

Rhode Island Code Title 18 — Fiduciaries

CHAPTER 18-1 — Application of Laws to Trusts

§ 18-1-1 — Law expressly applicable when property is within state.

Whenever a person, whether or not a resident of this state and whether or not a citizen of the United States, subsequently creates a trust of personal property by deed, agreement, will, or otherwise, and: (1) the instrument creating the trust provides in substance that it shall be construed and regulated by the law of this state, (2) the trust is to be or is in fact administered in this state, and (3) the property, or the instruments or securities representing or evidencing the property, or the major part in value of the property, is or are situated within this state at the time of the creation of the trust, the validity, construction, effect, and administration of the trust shall be determined and governed by the law of this state without reference to the law of any other state.

§ 18-1-2 — Law expressly applicable when trustees are within state.

Whenever a person, whether or not a resident of this state and whether or not a citizen of the United States, subsequently creates a trust of personal property by deed, agreement, will, or otherwise, and: (1) the instrument creating the trust provides in substance that it shall be construed and regulated by the law of this state, (2) the trust is to be or is in fact administered in this state, and (3) the trustee, or if more than one at least one of them, is a resident of this state or a domestic corporation or national bank located within this state duly authorized by law to act as trustee, the validity, construction, effect, and administration of the trust shall be determined and governed by the law of this state without reference to the law of any other state.

§ 18-1-3 — Law expressly applicable to trusts created by residents.

Whenever a person, who is at the time a resident of this state, subsequently creates a trust of personal property by deed, agreement, will, or otherwise, and the instrument creating the trust provides in substance that it shall be wholly or partially construed and regulated by the law of this state, the validity, construction, effect, and administration of the trust shall in whole, or to the extent provided in the instrument, be determined and governed by the law of this state without reference to the law of any other state.

§ 18-1-4 — Prior trusts unaffected.

Nothing in this chapter shall, by implication or otherwise, in any manner affect any trust created before January 28, 1941.

CHAPTER 18-2 — Appointment of Fiduciaries

§ 18-2-1 — Appointment of trustees by superior court.

If no trustee is named in any instrument creating a trust, or the trustee named in the instrument renounces or declines to accept the trust, or whenever a trustee, either original or substituted, and whether appointed by a court or otherwise, is dead, or desires to be discharged from the trust or powers reposed in or conferred on the trustee, or refuses to act or is incapable of acting as trustee, then any person interested under the trust, or the surviving or continuing trustees or trustee for the time being, or the personal representatives of the last surviving or continuing trustee, may apply to the superior court and the court may at that time, after due notice to the parties in interest, or to any of them that the court shall adjudge to be necessary parties, appoint some suitable person or persons to be trustee or trustees, or new trustee or trustees, as the case may be, under the trust.

§ 18-2-2 — Change in number of trustees.

On application for the appointment of a new trustee, the number of trustees may be increased or decreased; but this action is, upon petition, subject to review by the supreme court.

§ 18-2-3 — Filling of vacancies not obligatory with court.

On application for the appointment of a new trustee, it shall not be obligatory to appoint more than one new trustee where only one trustee was originally appointed, nor to fill up the original number of trustees where two (2) or more than two (2) trustees were originally appointed.

§ 18-2-4 — Title in judicially appointed trustees.

In all cases where a trustee or trustees shall be or shall have been appointed under any instrument creating a trust by the order or decree of any court of competent jurisdiction, either within or without the state of Rhode Island, the order or decree shall vest in the appointed trustee or trustees, either solely or jointly with the then surviving or other trustee or trustees, as the case may be, the title of all the trust estate and property, in the same manner as though they had been named as original trustee or trustees in the instrument creating the trust. However, the court, in its discretion, may order the conveyance or other assurance of the trust estate or of any part of the trust estate that it may deem necessary or proper for more effectually vesting the trust estate.

§ 18-2-5 — Powers of judicially appointed trustees.

Every trustee appointed pursuant to the provisions of this chapter shall have the same powers, authorities, and discretions, and may in all respects act as if the trustee had been originally appointed a trustee by the instrument, if any, creating the trust.

§ 18-2-6 — Applicability to deceased and continuing trustees.

The provisions of §§ 18-2-1 – 18-2-8, as far as they relate to a trustee who is dead, shall include the case of a person nominated trustee in a will but dying before the testator; and these provisions, as far as they relate to a continuing trustee, shall include a refusing or retiring trustee, if willing to act in the execution of the provisions of §§ 18-2-1 – 18-2-8.

§ 18-2-7 — Provisions of instrument controlling.

Sections 18-2-1 – 18-2-6 apply only if, and as far as, a contrary intention is not expressed in the instrument, if any, creating the trust, and shall have effect subject to the terms of that instrument, and to any provisions contained in the instrument.

§ 18-2-8 — Applicability to prior trusts – Powers additional.

Sections 18-2-1 – 18-2-6 apply to trusts previously or subsequently created, and shall be considered in addition to the ordinary equity powers of any court.

§ 18-2-9 — Recording of decree of appointment.

In case real estate constitutes any portion of the trust property, a certified copy of the order or decree of the court appointing the trustees, under the seal of the court making the order or decree, shall be recorded in the records of land evidence in the town or city where the real estate lies; and in case personal estate constitutes the trust property or any portion of it, a copy of the order or decree of the court, similarly certified, shall be recorded in the records of land evidence in the town or city in which the trustee or trustees, or any of them, may reside.

CHAPTER 18-3 — Fiduciaries' Emergency Act

§ 18-3-1 — Short title.

This chapter may be cited as the "Fiduciaries' Emergency Act".

§ 18-3-2 — Definitions.

As used in this chapter:

(1) "Cofiduciary" means a trustee or personal representative empowered to exercise fiduciary functions jointly with any person authorized to delegate functions under the provisions of § 18-3-3;

(2) "Fiduciary" means any trustee or personal representative;

(3) "Functions" includes discretions, powers, and duties;

(4) "Person" includes corporations as well as natural persons;

(5) "Personal representative" means an executor under a will, an administrator cum testamento annexo, an administrator de bonis non, an administrator of an intestate estate, or a guardian of the estate of any person;

(6) "Power of attorney" and "power" means a power of attorney given pursuant to § 18-3-5;

(7) "Trustee" means any person who is designated in any written instrument, or court order, or in any will admitted to probate in this state to hold property upon trust, whether or not that person has assumed possession of the trust estate or entered upon his or her fiduciary duties;

(8) "War or national emergency" means any period during which the United States is engaged in any war, declared or undeclared, plus a period of sixty (60) days thereafter; and

(9) "War service" means:

(i) Active service during the period of any war or national emergency, whether within or outside of the territory of the United States of America, in any of the naval, military, or air forces of the United States;

(ii) Any active service during the period of any war or national emergency on any ship of United States registry; or

(iii) Any other work or employment during the period of any war or national emergency outside the continental United States and under the direction of the government of the United States.

§ 18-3-3 — Delegation of powers by fiduciary.

A trustee or personal representative may delegate, subject to the provisions of §§ 18-3-4 – 18-3-7, to any person or to two (2) or more persons jointly the exercise of any or all functions vested in him or her as the fiduciary, during the whole or any part of:

(1) Any period during which the fiduciary is engaged in war service; or

(2) Any period during which the fiduciary is outside of the continental United States and, for any reason connected with or resulting from any war or national emergency, it is not reasonably practicable for him or her to return to the United States.

§ 18-3-4 — Implied or constructive trust.

Nothing in § 18-3-3 shall authorize the delegation of the exercise of any functions in relation to an implied or constructive trust.

§ 18-3-5 — Power of attorney – Recording.

Any functions delegated pursuant to the authority of § 18-3-3 shall be delegated by written power of attorney, signed before at least one witness, and the power of attorney may be acknowledged and recorded where the instrument or order under which the fiduciary was appointed is recorded, or, if the instrument or order has not been recorded in any town or city in this state, in the office of the recorder of deeds of the town or city in which any property included in the assets of the estate is situated.

§ 18-3-6 — Power additional.

The power of delegation conferred by § 18-3-3 shall be in addition to and not in derogation of any other power of delegation, whether conferred by statute or otherwise.

§ 18-3-7 — Judicial approval of delegation.

(a) No delegation of any functions pursuant to the authority of § 18-3-3 shall become effective until the delegation has been authorized or approved, if the delegation is by a trustee, by the superior court of this state for the county within which the power of attorney may be recorded, or if the delegation is by a personal representative, by the probate court of the city or town in which the power of attorney may be recorded.

(b) The superior court and the several probate courts are authorized and empowered to approve or disapprove any delegation in their discretion, upon petition of the donor or donee thereof ex parte and without notice, or upon any reasonable notice that the court shall direct.

(c) A copy of any order granting the approval, certified by the clerk of the court granting the approval, shall be conclusive evidence in favor of a person dealing with the donee of the power of attorney that the power of attorney was validly given pursuant to this section and was operative and effective as of the date of

§ 18-3-8 — Time of execution of power of attorney.

A power of attorney executed under the authority of § 18-3-3 may be made either before or after the commencement of the period to which the power relates, to become operative after the beginning of the period.

§ 18-3-9 — Acts performed before notice of revocation of power.

Notwithstanding the revocation of any power of attorney, whether by act of the donor of the power or by operation of law, any act done or instrument executed by the donee of the power shall be as valid and effectual in favor of any person dealing with the donee as if the power of attorney had remained unrevoked at the time when the act was done or the instrument was executed, unless the person dealing with the act or instrument had at that time actual notice of the revocation of the power of attorney.

§ 18-3-10 — Notice that donor of power is missing.

No person shall be deemed, for the purposes of this chapter, to have actual notice of the death of any donor of a power of attorney only by reason of a report to the effect that the donor is missing, or is missing and is believed to have been killed, unless the death of the donor has been presumed by order of a court of competent jurisdiction and the person in question has notice of the order.

§ 18-3-11 — Appointment in good faith.

In any proceedings brought against the donor of a power of attorney in respect of any act or default of the donee of the power, it shall be a sufficient defense for the donor to prove that the donee was appointed by the donor in good faith and without negligence.

§ 18-3-12 — Judicial supervision of donee.

(a) All jurisdiction and powers of any court shall apply to the donee of the power of attorney in the same manner and to the same extent with respect to the exercise of the functions and the administration of the trust or estate to which the power of attorney relates, as if the donee was acting in relation to the trust or estate in the same capacity as the donor of the power of attorney.

(b) The court at any time, or from time to time, may make any orders with respect to the bonds of the donor and donee of any power of attorney, or either of them, and as to the surety on the bonds, if any, that the court deems proper, with or without notice, in its discretion.

§ 18-3-13 — Delegation of powers by donee.

The donee of a power of attorney, except as restricted by the terms thereof, may himself or herself exercise all the powers of delegation as the donor of the power of attorney might personally exercise.

§ 18-3-14 — Exercise of powers by cofiduciaries.

If any trustee or personal representative fails to delegate the exercise of any functions vested in him or her as a fiduciary, as permitted by §§ 18-3-3 – 18-3-7, or if, having made a delegation for a limited period, the period has expired, and if the trustee or personal representative is engaged in war service or is outside the continental United States, and for any reason connected with or resulting from any war or national emergency it is not reasonably practicable for him or her to return to the United States, the cofiduciary or cofiduciaries of the trustee or personal representative, if there is any, shall have and may exercise, as long and only as long as the conditions specified in the preceding provisions of this section exist, all of the functions and shall be subject to all of the responsibilities that would devolve upon the cofiduciary or cofiduciaries if the trustee or personal representative were dead, except, the duty to make an accounting of the estate as if the trustee or personal representative had died. Thereafter, until these conditions cease to exist, the trustee or personal representative shall no longer have or possess any of the functions or responsibilities.

§ 18-3-15 — Conclusive effect of statement under oath by cofiduciaries.

A statement under oath by the cofiduciary or cofiduciaries, upon information and belief, as to the existence of any of the conditions specified in § 18-3-14, shall be conclusive evidence of that fact in favor of any person dealing with the cofiduciary or cofiduciaries.

§ 18-3-16 — Chapter controlling.

The provisions of this chapter shall be controlling, notwithstanding any rule of law or equity or any provisions of any other statute of this state.

CHAPTER 18- 4 — Powers of Fiduciaries

§ 18-4-1 — Application of cy pres doctrine.

In all cases of charitable gifts of real or personal estate, whether by deed or will, where the purposes of the donor cannot be literally carried into effect, a complaint may be filed for a cy pres application of the trust property; and at that time all proceedings, orders, and decrees shall be had and taken in the suit, to carry out the intents of the donor as near as may be, that the charity may not fail, and to this end application as provided may be made in the same complaint for appointment of a new trustee or trustees under or pursuant to the provisions of §§ 18-2-1 – 18-2-8, or under the general equity powers of the court.

§ 18-4-2 — Powers of trustees.

