

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1014 Session of
2001

INTRODUCED BY GREENLEAF, LEMMOND, COSTA, M. WHITE AND HOLL,
JUNE 21, 2001

REFERRED TO JUDICIARY, JUNE 21, 2001

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 situs of inter vivos trust, for rules of succession, for
4 power of decedent, for equitable apportionment of Federal
5 estate tax, for definitions and for termination of
6 custodianship; providing for delay in transfer of custodial
7 property after minor attains age 21; further providing for
8 effect of disclaimer; providing for power of trustee to
9 resign; extensively revising provisions on principal and
10 income; and making conforming amendments.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 724 of Title 20 of the Pennsylvania
14 Consolidated Statutes is amended to read:

15 § 724. Situs of inter vivos trust.

16 (a) When provided for in trust instrument.--If the trust
17 instrument expressly provides for the situs of the inter vivos
18 trust, its situs shall be at the place within or without the
19 Commonwealth which is in accord with such provision.

20 (b) Not provided for in trust instrument.--If the trust
21 instrument does not expressly provide for the situs of the inter

1 vivos trust, its situs shall be:

2 (1) Resident settlor.--In the case of an inter vivos
3 trust whose settlor is domiciled in the Commonwealth:

4 (i) in the settlor's lifetime, either in the county
5 of his principal residence or in the county in which any
6 of the trustees resides or [is located] has a place of
7 business; and

8 (ii) after the settlor's death, either in the county
9 in which letters have been granted to his personal
10 representative, or in a county in which letters could
11 have been granted, or in a county which is the principal
12 place of the trust's administration in which any trustee
13 resides [or is located] or has a place of business.

14 (2) Nonresident settlor.--In the case of an inter vivos
15 trust whose settlor:

16 (i) is not domiciled in the Commonwealth at the time
17 when during his lifetime the first application is made to
18 a court concerning the trust; or

19 (ii) was not domiciled in the Commonwealth at his
20 death if the first application to a court concerning the
21 trust was made thereafter,

22 in a county which is the principal place of the trust's
23 administration or in which any trustee resides [or is
24 located,] or has a place of business and if there is no such
25 trustee, then in a county where property of the trust is
26 located.

27 Section 2. Section 2104 of Title 20 is amended by adding a
28 paragraph to read:

29 § 2104. Rules of succession.

30 The provisions of this chapter shall be applied to both real

1 and personal estate in accordance with the following rules:

2 * * *

3 (11) Intestacy following valid prior estate.--In the
4 event of an intestacy occurring at the termination of a valid
5 prior estate, the identity and shares of the intestate heirs
6 then entitled to take shall be ascertained as though the
7 death of the testator, settlor or grantor had occurred at the
8 time of the termination of the prior estate.

9 Section 3. Section 3701 of Title 20 is amended to read:

10 § 3701. Power of decedent.

11 A testator, settlor, donor or possessor of any appropriate
12 power of appointment may direct how the Federal estate tax or
13 the Federal generation-skipping transfer tax due because of his
14 death, including interest and penalties, shall be apportioned or
15 may grant a discretionary power to another so to direct, but:

16 (1) any direction regarding apportionment of the Federal
17 generation-skipping transfer tax must expressly refer to that
18 tax[.]; and

19 (2) [Any] any direction waiving the right of recovery of
20 Federal estate tax, provided for under section 2207A of the
21 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
22 2207A), on [the] property includable in the [taxable] gross
23 estate by reason of section 2044 of the Internal Revenue Code
24 of 1986, must expressly refer to that right.

25 Any such direction shall take precedence over the provisions of
26 this chapter insofar as the direction provides for the payment
27 of the tax or any part thereof from property the disposition of
28 which can be controlled by the instrument containing the
29 direction or delegating the power to another.

30 Section 4. Section 3702(f) and (h) of Title 20 are amended

1 and the section is amended by adding a subsection to read:

2 § 3702. Equitable apportionment of Federal estate tax.

3 * * *

4 (f) Additional Federal estate tax.--

5 (1) Any increase in Federal estate tax caused by the
6 inclusion under section 2044 of the Internal Revenue Code of
7 1986 (Public Law 99-514, 26 U.S.C. § 2044) of a qualified
8 terminable interest trust in the estate of a decedent shall
9 be apportioned against that trust.

10 (2) Any increase in Federal estate tax caused by a
11 taxable event occurring in a qualified domestic trust under
12 section 2056A of the Internal Revenue Code of 1986 (Public
13 Law 99-514, 26 U.S.C. § 2056A) shall be apportioned against
14 that trust notwithstanding the provisions of subsection (b)
15 or (c).

16 (3) Any additional Federal estate tax due because a
17 qualified heir disposes of qualified real property or ceases
18 to use it for the qualified use shall be apportioned against
19 the qualified heir notwithstanding the provisions of
20 subsection (b).

