute a serious breach of any duty
10 owed by the trust protector.

11 (c) A trustee and a directing party do not have a duty to monitor the conduct
12 of the trust protector, provide advice to or consult with the trust protector, or
13 communicate with, warn, or apprise any beneficiary concerning instances in which
14 the trustee or the directing party would or might have exercised the trustee's or the
15 directing party's discretion in a manner different from the manner exercised by the
16 trust protector.

17 **(7) RIGHT TO INFORMATION.** A trust protector may request information about
18 the trust from the trustee and, if such information is related to the exercise or
19 nonexercise of a power expressly granted to the trust protector in the trust
20 instrument, the trustee shall provide the requested information to the trust
21 protector. Except as otherwise provided in this chapter, a trustee does not have an
22 obligation to provide any information to the trust protector that the trust protector
23 does not request. If a trustee is bound by any confidentiality restrictions with respect
24 to information requested by a trust protector, the trustee may require that the trust

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1 protector agree to be bound by the confidentiality restrictions before delivering such
2 information to the trust protector.

3 (8) REIMBURSEMENT OF COSTS AND FEES. From the trust property for which the
4 trust protector is acting, a trustee shall provide to a trust protector reimbursement
5 of attorney fees and expenses, including the cost of defending any claim made against
6 the trust protector arising from the acts or omissions of the trust protector, unless
7 the trust protector was not acting in accordance with the applicable legal capacity,
8 as described in sub. (2).

****NOTE: Please confirm that this is consistent with your intent.

9 (9) APPLICATION OF OTHER SECTIONS TO TRUST PROTECTORS. Sections 701.0701,
10 701.0708, 701.0709, 701.1003, 701.1005, 701.1006, 701.1007, 701.1008, 701.1009,
11 and 701.1010 apply to a trust protector as if the trust protector is the trustee.
12 Sections 701.1001 and 701.1002 apply to a trust protector who is acting in a fiduciary
13 or nonfiduciary capacity as if the trust protector is the trustee but do not apply to a
14 trust protector who is acting in a personal capacity.

15 (12) (10) JURISDICTION. A person who accepts an appointment to serve as a trust
16 protector of a trust having its principal place of administration in this state submits
17 to the jurisdiction of the courts of this state, as provided in s. 701.0202 (1), with
18 respect to matters involving the trust.

19 SECTION 102. 701.0819 of the statutes is created to read:

Marital deduction transfers

20 701.0819 Presumptions about trust contributions. (1) For purposes of
21 this section, "marital deduction gift" means a gift intended to qualify for the marital
22 deduction as indicated by the terms of the trust regardless of whether the trust
23 instrument is ambiguous.

transfer of lifetime or testamentary transfer of property that is