(a) Every trust, inter vivos or testamentary, previously or subsequently effective, in which no provision is made to the contrary, shall be deemed to give to the trustees or trustee under the trust for the time being, in addition to any other power they may lawfully have, full power in their, his, or her discretion, or if a corporation in the discretion of its duly authorized officer or committee:

(1) To invest and reinvest the trust estate, or any part of it, in real or personal property, foreign or domestic, including, without limiting the generality of the preceding provisions, savings accounts of banks and trust companies and shares of stock or other securities of corporations, building and loan associations, investment trusts, and investment companies, and to vary from time to time the investments of the trust estate;

(2) To exercise discretionary powers of sale, lease, partition by suit or deed, and exchange over the trust estate, or any part of it, whether real or personal property; in case of any sale, to sell at public or private sale, for cash or on credit and together or in parcels; in case of any lease, to lease for a period that the trustees or trustee shall deem advisable, whether terminating during the continuance of the trusts or thereafter; and in case of any partition or in case of any exchange, to give or receive money for equality of partition or exchange;

(3) To appoint a proxy or proxies, with or without power of substitution, to vote shares of a corporation or association included in the trust estate as directed or in a manner that the proxy or proxies shall deem best;

(4) To participate in, assent to, or disapprove any plan for the reorganization, recapitalization, consolidation, merger, winding up, or readjustment of the indebtedness of any corporation or association, and to take any and all action required by reason of participation in the plan; and

(5) Upon the termination of any trust with respect to any portion of the trust estate, to set aside the portion from the remainder of the trust estate; upon the termination of any trust with respect to the entire trust estate, or any part of it, to partition the trust estate into the shares, if any, in which it is distributable; and in connection with the setting aside of any portion or any partition to exercise the power of sale conferred by this section upon the trustees or trustee, and to allocate to any share in or part of the trust estate specific investments at their fair value at the time of allocation as determined by the trustees or trustee acting in good faith.

(b) The trustees or trustee may be authorized by the superior court to execute any or all of the powers set forth in subdivisions (a)(1) to (a)(5) of this section, upon the terms and conditions that the court may deem proper, notwithstanding any provision of any trust instrument which is or may possibly be deemed to be inconsistent with the exercise of any of these powers, if, in the opinion of the court, authority to exercise the power or powers is or may become necessary or desirable to enable the trustees or trustee to properly perform the duties and accomplish the purposes of the trust, the authorization to be granted only upon written application to a justice of the court and upon the notice, if any, that the justice may direct.

§ 18-4-3 — Arbitration.

Trustees may enter into rule of the court, in like manner as other parties, to submit matters in dispute, in relation to the estates represented by them, to arbitration and award.

§ 18-4-4 — Power of sale.

(a) Where a trust for sale, or a power of sale of property, is vested in trustees, they may sell or concur with any other person in selling all or any part of the property, either subject to prior encumbrances or not, and either together or in lots, by public auction or by private contract, subject to any conditions respecting title or evidence of title or other matter as the trustees think fit, with power to vary any contract for sale and to buy in at any auction as the trustees deem advantageous, or to rescind any contract for sale and to resell without being answerable for any resulting loss.

(b) This section applies only if, and as far as, a contrary intention is not expressed in the instrument creating the trust or power, and shall have effect, subject to the terms of that instrument and to the provisions therein contained.

(c) This section applies only to a trust or power created by an instrument executed on or after the first day of February, 1896.

§ 18-4-5 — Effect of trustee's receipt.

(a) The receipt in writing of any trustees or trustee for any money, securities, or other personal property or effects, payable, transferable, or deliverable to them, him, her, or it, under any trust or power, expressly including purchase money and loans, shall be a sufficient discharge for the personal property or effects, and shall effectually exonerate the person paying, transferring, or delivering the personal property or effects from seeing to the application, or being answerable for any loss or misapplication.

(b) This section applies to trusts previously or subsequently created.

§ 18-4-6 — Conveyance by infant trustee.

(a) Whenever any person seised or possessed of any real or personal estate upon any express, implied, resulting, or constructive trust is under the age of eighteen (18) years, the infant shall, when the circumstances of the trust require, or the trust is to be terminated, by direction of the superior court in any suit brought for that purpose, convey and transfer the estate to the person and in a manner, either personally or by master, that the court may direct; and every conveyance shall pass to the grantee in the estate all the interest of the infant in the estate, as effectually as if the infant were of full age at the time of making the conveyance.

(b) In case the infant does not make the conveyance, the infant may be compelled to make it by the court in like manner as if the infant were of full age.

§ 18-4-7 — Disposition of money payable to infant trustee.

The superior court may make all necessary orders and decrees for the payment and disposition of money belonging to an infant trustee, which may be payable by any person, upon the making of any conveyance under the provisions of § 18-4-6.

§ 18-4-8 — Settlement of debts and claims – Assent of court.

(a) An executor or administrator, or two (2) or more trustees or assignees acting together, or a sole acting trustee or assignee, if by the instrument, if any, creating the trust the sole trustee or assignee is authorized to execute the trusts and powers thereof, may, if and as he, she, they, or it think fit, with the assent as provided in this section, accept any composition or any security, real or personal, for any debt or for any property, real or personal, claimed, and may allow any time for payment of any debt, and may compromise, compound, abandon, submit to arbitration, or otherwise settle, any debt, account, claim, or thing whatever, relating to the deceased person's estate or to the trust; and for any of these purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things that to him, her, it, or them seem expedient, without being responsible for any loss occasioned by any act or thing done by him, her, it, or them, in good faith, if done with the assent of the probate court in case of executors or administrators, and of one of the justices of the superior court in the case of trustees or assignees.

(b) Application for the assent shall be in writing, and the assent, if given, shall be by order or decree and with or without notice or hearing, as the probate court or justice of the superior court shall deem best.

(c) In case the order is made, or decree entered, the order or decree shall be final and not subject to appeal or rehearing.

(d) As regards trustees or assignees, this section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust, and shall have effect subject to the terms of that instrument and to the provisions contained in it.

(e) This section applies to executorships, administratorships, trusts, and assignments previously or subsequently constituted or created.

§ 18-4-9 — Powers of surviving fiduciaries.

(a) Where a power or trust, whether discretionary or not, is given to or vested in two (2) or more executors, administrators, trustees, or assignees, jointly, then, unless the contrary is expressed in the instrument, if any, creating the power or trust, the power or trust may be exercised or performed by the survivors or survivor of them, or those occupying these positions for the time being.

(b) This section shall only apply to powers and trusts created after January 31, 1896.

§ 18-4-10 — Management powers exercised with court approval.

Whenever the sale, exchange, conveyance, or leasing of the whole or of any part or parts of any property held upon trust, whether the property is real, personal, or both, or the borrowing of money upon the credit of any trust property, or the extension or renewal of any existing obligation binding upon the whole or any part or parts of the trust property, or the platting of any lands held upon trust, or the dedication, laying out, or conveyance, with or without compensation, of any lands for streets or ways, either in connection with the platting or independently, shall, for any reason, appear to be desirable, the superior court, upon complaint brought by any trustee of any property, may, subject to the further provisions of §§ 18-4-11 – 18-4-14, authorize one or more of these transactions as may appear necessary or expedient, and may or may not require security for the application of the proceeds, and may, if necessary or desirable, authorize the making or creation of a mortgage, pledge, or other lien of or upon the whole or any part or parts of the trust property, for the purpose of securing any borrowing of money, or of securing any extension or renewal of an existing obligation.

§ 18-4-11 — Purposes for which borrowing authorized.

(a) Borrowing may be authorized for any one or more of the following purposes:

(1) To pay assessments upon the trust property for betterments;

(2) To pay for any repairs and improvements on the property that may be or become necessary or desirable by reason of the betterments, or by reason of the taking of any part or parts of the property by right of eminent domain;

(3) To pay for the erection, alteration, completion, or establishment of or additions to any building, buildings, or other improvements on the property;

(4) To discharge or reduce any existing obligations or encumbrances binding upon the trust property; or

(5) To pay for any charge or expense for any other purpose whatsoever which the court may approve as necessary or desirable for the protection or benefit of the trust property.

(b) Each borrowing may be authorized in an amount and on those terms and conditions and with any directions and instructions to the trustee or trustees that the court deems proper.

§ 18-4-12 — Leases authorized.

Leasing may be authorized either generally or with reference to a specific lease, for a fixed period or periods, whether or not the period or periods may extend beyond the time limited for the determination of the trust, with those privileges of renewal, upon the terms, and subject to the covenants and agreements, whether incidental or collateral, that the court may deem necessary or desirable, with power in the court to confer upon the trustee or trustees full or qualified discretion to determine any of the provisions of the lease or leases.

§ 18-4-13 — Parties to management proceedings – Guardians ad litem – Costs.

(a) Any persons who have any vested, contingent, executory, or future right, title, interest, or estate in or to any part of the trust property, and any persons who might by any future contingency have any right, title, interest, or estate, may join in bringing a proceeding under § 18-4-10, and any persons who do not join may be made parties defendant.

(b) Any persons not ascertained or not in being, who are or who may become entitled to any contingent, executory, or other future right, title, interest, or estate, together with the interests of these persons, may be designated and described in the proceeding for the purpose of having guardians ad litem appointed to represent them and their interests as provided in this section.

(c) Notice of the pendency of the proceeding shall be given to all parties defendant and to all persons not in being or not ascertained in the manner that the court may order.

(d) The court shall, in every proceeding, appoint guardians ad litem, who may also act as counsel, to represent parties non sui juris and persons not in being or not ascertained, who are designated and described according to this section, and the interests of these parties and persons.

(e) The cost of the appearance and services of the guardians ad litem and counsel, to be determined by the court, shall be paid, as the court may order, either out of the trust property generally, or out of the proceeds of any disposition of the property which may be ordered, or by the party or parties to the proceeding as the court may order.

§ 18-4-14 — Binding effect of authorized transactions.

(a) Any transaction authorized under this chapter shall be binding upon the entire estate and interest in the trust property of all the parties to the proceeding and of all persons designated and described in the proceeding, as provided.

(b) No transaction, note, covenant, or other obligation, executed or entered into as a part of or as an incident to any transaction, shall bind the trustee or trustees personally, insofar as the transaction, note, covenant, or other obligation is made by the trustee or trustees in his or her or their representative capacity.

§ 18-4-15 — Definitions.

(a) In §§ 18-4-16 – 18-4-21, unless the context or subject matter otherwise requires:

(1) "Bank" includes any person or association of persons, whether incorporated or not, carrying on the business of banking.

(2) "Fiduciary" includes a trustee under any trust, expressed, implied, resulting, or constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust, or estate.

(3) "Person" includes a corporation, partnership, or other association, or two (2) or more persons having a joint or common interest.

(4) "Principal" includes any person to whom a fiduciary owes an obligation.

(b) A thing is done "in good faith", within the meaning of §§ 18-4-16 – 18-4-21, when it is in fact done honestly, whether it is done negligently or not.

§ 18-4-16 — Payments or transfers to fiduciaries – Effect of misapplication by fiduciary.

A person who in good faith pays or transfers to a fiduciary any money or other property, which the fiduciary is authorized to receive, is not responsible for the proper application of the money or other property by the fiduciary; and any right or title acquired from the fiduciary in consideration of the payment or transfer is not invalid in consequence of a misapplication by the fiduciary.

§ 18-4-17 — Transfer of negotiable instrument by fiduciary.

If any negotiable instrument payable or indorsed to a fiduciary is indorsed by the fiduciary, or if any negotiable instrument payable or indorsed to his or her principal is indorsed by a fiduciary empowered to indorse the instrument on behalf of his or her principal, the indorsee is not bound to inquire whether the fiduciary is committing a breach of his or her obligation as fiduciary in indorsing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his or her obligation as fiduciary, unless he or she takes the instrument with actual knowledge of the breach, or with knowledge of any facts that his or her action in taking the instrument amounts to bad faith. If, however, the instrument is transferred by the fiduciary in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, or is transferred in any transaction known by the transferee to be for the personal benefit of the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary in fact commits a breach of his or her obligation as fiduciary in transferring the instrument.

§ 18-4-18 — Check drawn by fiduciary payable to third person.

If a check or other bill of exchange is drawn by a fiduciary, or in the name of his or her principal by a fiduciary empowered to draw the instrument in the name of his or her principal, the payee is not bound to inquire whether the fiduciary is committing a breach of his or her obligation as fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his or her obligation as fiduciary, unless he or she takes the instrument with actual knowledge of the breach, or with knowledge of any facts that his or her action in taking the instrument amounts to bad faith. If, however, the instrument is payable to a personal creditor of the fiduciary and delivered to the creditor in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, or is drawn and delivered in any transaction known by the payee to be for the personal benefit of the fiduciary, the creditor or other payee is liable to the principal if the fiduciary in fact commits a breach of his or her obligation as fiduciary in drawing or delivering the instrument.

§ 18-4-19 — Check drawn by and payable to fiduciary.

If a check or other bill of exchange is drawn by a fiduciary or in the name of his or her principal by a fiduciary empowered to draw the instrument in the name of his or her principal, payable to the fiduciary personally, or payable to a third person and by him or her transferred to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of his or her obligation as fiduciary in transferring the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his or her obligation as fiduciary, unless

he or she takes the instrument with actual knowledge of the breach, or with knowledge of any facts that his or her action in taking the instrument amounts to bad faith.

§ 18-4-20 — Deposit in name of fiduciary.

If a deposit is made in a bank to the credit of a fiduciary, the bank is authorized to pay the amount of the deposit or any part of it upon the check of the fiduciary, signed with the name in which the deposit is entered, without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of his or her obligation as fiduciary in drawing the check, or with knowledge of any facts that its action in paying the check amounts to bad faith. If, however, a check is payable to the drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of his or her obligation as fiduciary in drawing or delivering the check.

§ 18-4-21 — Deposit in fiduciary's personal account.

If a fiduciary makes a deposit in a bank to his or her personal credit of checks drawn by him or her upon an account in his or her own name as fiduciary, or of checks payable to him or her as fiduciary, or of checks drawn by him or her upon an account in the name of his or her principal if he or she is empowered to draw checks on that account, or of checks payable to his or her principal and indorsed by him or her, if he or she is empowered to indorse these checks, or if he or she otherwise makes a deposit of funds held by him or her as fiduciary, the bank receiving the deposit is not bound to inquire whether the fiduciary is committing a breach of his or her obligation as fiduciary; and the bank is authorized to pay the amount of the deposit or any part of it upon the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of his or her obligation as fiduciary in making the deposit or in drawing the check, or with knowledge of any facts that its action in receiving the deposit or paying the check amounts to bad faith.