21 * * *

22 (h) Interest and penalties.--Interest and penalties shall be
23 apportioned in the same manner as the principal amount of the
24 Federal estate tax [unless the court finds it inequitable to do
25 so by reason of special circumstances in which case the court
26 may direct a different apportionment of interest and penalties.]
27 subject to a fiduciary's power to adjust under Chapter 81
28 (relating to principal and income).

29 * * *

30 (j) Gift tax.--Gift tax paid by the decedent and imposed on

1 a gift by the decedent or his spouse within three years of the
2 date of his death and included in his gross estate shall be
3 treated in the same manner as though the amount of such gift tax
4 had been a preresiduary testamentary gift by the decedent to the
5 donee of the gift.

6 Section 5. Section 5164 of Title 20 is amended to read:

7 § 5164. Distributions for support and education.

8 All income received by a guardian of the estate of a minor,
9 including, subject to the requirements of Federal law relating
10 thereto, all funds received from the Department of Veterans'
11 Affairs, Social Security Administration and other periodic
12 retirement or disability payments under private or government
13 plans, in the exercise of a reasonable discretion, may be
14 expended in the care, maintenance and education of the minor
15 without the necessity of court approval. The court, for cause
16 shown and with only such notice as it considers appropriate in
17 the circumstances, may authorize or direct the payment or
18 application of any or all of the income or principal of the
19 estate of a minor for the care, maintenance or education of the
20 minor, his spouse or children, or for the reasonable funeral
21 expenses of the minor's spouse, child or indigent parent. In
22 proper cases, the court may order payment of amounts directly to
23 the ward for his maintenance or for incidental expenses and may
24 ratify payments made for these purposes. For purposes of this
25 section, the term "income" means income as determined in
26 accordance with the rules set forth in Chapter 81 (relating to
27 principal and income), other than the power to adjust and the
28 power to convert to a unitrust.

29 Section 6. The definition of "minor" in section 5301(b) of
30 Title 20 is amended to read:

1 § 5301. Short title of chapter and definitions.

2 * * *

3 (b) Definitions.--The following words and phrases when used
4 in this chapter shall have the meanings given to them in this
5 subsection unless the context clearly indicates otherwise:

6 * * *

7 "Minor." An individual who has not attained 21 years of
8 age[.], except that when used with reference to the beneficiary
9 for whose benefit custodial property is held or is to be held,
10 an individual who has not attained the age at which the
11 custodian is required under sections 5320 (relating to
12 termination of custodianship) and 5321 (relating to delay in
13 transfer of custodial property after minor attains age 21) to
14 transfer the custodial property to the beneficiary.

15 * * *

16 Section 7. Section 5320 of Title 20 is amended to read:

17 § 5320. Termination of custodianship.

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

21 (1) the minor's attainment of 21 years of age with
22 respect to custodial property transferred by gift under
23 section 5304 (relating to transfer by gift or exercise of
24 power of appointment) [or 5305 (relating to transfer
25 authorized by will or trust)];

26 [(2) the minor's attainment of majority under the laws
27 of this Commonwealth other than this chapter with respect to
28 custodial property transferred under section 5306 (relating
29 to other transfer by fiduciary) or 5307 (relating to transfer
30 by obligor); or

1 (3) the minor's death.]

2 (2) the minor's attainment of 21 years of age with
3 respect to a custodian nominated under section 5303 (relating
4 to nomination of custodian) or with respect to custodial
5 property transferred by exercise of power of appointment
6 under section 5304 or by will or trust under section 5305
7 (relating to transfer authorized by will or trust), unless
8 the time of transfer of the custodial property to the minor
9 is delayed under section 5321 (relating to delay in transfer
10 of custodial property after minor attains age 21) to a time
11 after the minor attains 21 years of age;

12 (3) the time specified in the transfer pursuant to
13 section 5309 (relating to manner of creating custodial
14 property and effecting transfer) if the time of transfer of
15 the custodial property to the minor is delayed under section
16 5321 to a time after the time the minor attains 21 years of
17 age;

18 (4) the minor's attainment of majority under the laws of
19 this Commonwealth other than this chapter with respect to
20 custodial property transferred under section 5306 (relating
21 to other transfer by fiduciary) or 5307 (relating to transfer
22 by obligor); or

23 (5) the minor's death.

24 Section 8. Title 20 is amended by adding a section to read:

25 § 5321. Delay in transfer of custodial property after
26 minor attains age 21.

27 (a) General rule.--Subject to the requirements and
28 limitations of this section, the time for transfer to the minor
29 of custodial property transferred under or pursuant to section
30 5303 (relating to nomination of custodian), 5304 (relating to

transfer by gift or exercise of power of appointment) or 5305
(relating to transfer authorized by will or trust) may be
delayed until a specified time after the time the minor attains
21 years of age, which time shall be specified in the transfer
pursuant to section 5309 (relating to manner of creating
custodial property and effecting transfer).