§ 18-4-22 — Administration of trusts.

(a) In the administration of any trust which is a "private foundation," a "charitable trust," or a "split-interest trust," as these terms are defined in §§ 509(a), 4947(a)(1), and 4947(a)(2), respectively, of the Internal Revenue Code, 26 U.S.C. §§ 509(a), 4947(a)(1) and 4947(a)(2), the following acts are prohibited:

(1) Engaging in any act of "self-dealing," as defined in § 4941(d) of the Internal Revenue Code, 26 U.S.C. § 4941(d), which would give rise to any liability for the tax imposed by § 4941(a);

(2) Retaining any "excess business holdings," as defined in § 4943(c) of the Internal Revenue Code, 26 U.S.C. § 4943(c), which would give rise to any liability for the tax imposed by § 4943(a);

(3) Making any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of § 4944 of the Internal Revenue Code, 26 U.S.C. § 4944, which would give rise to any liability for the tax imposed by § 4944(a); and

(4) Making any "taxable expenditures," as defined in § 4945(d) of the Internal Revenue Code, 26 U.S.C. § 4945(d), which would give rise to any liability for the tax imposed by § 4945(a);

(b) This section shall not apply either to those "split-interest trusts" or to amounts of them which are not subject to the prohibitions applicable to a "private foundation" as defined in § 509(a) of the Internal Revenue Code, 26 U.S.C. § 509(a), by reason of § 4947.

(c) In the administration of any trust which is a "private foundation" or a "charitable trust" as defined in §§ 509(a) and 4947(a)(1), respectively, of the Internal Revenue Code, 26 U.S.C. §§ 509(a) and 4947(a)(1), there shall be distributed, for the purposes specified in the trust instrument, for each taxable year, amounts of income and, if necessary, corpus at least sufficient to avoid liability for the tax imposed by 26 U.S.C. § 4942(a).

(d) The provisions of subsections (a) and (b) of this section shall not apply to any trust to the extent that a court of competent jurisdiction shall determine that the application would be contrary to the terms of the instrument governing the trust and that the instrument may not properly be changed to conform to these subsections.

(e) All references to sections of the Internal Revenue Code shall include future amendments to those sections and corresponding provisions of future internal revenue laws.

§ 18-4-23 — Charitable remainder trusts.

(a) As used in this section the term "charitable remainder trust" has the meaning ascribed to that term in § 664 of the Internal Revenue Code, 26 U.S.C. § 664, and in §§ 1.664-1 through 1.664-4 of proposed regulations dealing with charitable remainder trusts, published in the federal register on September 18, 1971, on behalf of the secretary of the treasury of the United States or the secretary's delegate.

(b) The superior court shall have jurisdiction:

(1) In the case of property transferred to a trust created before August 1, 1969, whose governing instrument provides that an organization described in § 170(c) of the Internal Revenue Code, 26 U.S.C. § 170(c), receives an irrevocable remainder interest in the trust, to enter judgment whereunder, in order that the trust qualify as a charitable remainder trust, the transferred property and any undistributed income from it is to be severed and placed in a separate trust, within the meaning of § 1.664-1(g)(2) of the proposed regulations.

(2) In the case of a trust created subsequent to July 31, 1969, whose governing instrument provides that an organization referred to in 26 U.S.C. § 170(c) receives an irrevocable remainder interest in the trust, to enter judgment whereunder, in order that the trust qualify as a charitable remainder trust, the governing instrument is to be amended by including in the instrument the provisions required by the proposed regulations to be included; deleting from the instrument the provisions prohibited by the proposed regulations from being included; and, to the extent found by the court to be in furtherance of the intention of the creator of the trust, including provisions permitted by the proposed regulations to be included.

(c) The provisions of subsection (b) of this section shall not apply to the extent that the superior court determines that the application would be contrary to the terms of the instrument governing the trust and that the instrument may not properly be changed to conform to the proposed regulations.

(d) All references to sections of the Internal Revenue Code shall include future amendments to those sections and corresponding provisions of future internal revenue laws; and all references to sections of proposed regulations shall include regulations dealing with charitable remainder trusts as finally adopted by the secretary of the treasury or the secretary's delegate and future amendments to those regulations.

§ 18-4-24 — Termination of small trusts.

(a) Any corporate trustee authorized to serve as a trustee under chapter 3.1 of title 19, which is a trustee of any inter vivos or testamentary trust, may, in its sole discretion, or, if there is a cotrustee or cotrustees, after having obtained the approval of any cotrustee, terminate the trust in whole or in part, if the current market value of the trust principal is less than one hundred thousand dollars (\$100,000). The existence of any spendthrift or similar protective provision shall not preclude termination of that trust.

(b) The trust principal and income on hand, less fees and expenses, shall be distributed to one or more beneficiaries and remaindermen, or their legal representative, in the proportions and amounts that the trustee in its discretion determines to be appropriate under the circumstances, giving consideration to the terms of the trust and the interests of the income beneficiaries and remaindermen. The recipient shall release the trustee or trustees from liability upon distribution of the amounts held.

(2) The interest of a minor beneficiary, or any portion of the interest, may be converted into qualifying property and distributed to a custodian pursuant to the Rhode Island Uniform Transfers to Minors Act, chapter 7 of this title, or similar acts in other states.

(3) Any trust qualifying for the marital deduction under appropriate provisions of the Internal Revenue Code, 26 U.S.C. § 1 et seq., shall be distributed only to the surviving spouse of the decedent or settlor.

(4) Any trust qualifying for the charitable deduction under appropriate provisions of the Internal Revenue Code, 26 U.S.C. § 1 et seq., shall be distributed only to the appropriate charity or charities or in a manner to assure the continued qualification of the distribution for the charitable deduction. The trustee shall not be required to look into the application by the charity of the amount distributed.

(c) The termination may occur only after written notice sent by certified mail to all interested persons who then have an interest in the trust, or their legal or natural guardians. The term "interested person" means any living

person or existing organization who is a current income beneficiary or who would be a vested remainderman of the trust if the trust were to terminate at the time of the notification.

(2) The written notice required by this section shall:

(i) State that the trustee intends to terminate the trust in accordance with this section;

(ii) Include a schedule of current trust assets and describe the plan of distribution;

(iii) Set forth all rights of the interested person to object to the termination or plan of distribution as set forth in subsection (d) of this section; and

(iv) State that the trustee may proceed to terminate the trust, notwithstanding any objection to the termination or plan of distribution.

(d) Any interested person shall have thirty (30) days after receiving written notice in accordance with subsection (c) of this section to object to the termination of the trust or the plan of distribution in writing to the trustee, stating the grounds for the objection. If the trustee has received no written objection to the proposed termination or plan of distribution within the thirty (30) day period, it may proceed to terminate the trust, subject to the waiting period contained in subdivision (4) of this subsection.

(2) A trustee receiving a written objection to the proposed termination or plan of distribution from an interested person within thirty (30) days of the person's receipt of written notice may: (i) reformulate the proposed plan, or (ii) state its intention to proceed with the original plan of distribution. The trustee shall then re-notify all interested persons of its intentions in a writing sent by certified mail. The re-notification shall begin again the thirty (30) day period referred to in subdivision (1) of this subsection.

(3) A trustee receiving a written objection to the proposed reformulated plan of distribution from an interested person within thirty (30) days of the person's receipt of written notice of the reformulated plan may proceed to terminate the trust in accordance with the plan, without court proceeding or approval, notwithstanding the objection, provided that all interested persons have been further notified in writing sent by certified mail of:

(i) The objection;

(ii) The trustee's intention to proceed to terminate the trust, notwithstanding the objection; and

(iii) Their right to petition the superior court to prevent the termination of the trust or to modify the plan of distribution.

(4) Any interested person, within three (3) months of the mailing of the initial or the further notice of the trustee's intention to proceed with the termination, notwithstanding an objection, may petition the superior court to prevent termination or modify the plan of distribution or may send the trustee a written waiver of the right to petition. The trustee shall not distribute the assets of the trust until three (3) months from the date of the receipt by the last interested person to receive notice or the further written notice as provided in subdivision (3) of this subsection.

(e) Superior court approval of a termination of a small trust shall be required whenever there is no corporate trustee. An individual trustee may petition the superior court after notice to all interested persons according to the notice provisions in subsection (c) of this section. The court shall make an order of distribution of the trust property which shall specify the appropriate share of each interested person who is to share in the proceeds of the trust, taking into account the interests of income beneficiaries or remaindermen so as to conform as nearly as possible the intention of the trust or testator. The superior court, in addition, may make any other and further orders that it deems proper or necessary to protect the interests of the beneficiaries and of the trustee. All provisions of subsection (b) of this section shall apply to terminations under this subsection.

(f) Notwithstanding any other provision contained in this section, any corporate trustee of a trust may seek superior court approval of the termination, and after submission of a principal accounting, be released, along with any cotrustee, from all liability with respect to the trust.

§ 18-4-25 — Consolidation or division of trusts.

(a) Upon petition by a trustee, beneficiary, or any party in interest and for good cause shown, the court, after notice to all parties in interest and a hearing, may order the division of a trust into two (2) or more single trusts, or consolidate two (2) or more trusts which have either a common creator or common beneficiaries into a single trust, upon terms and conditions that it deems appropriate; provided, that it is satisfied that:

(1) Consolidation or division is not inconsistent with the intent of the creator of the trust with regard to any trust to be consolidated or divided; and

(2) Consolidation or division would be in the best interest of the beneficiaries as a whole, taking into account tax, legal, administrative, and/or other considerations and would not materially impair the respective interests of the beneficiaries as a whole.

(b) This section shall apply to all trusts whenever created, whether inter vivos or testamentary, whether created by the same or different instruments, whether created by the same or different persons, and regardless of where created or administered.

(c) This section shall not limit the right of a trustee, acting in accordance with the applicable provisions of the governing instrument, to divide or consolidate trusts.

§ 18-4-26 — Powers of fiduciaries in connection with environmental laws.

(a) In addition to the powers, rights, and remedies which may be set forth in any will, trust, or other document which is the source of authority, in which no provision is made to the contrary, any fiduciary as defined according to § 18-4-15(a)(2) shall be deemed to have the following powers, rights, and remedies to exercise, in addition to any other power he, she, or it may lawfully have in his, her, or its discretion, or if a corporation in the discretion of its duly authorized officer or committee:

(1) To inspect and monitor property to which the fiduciary takes legal title (including interests in sole proprietorships, partnerships, or corporations and any assets owned by these business enterprises) or over which a fiduciary may exercise his, her, or its control, for the purpose of determining compliance with environmental laws affecting the property, and to respond to any actual or threatened violation of any environmental laws affecting the property held or controlled by the fiduciary;

(2) To take, on behalf of an estate, trust, person, or business, any action necessary to prevent, abate, or otherwise remedy any actual or threatened violation of any environmental laws affecting property held or controlled by the fiduciary, either before or after the initiation of an enforcement action by any government body;

(3) To refuse to accept property in trust if the fiduciary determines that any property to be donated to a trust either is contaminated by any hazardous substances, or the property is being used or has been used for any activities directly or indirectly involving hazardous substances, which could result in liability to the trust, estate, person, or business or otherwise impair the value of the assets held or controlled in the trust;

(4) To settle or compromise, at any time, any and all claims against the estate, trust, person, or business which may be asserted by any governmental body or private party, involving the alleged violation of any environmental laws affecting property held by the estate or trust or owned by the person or business; and

(5) To disclaim any power granted by any document or any statute or rule of law which, in the sole discretion of the fiduciary, may cause the fiduciary to incur personal liability under any environmental laws.

(b) For purposes of this section, "environmental laws" mean any federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment or human health. For purposes of this section, "hazardous substances" mean any substances defined as hazardous or toxic or otherwise regulated by any environmental laws.

(c) The fiduciary shall be entitled to charge the reasonable cost of any inspection, insurance, review, abatement, response, or cleanup, or any other remedial action, as authorized in this section, against the income or principal of the estate, trust, personal estate, or business assets and shall not be personally responsible for those costs. The fiduciary shall not be personally liable to any beneficiary or any other party for any decrease in value or exhaustion of assets by reason of the fiduciary's reasonable compliance with any environmental laws, specifically including any reporting requirements under those laws.

(d) The provisions of this section shall apply to all fiduciary relationships now in existence or subsequently created, and to the fiduciary actions or inactions occurring after July 21, 1992.

§ 18-4-27 — Validity of trusts.

(a) A trust which is otherwise valid and which has been created by a written instrument, including, but not limited to, a trust in which the principal is composed in whole or in part of real property, shall not be held invalid for any one or more of the following reasons:

(1) Because the settlor, or another person, or both, possess the power to revoke, amend, alter, or modify the trust in whole or in part;

(2) Because the settlor, or another person, or both, possess the power to appoint, by deed or will, the persons and organizations to whom the income shall be paid or the principal distributed;

(3) Because the settlor, or another person, or both, possess the power to add to, or withdraw from, the trust all or any part of the principal or income at one or at different times;

(4) Because the settlor, or another person, or both, possess the power to remove the trustee or trustees and appoint a successor trustee or trustees;

(5) Because the settlor has retained the right to receive all or part of the income of the trust during his or her life or for any part of his or her life; or

(6) Because the settlor is the sole trustee and the sole current beneficiary of the trust during his or her lifetime.

(b) This section shall apply to all trusts created by written instrument, except where the validity of the trust is in issue in a case pending on August 11, 1995.

(c) The doctrine of merger shall not apply to invalidate an otherwise valid revocable or irrevocable trust unless the legal title to the trust property and the entire beneficial interest, including future and contingent beneficial interests, become irrevocably united in one person who is not under an incapacity.

(d) If the beneficiary of a spendthrift trust having the entire beneficial interest in the trust property becomes without his or her consent the sole trustee, the beneficiary may procure the appointment of a new trustee and have the trust reconstituted.

(e) Nothing contained in this section shall affect the validity of those accounts, including, but not limited to, bank accounts, share accounts, deposits, certificates of deposit, savings certificates, and other similar arrangements, previously or subsequently established at any bank, savings and loan association, or credit union by one or more persons, in trust for one or more other persons.

CHAPTER 18-5 — Common Trust Funds

§ 18-5-1 — Establishment by banks and trust companies authorized.

(a) Any trust company or national banking association qualified to act as a fiduciary in this state may establish one or more common trust funds for the purpose of investment and reinvestment of money received and held by the trust company or national banking association as fiduciary or cofiduciary, and as the fiduciary or cofiduciary it may invest funds which it lawfully holds for investment in interests or participations in one or more common trust funds established by it, if the investment is not expressly prohibited by the instrument, judgment, decree, or order creating the fiduciary relationship and if, in the case of cofiduciaries, it procures the consent of its cofiduciary or cofiduciaries to the investment.

(b) Any trust company or national banking association qualified to act as a fiduciary in this state may invest funds which it holds in a fiduciary or cofiduciary capacity in any common trust fund established by any affiliate, if the investment is not expressly prohibited by the instrument, judgment, decree, or order creating the fiduciary relationship and if, in the case of cofiduciaries, it procures the consent of its cofiduciary or cofiduciaries to the investment.

§ 18-5-2 — Definitions.

(a) As used in this chapter, "affiliate" of a trust company or national banking association means a member of an affiliated group connected through stock ownership with a common parent corporation which directly or indirectly owns stock possessing at least eighty percent (80%) of the total voting power and at least eighty percent (80%) of the total value of stock of each member of the affiliated group other than the common parent corporation.

(b) "Common trust fund" means a fund maintained by a bank or trust company exclusively for the collective investment and reinvestment of money contributed to the fund by the bank or trust company in its capacity as a trustee, executor, administrator, or guardian, or as a cotrustee, coexecutor, coadministrator, or coguardian.

§ 18-5-3 — Property tax on assets.

Real estate and tangible personal property constituting assets of a common trust fund shall be taxed to the owner of the assets in the same manner as otherwise required by law.

§ 18-5-4 — Exemption of funds from taxation generally.

Except as provided in § 18-5-3, no common trust fund nor any asset of the fund, nor any trust company or national banking association by reason of its ownership or operation of the fund or asset, shall be subject to any tax now or subsequently levied, assessed, or imposed by the state of Rhode Island, or by any city, town, or other political subdivision of the state.

§ 18-5-5 — [Repealed.]

§ 18-5-6 — Relationships to which chapter applicable.

This chapter shall apply to fiduciary relationships in existence on May 2, 1956, or thereafter established.

§ 18-5-7 — Severability.

This chapter is declared to be severable, and should any provision of this chapter or its application to any person or circumstances be held invalid, the invalidity shall not affect the other provisions or applications of the chapter which can be given effect without the invalid provision or application.

CHAPTER 18-6 — Accounting

§ 18-6-1 — Compensation and expenses of trustee.

Every trustee under any trust instrument, whether previously or subsequently made, shall be entitled to reasonable expenses and costs incurred in the execution of the trust, and also reasonable compensation for services rendered as trustee, which expenses, costs, and compensation may be charged annually or from time to time and may be equitably apportioned between principal and income in a manner that the trustee shall determine

§ 18-6-2 — Discharge of trustee by payment into court.

(a) Whenever a trustee holds any sum of money, or any bond, note, or other obligation for money, or evidence of indebtedness, or any certificate of stock or other chose in action, payable or deliverable to, or the property of, another, and the person entitled to it cannot, for any reason, give proper receipt or discharge for it, and the trustee holding the money or property desires to free himself or herself from further liability for it, the trustee may pay or deliver the money or property into the registry of the superior court, presenting with it his or her petition praying to be discharged, and setting out, under oath, to the best of the knowledge, information, and belief of the affiant, the circumstances under which the trustee holds the money or property, and how the other person or persons is or are entitled to it, and why the trustee or they cannot give proper receipt or discharge for the money or property; and upon the filing of the petition, notice of it shall be given in the manner that the court shall direct.

(b) The court shall take any proceedings in respect of the money or property that it deems best.

(c) The costs and expenses, including expenses and counsel fees of the trustee, as between solicitor and client, as allowed by the court or by one of the justices of the court, shall be paid or retained accordingly out of the money or property.

(d) When any person entitled to the money or property paid or deposited in the registry appears and satisfies the court as to his or her right to the money or property, it shall be paid or delivered over to that person as the court shall direct.

§ 18-6-3 — Application for allowance of accounts.

A trustee may apply to the superior court for the allowance of his or her account or accounts.

§ 18-6-4 — Notice – Guardian ad litem.

(a) Upon the application, notice in any form that the court may order shall be given by delivering or mailing by registered or certified mail, return receipt requested, a copy of the notice to the attorney general if there are public charitable interests, and to all persons to or for whom income has been paid or accumulated during the period covered by the account, and to those persons who, during that period, have received or were entitled to receive or in the discretion of the trustee might have received principal, and to all persons who, at the time of the mailing or delivery of the copy of the notice, in default of any appointment or otherwise, would be entitled to share in the income or principal if an existing tenancy for life or for years had then terminated or the trust estate were then distributable in whole or in part, and to the executor or administrator of any deceased persons entitled to notice or to those in being who have succeeded to the interest of the deceased person, and to other persons who are or may become interested and who shall have filed with the accountant a request in writing for notice of proceedings on accounts, and any additional notice that the court may order shall be given by publication, unless all persons interested receive actual notice.

(b) The written assent to an account, or the waiver in writing of notice of it by a person interested or by his or her guardian or legal representative, shall be deemed equivalent to notice.

(c) If there are other persons interested to whom notice has not been given by delivery of registered or certified mail, or if the interests of persons unborn, unascertained, or legally incompetent to act in their own behalf are not represented except by the accountant, the court shall appoint as guardian ad litem a competent and disinterested person to represent these interests and persons, and the guardian ad litem shall, without further notice or action by the court, also represent with respect to the account all interested persons who may be born after the date of his or her appointment.

(d) It shall not be necessary, unless the court orders, to designate by name persons represented by the guardian ad litem, other than those who are entitled to notice by delivery of registered or certified mailing.

(e) The guardian ad litem appointed by the court shall be entitled to any reasonable compensation that the court shall allow, which shall be charged to income and/or principal as the court directs.

§ 18-6-5 — Notice to minor under age of fourteen (14) years.

In the case of a minor entitled to notice by delivery or mailing under this chapter, who is under the age of fourteen (14) at the date of the notice, the copy of the notice may be delivered or mailed to the legal or natural guardian of the minor, or if the court directs, to some other person in his or her behalf.

§ 18-6-6 — Allowance or disallowance of accounts.

Upon the hearing, the court may allow or disallow the account or accounts in whole or in part and may make any orders and decrees in relation to the account or accounts that justice may require, and after a final decree has been entered on any account under this section, it shall not be impeached except for fraud or manifest error.

§ 18-6-7 — Account of common trust fund.

In any proceeding for the allowance of an account of a common trust fund, the provisions of §§ 18-6-4 and 18-6-5, as to the persons entitled to and the manner of giving notice, shall apply as if the account was an account for each of the participating trusts in the common trust fund.

CHAPTER 18-7 — Uniform Transfers to Minors Act

§ 18-7-1 — Short title.

This chapter may be cited as the "Rhode Island Uniform Transfers to Minors Act".

§ 18-7-2 — Definitions.

In this chapter, unless the context otherwise requires:

- (1) "Adult" means an individual who has attained the age of twenty-one (21) years.
- (2) "Benefit plan" means an employer's plan for the benefit of an employee or partner.
- (3) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others.
- (4) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.
- (5) "Court" means probate court.
- (6) "Custodial property" means:
 - (i) Any interest in property transferred to a custodian under this chapter; and
 - (ii) The income from and proceeds of that interest in property.
- (7) "Custodian" means a person designated under § 18-7-10 or a successor or substitute custodian designated under § 18-7-19.
- (8) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.
- (9) "Legal representative" means an individual's personal representative or conservator.
- (10) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.
- (11) "Minor" means an individual who has not attained the age of twenty-one (21) years.
- (12) "Person" means an individual, corporation, organization, or other legal entity.
- (13) "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.
- (14) "State" includes any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.
- (15) "Transfer" means a transaction that creates custodial property under § 18-7-10.
- (16) "Transferor" means a person who makes a transfer under this chapter.
- (17) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

§ 18-7-3 — Scope and jurisdiction.

(a) This chapter applies to a transfer that refers to this chapter in the designation under § 18-7-10(a) by which the transfer is made if at the time of the transfer, the transferor, the minor, or the custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to this chapter despite a subsequent change in residence of a transferor, the minor, or the custodian, or the removal of custodial property from this state.

(b) A person designated as custodian under this chapter is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

(c) A transfer that purports to be made and which is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act, or a substantially similar act of another state is governed by the law of the designated state and may be executed and is enforceable in this state if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

§ 18-7-4 — Nomination of custodian.

(a) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: "as custodian for [] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18." The nomination may name one or more persons as substitute custodians to whom the property must be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

(b) A custodian nominated under this section must be a person to whom a transfer of property of that kind may be made under § 18-7-10(a).

(c) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under § 18-7-10. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to § 18-7-10.

§ 18-7-5 — Transfer by gift or exercise of power of appointment.

A person may make a transfer by irrevocable gift to, or by the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to § 18-7-10.

§ 18-7-6 — Transfer authorized by will or trust.

(a) A personal representative or trustee may make an irrevocable transfer pursuant to § 18-7-10 to a custodian for the benefit of a minor as authorized in the governing will or trust.

(b) If the testator or settlor has nominated a custodian under § 18-7-4 to receive the custodial property, the transfer must be made to that person.

(c) If the testator or settlor has not nominated a custodian under § 18-7-4 or all persons nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under § 18-7-10(a).

§ 18-7-7 — Other transfer by fiduciary.

(a) Subject to subsection (c) of this section, a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to § 18-7-10, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(b) Subject to subsection (c) of this section, a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to § 18-7-10.

(c) A transfer under subsection (a) or (b) of this section may be made only if:

(1) The personal representative, trustee, or conservator considers the transfer to be in the best interest of the minor;

(2) The transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument; and

(3) The transfer is authorized by the court if it exceeds ten thousand dollars (\$10,000) in value.

§ 18-7-8 — Transfer by obligor.

(a) Subject to subsections (b) and (c) of this section, a person not subject to § 18-7-6 or 18-7-7, who holds property of or owes a liquidated debt to a minor not having a conservator, may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to § 18-7-10.

(b) If a person having the right to do so under § 18-7-4 has nominated a custodian under that section to receive the custodial property, the transfer must be made to that person.

(c) If no custodian has been nominated under § 18-7-4, or all persons nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds ten thousand dollars (\$10,000) in value.

§ 18-7-9 — Receipt for custodial property.

A written acknowledgment of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to this chapter.

§ 18-7-10 — Manner of creating custodial property and effecting transfer – Designation of initial custodian – Control.

(a) Custodial property is created and a transfer is made whenever:

(1) An uncertificated security or a certificated security in registered form is either:

(i) Registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for [] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18"; or

(ii) Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection (b) of this section;

(2) Money is paid or delivered, or a security held in the name of a broker, financial institution, or its nominee is transferred, to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for [] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18";

(3) The ownership of a life or endowment insurance policy or annuity contract is either:

(i) Registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for [] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18"; or

(ii) Assigned in a writing delivered to an adult other than the transferor or to a trust company, whose name in the assignment is followed in substance by the words: "as custodian for [REDACTED] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18";

(4) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for [REDACTED] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18";

(5) An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for [REDACTED] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18";

(6) A certificate of title issued by a department or agency of a state or of the United States that evidences title to tangible personal property is either:

(i) Issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for [REDACTED] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18"; or

(ii) Delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for [REDACTED] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18"; or

(7) An interest in any property not described in subdivisions (1) through (6) of this subsection is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection (b) of this section.

(b) An instrument in the following form satisfies the requirements of subdivisions (a)(1)(ii) and (a)(7) of this section:

TRANSFER UNDER THE RHODE ISLAND UNIFORM TRANSFERS TO MINORS ACT

I, [REDACTED] (name of transferor or name of representative capacity if a fiduciary), hereby transfer to [REDACTED] (name of custodian), as custodian for [REDACTED] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18, the following: [REDACTED] (insert a description of the custodial property sufficient to identify it).

Dated: [REDACTED]

[REDACTED]

(Signature)

[REDACTED] (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Rhode Island Uniform Transfers to Minors Act.

Dated: [REDACTED]

[REDACTED]

(Signature of Custodian) & nbs p;

(c) A transferor shall place the custodian in control of the custodial property as soon as practicable.

§ 18-7-11 — Single custodianship.

A transfer may be made only for one minor, and only one person may be the custodian. All custodial property held under this chapter by the same custodian for the benefit of the same minor constitutes a single custodianship.

§ 18-7-12 — Validity and effect of transfer.

(a) The validity of a transfer made in a manner prescribed in this chapter is not affected by:

- (1) Failure of the transferor to comply with § 18-7-10(c) concerning possession and control;

- (2) Designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under § 18-7-10; or

- (3) Death or incapacity of a person nominated under § 18-7-4 or designated under § 18-7-10 as custodian or the disclaimer of the office by that person.

(b) A transfer made pursuant to § 18-7-10 is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided in this chapter and neither the minor nor the minor's legal representative has any right, power, duty, or authority with respect to the custodial property except as provided in this chapter.

(c) By making a transfer, the transferor incorporates in the disposition all the provisions of this chapter and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this chapter.

§ 18-7-13 — Care of custodial property.

(a) A custodian shall:

- (1) Take control of custodial property;

- (2) Register or record title to custodial property if appropriate; and

- (3) Collect, hold, manage, invest, and reinvest custodial property.

(b) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries. If a custodian has a special skill or expertise, or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. However, a custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor.

(c) A custodian may invest in or pay premiums on life insurance or endowment policies on:

- (1) The life of the minor only if the minor or the minor's estate is the sole beneficiary; or

- (2) The life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian, is the irrevocable beneficiary.

(d) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "as a custodian for]]]]]]]]]]]]]]]]]]]]]] (name of minor) under the Rhode Island Uniform Transfers to Minors Act, chapter 7 of title 18".

(e) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by a parent

§ 18-7-14 — Powers of custodian.

(a) A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers, and authority in that capacity only.

(b) This section does not relieve a custodian from liability for breach of § 18-7-13.

§ 18-7-15 — Use of custodial property.

(a) A custodian may deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

(1) The duty or ability of the custodian personally or of any other person to support the minor; or

(2) Any other income or property of the minor that may be applicable or available for that purpose.

(b) On petition of an interested person, or the minor if the minor has attained the age of fourteen (14) years, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the court considers advisable for the use and benefit of the minor.

(c) A delivery, payment, or expenditure under this section is in addition to, but not in substitution for, and does not affect, any obligation of a person to support the minor.

§ 18-7-16 — Custodian's expenses, compensation, and bond.

(a) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(b) Except for one who is a transferor under § 18-7-5, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(c) Except as provided in § 18-7-19(f), a custodian need not give a bond.

§ 18-7-17 — Exemption of third person from liability.

A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

(1) The validity of the purported custodian's designation;

(2) The propriety of, or the authority under this chapter for, an act of the purported custodian;

(3) The validity or propriety under this chapter of any instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

(4) The propriety of the application of any property of the minor delivered to the purported custodian.

§ 18-7-18 — Liability to third person.

(a) A claim based on: (1) a contract entered into by a custodian acting in a custodial capacity, (2) an obligation arising from the ownership or control of custodial property, or (3) a tort committed during the custodianship, may be asserted against the custodial property by proceeding against the custodian in his or her custodial capacity, whether or not the custodian or the minor is personally liable therefor.

(b) A custodian is not personally liable:

(1) On a contract properly entered into in his or her custodial capacity, unless the custodian fails to reveal that capacity and to identify the custodianship in the contract; or

(2) For an obligation arising from control of custodial property or for a tort committed during the custodianship, unless the custodian is personally at fault.

(c) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship, unless the minor is personally at fault.

§ 18-7-19 — Renunciation, resignation, death, or removal of custodian – Designation of successor custodian.

(a) A person nominated under § 18-7-4 or designated under § 18-7-10 as custodian may decline to serve by delivering a disclaimer to the person who made the nomination or to the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under § 18-7-4, the person who made the nomination may nominate a substitute custodian under § 18-7-4; otherwise, the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under § 18-7-10(a). The designated custodian has the rights of a successor custodian.

(b) A custodian at any time may designate a trust company or an adult other than a transferor under § 18-7-5 as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

(c) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of fourteen (14) years and to the successor custodian, and by delivering the custodial property to the successor custodian.

(d) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor has attained the age of fourteen (14) years, the minor may designate as successor custodian, in the manner prescribed in subsection (b) of this section, an adult member of the minor's family, a guardian of the minor, or a trust company. If the minor has not attained the age of fourteen (14) years or fails to act within sixty (60) days after the ineligibility, death, or incapacity, the guardian of the minor becomes successor custodian. If the minor has no guardian or the guardian declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(e) A custodian who declines to serve under subsection (a) of this section or resigns under subsection (c) of this section, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(f) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person or the estate of the minor, or the minor if the minor has attained the age of fourteen (14) years may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under § 18-7-5 or to require the custodian to give appropriate bond.

§ 18-7-20 — Accounting by and determination of liability of custodian.

(a) A minor who has attained the age of fourteen (14) years, the minor's guardian or legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court:

(1) For an accounting by the custodian or the custodian's legal representative; or

(2) For a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property, unless the responsibility has been adjudicated in an action under § 18-7-18 to which the minor or the minor's legal representative was a party.

(b) A successor custodian may petition the court for an accounting by the predecessor custodian.

(c) The court, in a proceeding under this chapter or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(d) If a custodian is removed under § 18-7-19(f), the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

§ 18-7-21 — Termination of custodianship.

The custodian shall transfer, in an appropriate manner, the custodial property to the minor or to the minor's estate upon the earlier of:

(1) The minor's attainment of twenty-one (21) years of age with respect to custodial property transferred under § 18-7-5 or 18-7-6;

(2) The minor's attainment of eighteen (18) years of age with respect to custodial property transferred under § 18-7-7 or 18-7-8; or

(3) The minor's death.

§ 18-7-22 — Applicability.

This chapter applies to a transfer within the scope of § 18-7-3 made after June 28, 1985, if the instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state, and the application of this chapter is necessary to validate the transfer.

§ 18-7-23 — Effect on existing custodianships.

(a) Any transfer of "custodial property" as now defined in this chapter made before June 28, 1985, is validated, notwithstanding that there was no specific authority in the Uniform Gifts to Minors Act of Rhode Island for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(b) This chapter applies to all transfers made before June 28, 1985, in a manner and form prescribed in the Uniform Gifts to Minors Act of Rhode Island, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on June 28, 1985.

(c) Sections 18-7-2 and 18-7-21, with respect to the age of a minor for whom custodial property is held under this chapter, do not apply to custodial property held in a custodianship that terminated because of the minor's attainment of the age of eighteen (18) after March 29, 1972, and before June 28, 1985.

§ 18-7-24 — Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

§ 18-7-25 — Severability.

If any provisions of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§ 18-7-26 — Repeals.

To the extent that this chapter, by virtue of § 18-7-23(b), does not apply to transfers made in a manner prescribed in the Uniform Gifts to Minors Act of Rhode Island or to the powers, duties, and immunities conferred by transfers in that manner upon custodians and persons dealing with custodians, the repeal of the Uniform Gifts to Minors Act of Rhode Island does not affect those transfers or those powers, duties, and immunities.

CHAPTER 18-8 — Joint Control by Sureties

§ 18-8-1 — Agreement for joint deposits.

It is lawful for any party, of whom a bond, undertaking, or other obligation is required, to agree with his or her surety or sureties for the deposit of any or all money and assets for which he or she and his or her surety or sureties are or may be held responsible, with a bank, savings banks, safe deposit, or trust company, authorized by law to do business, or with any other depository approved by the court or a judge of the court, if the deposit is otherwise proper, for safekeeping the deposit, and in a manner that prevents the withdrawal of the money or assets or any part of them, without the written consent of the surety or sureties, or an order of court, or a judge of the court, made on a notice to the surety or sureties that the court or judge may direct; provided, that the agreement shall not in any manner release from or change the liability of the principal or sureties as established by the terms of the bond.

CHAPTER 18-9 — Charitable Trusts

§ 18-9-1 — Division of charitable trusts – Establishment.

There is established, in the department of, and subject to the control of, the attorney general, a division for the supervision and enforcement of the due application of funds given or appropriated to charitable trusts within the state and for the prevention of breaches of trust. The division shall be known as the division of charitable trusts.

§ 18-9-2 — Administrator of charitable trusts.

The executive and administrative head of the division of charitable trusts shall be the administrator of charitable trusts. The administrator shall be appointed by the attorney general and shall hold office at the attorney general's pleasure. The administrator shall be qualified by training and experience to perform the duties of the administrator's office and shall receive any salary, not exceeding six thousand dollars (\$6,000) annually, that the governor may determine.

§ 18-9-3 — Appointment and removal of assistants – Experts.

The administrator, with the approval and consent of the attorney general, may appoint and remove any assistants that the work of the division may require. These assistants shall not be in the classified service. The administrator, with the approval and consent of the attorney general, may also, from time to time, engage experts who shall not be in the classified service for assistance in any specific matter at a reasonable rate of compensation.

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§ 18-9-5 — Notice to attorney general of proceedings affecting charitable trusts.

The attorney general shall be notified of all judicial proceedings affecting, or in any manner dealing with, a charitable trust, or affecting, or in any manner dealing with, a trustee who holds in trust within the state property given, devised, or bequeathed for charitable, educational, or religious purposes, and who administers or is under a duty to administer the property in whole or in part for these purposes within the state, and shall be deemed to be an interested party to the judicial proceedings.

§ 18-9-6 — Register of charitable trusts – Special assistant attorney general.

In addition to his or her common law and statutory powers the attorney general, or the administrator acting under the authority and at the direction of the attorney general, shall have the authority to prepare and maintain a register

of all charitable trusts previously or subsequently established or active in the state. The attorney general shall also designate the administrator or acting administrator to act as a special assistant attorney general in cases involving charitable trusts.

§ 18-9-7 — Register open to inspection – Registration fee.

(a) The register established by § 18-9-6 shall be open to the inspection of any person at any reasonable times and for any legitimate purposes that the attorney general may determine.

(b) The attorney general may by regulation provide that any investigation of charitable trusts made after June 30, 1950, shall not be open to public inspection.

(c) Upon the registration of each charitable trust there shall be paid to the attorney general a fee of fifty dollars (\$50.00) which shall be deposited as general revenues.

§ 18-9-8 — Rules and regulations.

The attorney general, or the administrator acting under the authority and at the direction of the attorney general, shall make any rules and regulations that may be reasonable or necessary to secure records and other information for the operation of the register and for the supervision, investigation, and enforcement of charitable trusts.

§ 18-9-9 — Investigations as to administration of trusts.

The attorney general may investigate at any time charitable trusts for the purpose of determining and ascertaining whether they are being administered in accordance with law and with the terms and purposes of the trust. For the purposes of this investigation the attorney general may require any person, agent, trustee, fiduciary, beneficiary, institution, association, or corporation administering a trust or having an interest in, or knowledge of the trust, to appear at any time and place that the attorney general may designate, then and there under oath to produce for the use of the attorney general any and all books, memoranda, papers of whatever kind, documents of title, or other evidence of assets or liabilities which may be in the ownership or possession or control of the person, agent, trustee, fiduciary, beneficiary, institution, association, or corporation, and to furnish any other available information relating to the trust that the attorney general may require.

§ 18-9-10 — Notice to attend in investigations.

Whenever the attorney general may require the attendance of any person, agent, trustee, fiduciary, beneficiary, institution, association, or corporation as provided in § 18-9-9, the attorney general shall issue a notice setting the time and place when the attendance is required and shall cause the notice to be delivered or sent by registered or certified mail to the person, agent, trustee, fiduciary, beneficiary, institution, association, or corporation at least fourteen (14) days before the date fixed in the notice for the attendance.

§ 18-9-11 — Court order to appear before attorney general – Contempt.

If any person, agent, trustee, fiduciary, beneficiary, institution, association, or corporation receiving notice neglects to attend or to remain in attendance as long as may be necessary for the purposes for which the notice was issued, or refuses to produce books, memoranda, papers of whatever kind, documents of title, or other evidence of assets or liabilities, or to furnish any available information that may be required, any justice of the superior court for the county within which the inquiry is carried on or within which the person, agent, trustee, fiduciary, beneficiary, institution, association, or corporation is found or resides or transacts business, upon application of the attorney general, shall have jurisdiction to issue to the person, agent, trustee, fiduciary, beneficiary, institution, association, or corporation an order requiring the person, agent, trustee, fiduciary, beneficiary, institution, association, or corporation to appear before the attorney general to produce for the use of the attorney general evidence in accordance with the terms of the notice, and any failure to obey the order of the superior court may be punished by the court as a contempt of court.

§ 18-9-12 — Privilege against self-incrimination unavailable – Immunity from prosecution.

No person shall be excused from testifying or from producing any book or paper in any investigation or inquiry by or upon any hearing before the attorney general, when ordered to do so by the attorney general, upon the ground that the testimony, or evidence of the book or document, required of that person may tend to incriminate that

person or subject that person to a penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing concerning which, after claiming this privilege, the person, by order of the attorney general, has testified under oath or produced documentary evidence.

§ 18-9-13 — Annual fiduciary's report.

(a) Any fiduciary holding property subject to equitable duties to deal with the property for charitable, educational, or religious purposes shall annually, on or before July 1, unless otherwise directed by the attorney general, make to the attorney general a written report for the last preceding fiscal year of the trust showing the property held and administered, the receipts and expenditures in connection with the trust, the names and addresses of the beneficiaries of the trust, and any other information that the attorney general may require.

(b) The trustee shall also pay an annual filing fee of fifty dollars (\$50.00) to the attorney general for use in performing the duties authorized in this chapter.

(c) These fees shall be deposited in the general fund.

(d) Failure after notice for two (2) successive years to file a report shall constitute a breach of trust and the attorney general shall take any action that may be appropriate to compel compliance with this section.

§ 18-9-14 — Reasonable care required regardless of language of trust.

Regardless of any language in the agreement, deed, or other instrument creating an inter vivos charitable trust, no trustee or trustees of a trust shall be exonerated from liability for failure to exercise reasonable care, diligence, and prudence.

§ 18-9-15 — Institutions and contingent trusts exempt.

The provisions of this chapter shall not be applicable to charitable, religious, and educational institutions holding funds in trust exclusively for their own charter or corporate purposes nor to trusts in which the charitable interest is contingent upon the happening of an uncertain future event; provided, that upon the happening of the event vesting the charitable interest, the trust shall thereafter be subject to all the provisions of this chapter.

§ 18-9-16 — Termination of certain charitable trusts.

(a) A charitable trust with total assets of less than one hundred thousand dollars (\$100,000) may be terminated at any time at the discretion of the trustee or trustees with the consent of the attorney general and the beneficiary or beneficiaries by delivery of the assets to the beneficiary or beneficiaries.

(b) Where the trustee or trustees have discretion in the selection of the beneficiary or beneficiaries, only the consent of the attorney general shall be required, and the discretion in the selection of the beneficiary or beneficiaries to receive the assets shall be exercised by the trustee or trustees.

(c) The beneficiary or beneficiaries to whom the trust estate shall be delivered shall hold and apply the trust estate for the uses and purposes set forth in this instrument.

§ 18-9-17 — Enforcement of the fiduciary responsibilities of the trustees of charitable trusts.

(a) If the trustee(s) fails to register a charitable trust with the attorney general as required by this chapter, an additional fee not to exceed one hundred dollars (\$100) may be assessed at the time the trust is finally registered.

(b) When a registered charitable trust with assets over twenty-five thousand dollars (\$25,000) has failed to file an annual report with the charitable trust division of the department of attorney general for a period exceeding two (2) years, in addition to any other sanctions which may be imposed, a fee of one hundred dollars (\$100) shall be charged to the trust, in addition to the normal filing fee.

(c) In the event that any charitable trust fails to take any actions that are required by this chapter, the attorney general may bring an action to restrain the charity from transacting any business in the state and may take any other action, including the seeking of any other judicial relief, that may be appropriate to compel compliance with the provisions of this chapter.

(d) Any person who knowingly violates any provision of this chapter or who willingly and knowingly gives false or incorrect information to the attorney general in filing statements or reports as required by this chapter, whether the report or statement is verified or not, may be fined not more than one thousand dollars (\$1,000), or imprisoned not more than one year, or both.

CHAPTER 18-9.1 — Spendthrift Trusts

§ 18-9.1-1 — Spendthrift trusts – Establishment.

Any person creating an express trust for the benefit of any other person or persons may, by the terms of the trust, establish valid restraints on the voluntary and/or involuntary transfer of interests in the express trust by its beneficiaries, whether by way of anticipation or acceleration, assignment, hypothecation, or by virtue of legal process in judgment, execution, attachment, garnishment, bankruptcy, or otherwise.

CHAPTER 18-9.2 — Qualified Dispositions in Trust

§ 18-9.2-1 — Short title.

This chapter shall be known and may be cited as the "Qualified Dispositions in Trust Act".

§ 18-9.2-2 — Definitions.

As used in this chapter:

(1) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal equitable, secured or unsecured.

(2) "Creditor" means, with respect to a transferor, a person who has claim.

(3) "Debt" means liability on a claim.

(4) "Disposition" means a transfer, conveyance or assignment of property, or the exercise of a power that causes a transfer of property, to a trustee.

(5) "Property" includes real property, personal property, and interests in real or personal property.

(6) "Qualified disposition" means a disposition by or from a transferor to a trustee, with or without consideration, by means of a trust instrument.

(7) "Transferor" means a person who, as an owner of property or as a holder of a general power of appointment, directly or indirectly, makes a disposition or causes a disposition to be made.

(8) "Trustee" means a person who:

(i) In the case of natural person, is a resident of this state or, in all other cases, is authorized by the provisions of the general or public laws to act as a trustee, and whose activities are subject to supervision by the department of business regulation, The Federal Deposit Insurance Corporation, the Comptroller of the Currency, or the Office of Thrift Supervision, or any successor to them; and

(ii) Maintains or arranges for custody in this state of some or all of the property transferred to the trustee, maintains records for the trust on an exclusive or nonexclusive basis, prepares or arranges for the preparation of fiduciary income tax returns for the trust, or otherwise materially participates in the administration of the trust.

(9) "Trust instrument" means an instrument appointing a trustee for the property that is the subject of a disposition, which instrument:

(i) Expressly incorporates the general or public laws of this state to govern the validity, construction, and administration of the trust;

(ii) Is irrevocable; provided, that a trust instrument shall not be deemed revocable due to its inclusion in one or more of the following: (A) a transferor's power to veto a distribution from a trust, (B) a testamentary special power of appointment or similar power vested in the transferor, or (C) the transferor's potential or actual receipt of a distribution of income, principal, or both, in the sole discretion of a trustee who is neither the transferor nor a related or subordinate party of the transferor within the meaning of 26 U.S.C. § 672(c); and

(iii) Provides that the interest of a beneficiary in the trust property or the income from it may not be transferred or assigned, whether voluntarily or involuntarily, before the trustee distributes the property or income to the beneficiary.

§ 18-9.2-3 — No retained interest of transferor.

A disposition which is otherwise qualified but which requires a trustee to distribute all or any part of the trust's income or principal, or both, to the transferor shall not be entitled to any rights or benefits arising under § 18-9.2-4; but a disposition which is otherwise qualified shall be entitled to the rights and benefits arising under § 18-9.2-4, notwithstanding that the trustee has discretion, exercisable without regard to any ascertainable standard, to distribute trust income or principal, or both, to the transferor if the trustee is neither the transferor nor a related party or subordinate party of the transferor within the meaning of 26 U.S.C. § 672(c).

§ 18-9.2-4 — Avoidance of qualified dispositions.

(a) Notwithstanding any other provision of the general laws, no action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, shall be brought at law or in equity for an attachment or other provisional remedy against property that is the subject of a qualified disposition or for avoidance of a qualified disposition, unless the action is brought pursuant to the provisions of § 6-16-7.

(b) Notwithstanding the provisions of § 6-16-9, a creditor may not bring an action under subsection (a) of this section if:

(1) The creditor's claim against the transferor arose before the qualified disposition was made, unless the action is brought within four (4) years after the qualified disposition is made or, if later, within one year after the qualified disposition was or could reasonably have been discovered by the creditor; or

(2) The creditor's claim against the transferor arose subsequent to the qualified disposition, unless the action is brought within four (4) years after the qualified disposition is made.

§ 18-9.2-5 — Persons not subject to qualified dispositions.

Notwithstanding the provisions of § 18-9.2-4, this chapter shall not apply to defeat a claim brought by:

(a) Any person to whom the transferor is indebted on or before the date of a qualified disposition on account of an agreement or order of court for the payment of support or alimony in favor of the transferor's spouse, former spouse or children, or for a division of distribution of property in favor of the transferor's spouse or former spouse, to the extent of the debt; or

(b) To any person who suffers death, personal injury, or property damage on or before the date of a qualified disposition by a transferor, which death, personal injury, or property damage is at any time determined to have been caused in whole or in part by the act or omission of either the transferor or by another person for whom the transferor is or was vicariously liable

§ 18-9.2-6 — Effect of avoidance of qualified dispositions.

(a) A qualified disposition shall be avoided only to the extent necessary to satisfy the transferor's debt to the creditor at whose instance the disposition had been avoided, together with any costs, including attorney's fees, that the court may allow.

(b) In the event any qualified disposition is avoided as provided in subsection (a) of this section, then:

(1) If the court is satisfied that the trustee has not acted in bad faith in accepting or administering the property that is the subject of the qualified disposition:

(i) The trustee shall have a first and paramount lien against the property that is the subject of the qualified disposition in an amount equal to the entire cost, including attorney's fees, properly incurred by the trustee in the defense of the action or proceedings to avoid the qualified disposition; and

(ii) The qualified disposition shall be avoided subject to the proper fees, costs, preexisting rights, claims and interest of the trustee (and of any predecessor trustee that has not acted in bad faith); and

(2) For purposes of subdivision (1) of this subsection, it shall be presumed that the trustee did not act in bad faith merely by accepting the property; and

(c) If the court is satisfied that a beneficiary of a trust has not acted in bad faith, the avoidance of the qualified disposition shall be subject to the right of the beneficiary to retain any distribution made upon the exercise of a trust power or discretion vested in the trustee of the trust,

which power or discretion was properly exercised prior to the creditor's commencement of an action to avoid the qualified disposition.

§ 18-9.2-7 — Applicability of chapter.

This chapter applies to qualified dispositions made on or after July 1, 1999.

CHAPTER 18-10 — Registration of Securities in Name of Nominee

§ 18-10-1 — Authority to register security in name of nominee.

Any trust company or national banking association doing business in this state when acting as executor, administrator, guardian, conservator, testamentary trustee, or trustee under any other instrument, whether alone or jointly with an individual or individuals, may, with the consent of the individual fiduciary or fiduciaries, if any, who are authorized to give consent, cause any stock, shares, bonds, debentures, notes, mortgages, or other securities in any corporation, business trust, or association, or any other personal property held in any capacity, to be registered and held in the name of a nominee or nominees of the trust company or national banking association, which nominee or nominees may be an individual or individuals, a partnership, or a corporation, without mention of the trust or fiduciary relationship in the certificate or other instrument or document representing the property or evidencing the title to the property.

§ 18-10-2 — Direction for registration by individual fiduciary.

(a) Any individual or individuals acting as executor, administrator, guardian, conservator, testamentary trustee, or trustee under any other instrument is and are authorized, respectively, to direct any trust company or national banking association doing business in this state to cause any property deposited with the trust company or national banking association by the individual or individuals as fiduciary or fiduciaries to be registered and held in the name of a nominee or nominees of the trust company or national banking association, which nominee or nominees may be an individual or individuals, a partnership, or a corporation, without mention of the trust or fiduciary relationship in the certificate or other instrument or document representing the property or evidencing the title to the property.

(b) The trust company or national banking association shall not redeliver the property to the individual fiduciary or fiduciaries, causing any property to be registered in the name of a nominee or nominees of the trust company or national banking association, without first causing the property to be registered in the name of the individual fiduciary or fiduciaries as redelivered property.

(c) Any sale of the property made by the trust company or national banking association at the direction of the individual fiduciary or fiduciaries shall not be construed to be a redelivery.

(d) The trust company or national banking association may make any disposition of the property authorized or directed in any order or decree of any court having jurisdiction of the property.

§ 18-10-3 — Liability of trust company or banking association – Accounts to show ownership.

(a) Any trust company or national banking association shall be absolutely liable for any loss occasioned by the acts of any nominee or nominees of the trust company or national banking association with respect to any property so registered.

(b) The records of the fiduciary, whether corporate or individual, and the records of the trust company or national banking association in case of the registry of any property under the provisions of § 18-10-2, and all reports or accounts rendered by any fiduciary, corporate or individual, shall clearly show the ownership of the property by the fiduciary, corporate or individual.

(c) Any property so registered shall at all times be kept separate and apart from the assets of the trust company or national banking association.

§ 18-10-4 — Corporation or transfer agent relieved of liability on transfer of stock.

In case any stock, shares, bonds, debentures, notes, or other securities are registered in the name of a nominee or nominees in accordance with the provisions of this chapter, the corporation, joint stock company, business trust, or association which has issued any securities, and the transfer agent or agents and the registrar or registrars thereof, shall be fully relieved from liability for any loss occasioned by the acts of any fiduciary or of any depository under § 18-10-2, or of the nominee or nominees with respect to securities registered in the name of the nominee or nominees.

§ 18-10-5 — Applicability.

This chapter applies to all trusts, estates, and other fiduciary relationships, whether currently existing or subsequently created.

CHAPTER 18-11 — Simplification of Fiduciary Security Transfers

§ 18-11-1 — Short title.

This chapter may be cited as the "Uniform Act for Simplification of Fiduciary Security Transfers".

§ 18-11-2 — Definitions.

In this chapter, unless the context otherwise requires:

(1) "Assignment" includes any written stock power, bond power, bill of sale, deed, declaration of trust, or other instrument of transfer.

(2) "Claim of beneficial interest" includes a claim of any interest by a decedent's legatee, distributee, heir or creditor, a beneficiary under a trust, a ward, a beneficial owner of a security registered in the name of a nominee, or a minor owner of a security registered in the name of a custodian, or a claim of any similar interest, whether the claim is asserted by the claimant or by a fiduciary or by any other authorized person on his or her behalf, and includes a claim that the transfer would be in breach of fiduciary duties.

(3) "Corporation" means a private or public corporation, association, or trust issuing a security.

(4) "Fiduciary" means an executor, administrator, trustee, guardian, committee, conservator, curator, tutor, custodian, or nominee.

(5) "Person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(6) "Security" includes any share of stock, bond, debenture, note, or other security issued by a corporation that is registered as to ownership on the books of the corporation.

(7) "Transfer" means a change on the books of a corporation in the registered ownership of a security.

(8) "Transfer agent" means a person employed or authorized by a corporation to transfer securities issued by the corporation.

§ 18-11-3 — Registration in the name of a fiduciary.

A corporation or transfer agent registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship, and thereafter, the corporation and its transfer agent may assume without inquiry that the newly registered owner continues to be the fiduciary until the corporation or transfer agent receives written notice that the fiduciary is no longer acting as a fiduciary with respect to that particular security.

§ 18-11-5 — Evidence of appointment or incumbency.

A corporation or transfer agent making a transfer pursuant to an assignment by a fiduciary who is not the registered owner shall obtain the following evidence of appointment or incumbency:

(1) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or its officer and dated within sixty (60) days before the transfer; or

(2) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the corporation or transfer agent to be responsible or, in the absence of that document or certificate, other evidence reasonably deemed by the corporation or transfer agent to be appropriate. Corporations and transfer agents may adopt standards with respect to evidence of appointment or incumbency under this subdivision provided these standards are not manifestly unreasonable. Neither the corporation nor transfer agent is charged with notice of the contents of any document obtained pursuant to this subdivision, except to the extent that the contents relate directly to the appointment or incumbency.

§ 18-11-6 — Adverse claims.

a) A person asserting a claim of beneficial interest adverse to the transfer of a security pursuant to an assignment by a fiduciary may give the corporation or transfer agent written notice of the claim. The corporation or transfer agent is not put on notice unless the written notice identifies the claimant, the registered owner, and the issue of which the security is a part, provides an address for communications directed to the claimant, and is received before the transfer. Nothing in this chapter relieves the corporation or transfer agent of any liability for making or refusing to make the transfer after it is put on notice, unless it proceeds in the manner authorized in subsection (b) of this section.

(b) As soon as practicable after the presentation of a security for transfer pursuant to an assignment by a fiduciary, a corporation or transfer agent which has received notice of a claim of beneficial interest adverse to the transfer may send notice of the presentation by registered or certified mail to the claimant at the address given by the claimant. If the corporation or transfer agent mails the notice, it shall withhold the transfer for thirty (30) days after the mailing and shall then make the transfer unless restrained by a court order.

§ 18-11-7 — Non-liability of corporation and transfer agent.

A corporation or transfer agent incurs no liability to any person by making a transfer or otherwise acting in a manner authorized by this chapter.

§ 18-11-8 — Non-liability of third persons.

(a) No person who participates in the acquisition, disposition, assignment, or transfer of a security by or to a fiduciary, including a person who guarantees the signature of the fiduciary, is liable for participation in any breach of fiduciary duty by reason of failure to inquire whether the transaction involves a breach, unless it is shown that the person acted with actual knowledge that the proceeds of the transaction were being or were to be used wrongfully for the individual benefit of the fiduciary or that the transaction was otherwise in breach of duty.

(b) If a corporation or transfer agent makes a transfer pursuant to an assignment by a fiduciary, a person who guaranteed the signature of the fiduciary is not liable on the guarantee to any person to whom the corporation or transfer agent, by reason of this chapter, incurs no liability.

(c) This section does not impose any liability upon the corporation or its transfer agent.

§ 18-11-9 — Territorial applicability.

(a) The rights and duties of a corporation and its transfer agents in registering a security in the name of a fiduciary or in making a transfer of a security pursuant to an assignment by a fiduciary are governed by the law of the jurisdiction under whose laws the corporation is organized.

(b) This chapter applies to the rights and duties of a person other than the corporation and its transfer agents with regard to acts and omissions in this state in connection with the acquisition, disposition, assignment, or transfer of a security by or to a fiduciary and of a person who guarantees in this state the signature of a fiduciary in connection with this transaction.

§ 18-11-10 — Tax obligations.

This chapter does not affect any obligation of a corporation or transfer agent with respect to estate, inheritance, succession, or other taxes imposed by the laws of this state.

§ 18-11-11 — Uniformity of law.

This chapter shall be construed to effectuate its general purpose to make uniform the law of those states which enact it.

CHAPTER 18-12 — Uniform Management of Institutional Funds

CHAPTER 18-13 — Rhode Island Uniform Custodial Trust Act

§ 18-13-1 — Definitions.

As used in this chapter:

(1) "Adult" means an individual who is at least eighteen (18) years of age.

(2) "Beneficiary" means an individual for whom property has been transferred to or held under a declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.

(3) "Conservator" means a person appointed or qualified by a court to manage the estate of an individual or a person legally authorized to perform substantially the same functions.

(4) "Court" means the probate courts of this state.

(5) "Custodial trust property" means an interest in property transferred to or held under a declaration of trust by a custodial trustee under this chapter and the income from and proceeds of that interest.

(6) "Custodial trustee" means a person designated as trustee of a custodial trust under this chapter or a substitute or successor to the designated person.

(7) "Guardian" means a person appointed or qualified by a court as a guardian of an individual, including a limited guardian, but not a person who is only a guardian ad litem.

(8) "Incapacitated" means lacking the ability to manage property and business affairs effectively by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance, minority, or other disabling cause.

(9) "Legal representative" means a personal representative or conservator.

(10) "Member of the beneficiary's family" means a beneficiary's spouse, descendent, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(11) "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

(12) "Personal representative" means an executor, administrator, or a special administrator of a decedent's estate, a person legally authorized to perform substantially the same functions, or a successor to any of them.

(13) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(14) "Transferor" means a person who creates a custodial trust by transfer or declaration.

(15) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

§ 18-13-2 — Custodial trust – General.

(a) A person may create a custodial trust of property by a written transfer of the property to another person, evidenced by registration or by other instrument of transfer, executed in any lawful manner, naming as beneficiary an individual who may be the transferor, in which the transferee is designated, in substance, as custodial trustee under this chapter.

(b) A person may create a custodial trust of property by a written declaration, evidenced by registration of the property or by other instrument of declaration executed in any lawful manner, describing the property and naming as beneficiary an individual other than the declarant, in which the declarant as titleholder is designated, in substance, as custodial trustee under this chapter. A registration or other declaration of trust for the sole benefit of the declarant is not a custodial trust under this chapter.

(c) Title to custodial trust property is in the custodial trustee and the beneficial interest is in the beneficiary.

(d) Except as provided in subsection (e) of this section, a transferor may not terminate a custodial trust.

(e) The beneficiary, if not incapacitated, or the conservator of an incapacitated beneficiary, may terminate a custodial trust by delivering to the custodial trustee a writing signed by the beneficiary or conservator declaring the termination. If not previously terminated, the custodial trust terminates on the death of the beneficiary.

(f) Any person may augment existing custodial trust property by the addition of other property pursuant to this chapter.

(g) The transferor may designate, or authorize the designation of, a successor custodial trustee in the trust instrument.

(h) This chapter does not displace or restrict other means of creating trusts. A trust whose terms do not conform to this chapter may be enforceable according to its terms under other law.

§ 18-13-3 — Custodial trustee for future payment or transfer.

a) A person having the right to designate the recipient of property payable or transferable upon a future event may create a custodial trust upon the occurrence of the future event by designating in writing the recipient, followed in substance by "as custodial trustee for [] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act".

(b) Persons may be designated as substitute or successor custodial trustees to whom the property must be paid or transferred in the order named if the first designated trustee is unable or unwilling to serve.

(c) A designation under this section may be made in a will, a trust, a deed, a multi-party account, an insurance policy, an instrument exercising a power of appointment, or a writing designating a beneficiary of contractual rights. Otherwise, to be effective, the designation must be registered with or delivered to the fiduciary, payor, issuer, or obligor of the future right.

§ 18-13-4 — Form and effect of receipt and acceptance by custodial trustee – Jurisdiction.

(a) Obligations of a custodial trustee, including the obligation to follow directions of the beneficiary, arise under this chapter upon the custodial trustee's acceptance, express or implied, of the custodial trust property.

(b) The custodial trustee's acceptance may be evidenced by a writing stating in substance:

CUSTODIAL TRUSTEE'S RECEIPT AND ACCEPTANCE

I, [] (name of custodial trustee) acknowledge receipt of the custodial trust property described below or in the attached instrument and accept the custodial trust as custodial trustee for [] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act. I undertake to administer and distribute the custodial trust property pursuant to the Rhode Island Uniform Custodial Trust Act. My obligations as custodial trustee are subject to the directions of the beneficiary unless the beneficiary is designated as, is, or becomes incapacitated. The custodial trust property consists of .

Dated: []

(Signature of Custodial Trustee)

(c) Upon accepting custodial trust property, a person designated as custodial trustee under this chapter is subject to personal jurisdiction of the court with respect to any matter relating to the custodial trust.

§ 18-13-5 — Transfer to custodial trustee by fiduciary or obligor – Facility of payment.

(a) Unless otherwise directed by an instrument designating a custodial trustee pursuant to § 18-13-3, a person, including a fiduciary other than a custodial trustee, who holds property of or owes a debt to an incapacitated individual not having a conservator, may make a transfer to an adult member of the beneficiary's family or to a trust company as custodial trustee for the use and benefit of the incapacitated individual. If the value of the property or the debt exceeds twenty thousand dollars (\$20,000), the transfer is not effective unless authorized by the court.

(b) A written acknowledgment of delivery, signed by a custodial trustee, is a sufficient receipt and discharge for property transferred to the custodial trustee pursuant to this section.

§ 18-13-6 — Multiple beneficiaries – Separate custodial trusts – Survivorship.

(a) Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate custodial trusts of equal undivided interests for each beneficiary. Except in a transfer or declaration for use and benefit of husband and wife, for whom survivorship is presumed, a right of survivorship does not exist unless the instrument creating the custodial trust specifically provides for survivorship.

(b) Custodial trust property held under this chapter by the same custodial trustee for the use and benefit of the same beneficiary may be administered as a single custodial account.

(c) A custodial trustee of custodial trust property held for more than one beneficiary shall separately account to each beneficiary pursuant to §§ 18-13-7 and 18-13-15 for the administration of the custodial trust.

§ 18-13-7 — General duties of custodial trustee.

(a) If appropriate, a custodial trustee shall register or record the instrument vesting title to custodial trust property.

(b) If the beneficiary is not incapacitated, a custodial trustee shall follow the directions of the beneficiary in the management, control, investment, or retention of the custodial trust property. In the absence of effective contrary direction by the beneficiary while not incapacitated, the custodial trustee shall observe the standard of care that would be observed by a prudent person dealing with the property of another and is not limited by any other law restricting investments by fiduciaries. However, a custodial trustee, at the custodial trustee's discretion, may retain any custodial trust property received from the transferor. If a custodial trustee has a special skill or expertise or is named custodial trustee on the basis of representation of a special skill or expertise, the custodial trustee shall use that skill or expertise.

(c) Subject to subsection (b) of this section, a custodial trustee shall take control of and collect, hold, manage, invest, and reinvest custodial trust property.

(d) A custodial trustee shall keep at all times custodial trust property, of which the custodial trustee has control, separate from all other property in a manner sufficient to identify it clearly as custodial trust property of the beneficiary. Custodial trust property, the title to which is subject to recordation, is so identified if an appropriate instrument identifying the property as custodial trust property is recorded, and custodial trust property subject to registration is so identified if it is registered, or held in an account in the name of the custodial trustee, designated in substance: "as custodial trustee for]]]]]]]]]]]]]] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act".

(e) A custodial trustee shall keep records of all transactions with respect to custodial trust property, including information necessary for the preparation of tax returns, and shall make the records and information available at reasonable times to the beneficiary or legal representative of the beneficiary.

(f) The exercise of a durable power of attorney for an incapacitated beneficiary is not effective to terminate or direct the administration or distribution of a custodial trust.

§ 18-13-8 — General powers of custodial trustee.

a) A custodial trustee, acting in a fiduciary capacity, has all the rights and powers over custodial trust property which an unmarried adult owner has over individually owned property, but a custodial trustee may only exercise those rights and powers in a fiduciary capacity.

(b) This section does not relieve a custodial trustee from liability for a violation of § 18-13-7.

§ 18-13-9 — Use of custodial trust property.

(a) A custodial trustee shall pay to the beneficiary or expend for the beneficiary's use and benefit as much or all of the custodial trust property as the beneficiary, while not incapacitated, may direct from time to time.

(b) If the beneficiary is incapacitated, the custodial trustee shall expend as much or all of the custodial trust property as the custodial trustee considers advisable for the use and benefit of the beneficiary and individuals who were supported by the beneficiary when the beneficiary became incapacitated, or who are legally entitled to support by the beneficiary. Expenditures may be made in the manner, when, and to the extent that the custodial trustee determines suitable and proper, without court order and without regard to other support, income, or property of the beneficiary.

(c) A custodial trustee may establish checking, savings, or other similar accounts of reasonable amounts under which either the custodial trustee or the beneficiary may withdraw funds from, or draw checks against, the accounts. Funds withdrawn from, or checks written against, the account by the beneficiary are distributions of custodial trust property by the custodial trustee to the beneficiary.

§ 18-13-10 — Determination of incapacity – Effect.

(a) The custodial trustee shall administer the custodial trust as for an incapacitated beneficiary if:

- (1) The custodial trust was created under § 18-13-5;
- (2) The transferor has so directed in the instrument creating the custodial trust; or
- (3) The custodial trustee has determined that the beneficiary is incapacitated.

(b) A custodial trustee may determine that the beneficiary is incapacitated in reliance upon:

- (1) Previous direction or authority given by the beneficiary while not incapacitated; including direction or authority pursuant to a durable power of attorney,
- (2) The certificate of the beneficiary's physician; or
- (3) Other persuasive evidence.

(c) If a custodial trustee for an incapacitated beneficiary reasonably concludes that the beneficiary's incapacity has ceased, or that circumstances concerning the beneficiary's ability to manage property and business affairs have changed since the creation of a custodial trust directing administration as for an incapacitated beneficiary, the custodial trustee may administer the trust as for a beneficiary who is not incapacitated.

(d) On petition of the beneficiary, the custodial trustee, or other person interested in the custodial trust property or the welfare of the beneficiary, the court shall determine whether the beneficiary is incapacitated.

(e) Absent determination of incapacity of the beneficiary under subsection (b) or (d) of this section, a custodial trustee who has reason to believe that the beneficiary is incapacitated shall administer the custodial trust in accordance with the provisions of this chapter applicable to an incapacitated beneficiary.

(f) Incapacity of a beneficiary does not terminate:

- (1) The custodial trust;
- (2) Any designation of a successor custodial trustee;
- (3) Rights or powers of the custodial trustee; or
- (4) Any immunities of third persons acting on instructions of the custodial trustee.

§ 18-13-11 — Exemption of third person from liability.

A third person in good faith and without a court order may act on instructions of, or otherwise deal with, a person purporting to make a transfer as, or purporting to act in the incapacity of, a custodial trustee. In the absence of knowledge to the contrary, the third person is not responsible for determining:

- (1) The validity of the purported custodial trustee's designation;
- (2) The propriety of, or the authority under this chapter for, any action of the purported custodial trustee;
- (3) The validity or propriety of an instrument executed or instruction given pursuant to this chapter either by the person purporting to make a transfer or declaration or by the purported custodial trustee; or
- (4) The propriety of the application of property vested in the purported custodial trustee.

§ 18-13-12 — Liability to third person.

(a) A claim based on a contract entered into by a custodial trustee acting in a fiduciary capacity, an obligation arising from the ownership or control of custodial trust property, or a tort committed in the course of administering the custodial trust, may be asserted by a third person against the custodial trust property by proceeding against the custodial trustee in a fiduciary capacity, whether or not the custodial trustee or the beneficiary is personally liable.

(b) A custodial trustee is not personally liable to a third person:

(1) On a contract properly entered into in a fiduciary capacity, unless the custodial trustee fails to reveal that capacity or to identify the custodial trust in the contract; or

(2) For an obligation arising from control of custodial trust property or for a tort committed in the course of the administration of the custodial trust, unless the custodial trustee is personally at fault.

(c) A beneficiary is not personally liable to a third person for an obligation arising from beneficial ownership of custodial trust property or for a tort committed in the course of administration of the custodial trust, unless the beneficiary is personally in possession of the custodial trust property giving rise to the liability or is personally at fault.

(d) Subsections (b) and (c) of this section do not preclude actions or proceedings to establish liability of the custodial trustee or beneficiary to the extent the person sued is protected as the insured by liability insurance.

§ 18-13-13 — Declination, resignation, incapacity, death, or removal of custodial trustee – Designation of successor custodial trustee.

(a) Before accepting the custodial trust property, a person designated as custodial trustee may decline to serve by notifying the person who made the designation, the transferor, or the transferor's legal representative. If an event giving rise to a transfer has not occurred, the substitute custodial trustee designated under § 18-13-3 becomes the custodial trustee, or, if a substitute custodial trustee has not been designated, the person who made the designation may designate a substitute custodial trustee pursuant to § 18-13-3. In other cases, the transferor or the transferor's legal representative may designate a substitute custodial trustee.

(b) A custodial trustee who has accepted the custodial trust property may resign by:

(1) Delivering written notice to a successor custodial trustee, if any, the beneficiary and, if the beneficiary is incapacitated, to the beneficiary's conservator, if any; and

(2) Transferring or registering, or recording an appropriate instrument relating to, the custodial trust property, in the name of, and delivering the records to, the successor custodial trustee identified under subsection (c) of this section.

(c) If a custodial trustee or successor custodial trustee is ineligible, resigns, dies, or becomes incapacitated, the successor designated under § 18-13-2(g) or § 18-13-3 becomes custodial trustee. If there is no effective provision for a successor, the beneficiary, if not incapacitated, may designate a successor custodial trustee. If the beneficiary is incapacitated, or fails to act within ninety (90) days after the ineligibility, resignation, death, or incapacity of the custodial trustee, the beneficiary's conservator becomes successor custodial trustee. If the beneficiary does not have a conservator or the conservator fails to act, the resigning custodial trustee may designate a successor custodial trustee.

(d) If a successor custodial trustee is not designated pursuant to subsection (c) of this section, the transferor, the legal representative of the transferor or of the custodial trustee, an adult member of the beneficiary's family, the guardian of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the court to designate a successor custodial trustee.

(e) A custodial trustee who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodial trustee, as soon as practicable, shall put the custodial trust property and records in the possession and control of the successor custodial trustee. The successor custodial trustee may enforce the obligation to deliver custodial trust property and records and becomes responsible for each item as received.

(f) A beneficiary, the beneficiary's conservator, an adult member of the beneficiary's family, a guardian of the person of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the court to remove the custodial trustee for cause and designate a successor custodial trustee, to require the custodial trustee to furnish a bond or other security for the faithful performance of fiduciary duties, or other appropriated relief.

§ 18-13-14 — Expenses, compensation, and bond of custodial trustee.

Except as otherwise provided in the instrument creating the custodial trust, in an agreement with the beneficiary, or by court order, a custodial trustee:

(1) Is entitled to reimbursement from custodial trust property for reasonable expenses incurred in the performance of fiduciary services;

(2) Has a non-cumulative election, to be made no later than six (6) months after the end of each calendar year, to charge a reasonable compensation for fiduciary services performed during that year; and

(3) Need not furnish a bond or other security for the faithful performance of fiduciary duties.

§ 18-13-15 — Reporting and accounting by custodial trustee – Determination of liability of custodial trustee.

(a) Upon the acceptance of custodial trust property, the custodial trustee shall provide a written statement describing the custodial trust property and shall thereafter provide a written statement of the administration of the custodial trust property: (1) once each year, (2) upon request, at reasonable times, by the beneficiary or the beneficiary's legal representative, (3) upon resignation or removal of the custodial trustee, and (4) upon termination of the custodial trust. The statements must be provided to the beneficiary or to the beneficiary's legal representative, if any. Upon termination of the beneficiary's interest, the custodial trustee shall furnish a current statement to the person to whom the custodial trust property is to be delivered.

(b) A beneficiary, the beneficiary's legal representative, an adult member of the beneficiary's family, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary may petition the court for an accounting by the custodial trustee or the custodial trustee's legal representative.

(c) A successor custodial trustee may petition the court for an accounting by a predecessor custodial trustee.

(d) In an action or proceeding under this chapter or in any other proceeding, the court may require or permit the custodial trustee or the custodial trustee's legal representative to account. The custodial trustee or the custodial trustee's legal representative may petition the court for approval of final accounts.

(e) If a custodial trustee is removed, the court shall require an accounting and order delivery of the custodial trust property and records to the successor custodial trustee and the execution of all instruments required for the transfer of the custodial trust property.

(f) On petition of the custodial trustee or any person who could petition for an accounting, the court, after notice to interested persons, may issue instructions to the custodial trustee or review the propriety of the acts of a custodial trustee or the reasonableness of compensation determined by the custodial trustee for the services of the custodial trustee or others.

§ 18-13-16 — Limitations of action against custodial trustee.

(a) Except as provided in subsection (c) of this section, unless previously barred by adjudication, consent, or limitation, a claim for relief against a custodial trustee for accounting or breach of duty is barred as to a beneficiary, a person to whom custodial trust property is to be paid or delivered, or the legal representative of an incapacitated or deceased beneficiary or payee:

(1) Who has received a final account or statement fully disclosing the matter, unless an action or proceeding to assert the claim is commenced within two (2) years after the receipt of the final account or statement; or

(2) Who has not received a final account or statement fully disclosing the matter, unless an action or proceeding to assert the claim is commenced within three (3) years after the termination of the custodial trust.

(b) Except as provided in subsection (c) of this section, a claim for relief to recover from a custodial trustee for fraud, misrepresentation, or concealment related to the final settlement of the custodial trust or concealment of the existence of the custodial trust, is barred unless an action or proceeding to assert the claim is commenced within five (5) years after the termination of the custodial trust.

(c) A claim for relief is not barred by this section if the claimant:

(1) Is a minor, until the earlier of two (2) years after the claimant becomes an adult or dies;

(2) Is an incapacitated adult, until the earliest of two (2) years after:

(i) The appointment of a conservator;

(ii) The removal of the incapacity; or

(iii) The death of the claimant; or

(3) Was an adult, now deceased, who was not incapacitated, until two (2) years after the claimant's death.

§ 18-13-17 — Distribution on termination.

(a) Upon termination of a custodial trust, the custodial trustee shall transfer the unexpended custodial trust property:

(1) To the beneficiary, if not incapacitated or deceased;

(2) To the conservator or other recipient designated by the court for an incapacitated beneficiary; or

(3) Upon the beneficiary's death, in the following order:

(i) As last directed in a writing signed by the deceased beneficiary while not incapacitated and received by the custodial trustee during the life of the deceased beneficiary;

(ii) To the survivor of multiple beneficiaries if survivorship is provided for pursuant to § 18-13-6;

(iii) As designated in the instrument creating the custodial trust; or

(iv) To the estate of the deceased beneficiary.

(b) If, when the custodial trust would otherwise terminate, the distributee is incapacitated, the custodial trust continues for the use and benefit of the distributee as beneficiary until the incapacity is removed or the custodial trust is otherwise terminated.

(c) Death of a beneficiary does not terminate the power of the custodial trustee to discharge obligations of the custodial trustee or beneficiary incurred before the termination of the custodial trust.

§ 18-13-18 — Methods and forms for creating custodial trusts.

(a) If a transaction, including a declaration with respect to or a transfer of specific property, otherwise satisfies applicable law, the criteria of § 18-13-2 are satisfied by:

(1) The execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form:

TRANSFER UNDER THE RHODE ISLAND UNIFORM CUSTODIAL TRUST ACT

I, [REDACTED] (name of transferor or name and representative capacity if a fiduciary), transfer to [REDACTED] (name of trustee other than transferor), as custodial trustee for [REDACTED] (name of beneficiary) as beneficiary and [REDACTED] as distributee on termination of the trust in absence of direction by the beneficiary under the Rhode Island Uniform Custodial Trust Act, the following:

(insert a description of the custodial trust property legally sufficient to identify and transfer each item of property.)

Dated: [REDACTED]

[REDACTED]

(Signature)

or

(2) The execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form:

DECLARATION OF TRUST UNDER THE RHODE ISLAND UNIFORM CUSTODIAL TRUST ACT

I, [REDACTED] (name of owner of property), declare that henceforth I hold as custodial trustee for [REDACTED] (name of beneficiary other than transferor) as beneficiary and [REDACTED] as distributee on termination of the trust in absence of direction by the beneficiary under the Rhode Island Uniform Custodial Trust Act, the following: (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property.)

Dated: [REDACTED]

[REDACTED]

(Signature)

(b) Customary methods of transferring or evidencing ownership of property may be used to create a custodial trust, including any of the following:

(1) Registration of a security in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act";

(2) Delivery of a certificated security, or a document necessary for the transfer of an uncertificated security, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodial trustee, accompanied by an instrument in substantially the form prescribed in subdivision (a)(1) of this section;

(3) Payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act";

(4) Registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated substance: "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act";

(5) Delivery of a written assignment to an adult other than the transferor or to a trust company whose name in the assignment is designed in substance by the words: "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act";

(6) Irrevocable exercise of a power of appointment, pursuant to its terms, in favor of a trust company, an adult other than the donee of the power, or the donee who holds the power if the beneficiary is other than the donee, whose name in the appointment is designated in substance: "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act";

(7) Delivery of a written notification or assignment of a right to future payment under a contract to an obligor which transfers the right under the contract to a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, whose name in the notification or assignment is designated in substance: "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act";

(8) Execution, delivery, and recordation of a conveyance of an interest in real property in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act";

(9) Issuance of a certificate of title by an agency of a state or of the United States which evidences title to tangible personal property:

(i) Issued in the name of a trust company, an adult other the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act"; or

(ii) Delivered to a trust company or an adult other than the transferor or endorsed by the transferor to that person, designated in substance: "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act".

(10) Execution and delivery of an instrument of gift to a trust company or an adult other than the transferor, designated in substance: "as custodial trustee for [REDACTED] (name of beneficiary) under the Rhode Island Uniform Custodial Trust Act".

§ 18-13-19 — Applicable law.

(a) This chapter applies to a transfer or declaration creating a custodial trust that refers to this chapter if, at the time of the transfer or declaration, the transferor, beneficiary, or custodial trustee is a resident of or has its principal place of business in this state or custodial trust property is located in this state. The custodial trust remains subject to this chapter despite a later change in residence or principal place of business of the transferor, beneficiary, or custodial trustee, or removal of the custodial trust property from this state.

(b) A transfer made pursuant to an act of another state substantially similar to this chapter is governed by the law of that state and may be enforced in this state.

§ 18-13-20 — Uniformity of application of construction.

This chapter shall be applied and construed to effectuate its general purpose to make the law uniform with respect to its subject among states enacting it.

§ 18-13-21 — Short title.

This chapter may be cited as the "Rhode Island Uniform Custodial Trust Act".

§ 18-13-22 — Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

CHAPTER 18-14 — Uniform Testamentary Additions to Trusts Act

§ 18-14-1 — Short title.

This chapter shall be known and cited as the "Uniform Testamentary Additions to Trusts Act".

§ 18-14-2 — Testamentary additions to trusts.

(a) A will may validly devise or bequeath property to the trustee of a trust established or to be established:

(1) During the testator's lifetime by the testator, by the testator and some other person, or by some other person, including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts; or

(2) At the testator's death by the testator's devise to the trustee, if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before, concurrently with, or after the execution of the testator's will, or in another individual's will if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust.

(b) The devise or bequest is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

(c) Unless the testator's will provides otherwise, property devised or bequeathed to a trust described in subsection (a) of this section is not held under a testamentary trust of the testator but it becomes a part of the trust to which it is devised or bequeathed, and must be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including any amendments to it made before or after the testator's death.

(d) Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death causes the devise or bequest to lapse.

§ 18-14-3 — Effect on existing wills.

This chapter applies to a will of a testator who dies after July 12, 1994.

§ 18-14-4 — Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make the law uniform with respect to the subject of this chapter among states enacting it.

§ 18-14-5 — [Repealed].

§ 18-14-6 — Severability.

If any provision of this chapter or its application is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end provisions of this chapter are severable.

CHAPTER 18-15 — Rhode Island Uniform Prudent Investor Act

CHAPTER 18-16 — Rhode Island Short Form Power of Attorney Act