(b) How to specify a delayed time for transfer.--To specify
a delayed time for transfer to the minor of the custodial
property, the words "as custodian for (name of minor) until age
(age for delivery of property to minor) under the Pennsylvania
Uniform Transfers to Minors Act" shall be substituted in
substance for the words "as custodian for (name of minor) under
the Pennsylvania Uniform Transfers to Minors Act" in making the
transfer pursuant to section 5309.

(c) Transfer authorized by will or trust; nomination of
custodian.--The time for transfer to the minor of custodial
property transferred under or pursuant to section 5303 or 5305
may be delayed under this section only if the governing will or
trust or nomination provides in substance that the custodianship
is to continue until the time the minor attains a specified age,
which time may not be later than the time the minor attains 25
years of age, and in that case the governing will or trust or
nomination shall determine the time to be specified in the
transfer pursuant to section 5309.

(d) Transfer by exercise of power appointment.--The time for
transfer to the minor of custodial property transferred by the
irrevocable exercise of a power of appointment under section
5304 may be delayed under this section only if the transfer
pursuant to section 5309 provides in substance that the
custodianship is to continue until the time the minor attains a

specified age, which time may not be later than the time the
minor attains 25 years of age.

(e) When section not applicable.--This section shall not
apply to the time for transfer to the minor of custodial
property transferred by irrevocable gift under section 5304.

(f) When transfer does not specify age.--If the transfer
pursuant to section 5309 does not specify any age, the time for
the transfer of the custodial property to the minor under
section 5320 (relating to termination of custodianship) is the
time when the minor attains 21 years of age.

(g) When transfer provides for a longer duration of
custodianship than permitted by this section.--If the transfer
pursuant to section 5309 provides in substance that the duration
of the custodianship is for a time longer than the maximum time
permitted by this section for the duration of a custodianship
created by that type of transfer, the custodianship shall be
deemed to continue only until the time the minor attains the
maximum age permitted by this section for the duration of a
custodianship created by that type of transfer.

Section 9. Section 5536(a) of Title 20 is amended to read:

§ 5536. Distributions of income and principal during
incapacity.

(a) In general.--All income received by a guardian of the
estate of an incapacitated person, including (subject to the
requirements of Federal law relating thereto) all funds received
from the Veterans' Administration, Social Security
Administration and other periodic retirement or disability
payments under private or governmental plans, in the exercise of
a reasonable discretion, may be expended in the care and
maintenance of the incapacitated person, without the necessity

1 of court approval. The court, for cause shown and with only such
2 notice as it considers appropriate in the circumstances, may
3 authorize or direct the payment or application of any or all of
4 the income or principal of the estate of an incapacitated person
5 for the care, maintenance or education of the incapacitated
6 person, his spouse, children or those for whom he was making
7 such provision before his incapacity, or for the reasonable
8 funeral expenses of the incapacitated person's spouse, child or
9 indigent parent. In proper cases, the court may order payment of
10 amounts directly to the incapacitated person for his maintenance
11 or for incidental expenses and may ratify payments made for
12 these purposes. For purposes of this subsection, the term
13 "income" means income as determined in accordance with the rules
14 set forth in Chapter 81 (relating to principal and income),
15 other than the power to adjust and the power to convert to a
16 unitrust.

17 * * *

18 Section 10. Section 6205(a) of Title 20 is amended and the
19 section is amended by adding a subsection to read:

20 § 6205. Effect of disclaimer.

21 (a) In general.--A disclaimer relates back for all purposes
22 to the date of the death of the decedent or the effective date
23 of the inter vivos transfer or third-party beneficiary contract
24 as the case may be. The disclaimer shall [be binding upon the
25 disclaimant and all persons claiming through or under him.] not
26 in any way diminish the interest of any person other than the
27 disclaimant in such person's own right under the instrument
28 creating the disclaimed interest or under the intestate laws nor
29 diminish any interest to which such person becomes entitled
30 under subsection (b) by reason of the disclaimer.

1 * * *

2 (d) Rights of creditors of disclaimant.--Nothing in this
3 section shall determine the effect of a disclaimer upon the
4 rights of creditors of the disclaimant.

5 Section 11. Title 20 is amended by adding sections to read:
6 § 7104. Power of trustee to resign.

7 (a) Court approval.--Any trustee may resign with court
8 approval.

9 (b) Without court approval if authorized by governing
10 instrument.--Any trustee may resign without court approval if
11 authorized to resign by the governing instrument.

12 (c) When individual trustee may resign without court
13 approval and without authorization in governing instrument.--
14 Unless expressly provided to the contrary in the governing
15 instrument, an individual trustee may resign without court
16 approval and without authorization in the governing instrument
17 if:

18 (1) consented to in writing by all co-trustees, if there
19 are one or more co-trustees; and

20 (2) consented to in writing by all the sui juris
21 beneficiaries currently eligible to receive income and by all
22 the sui juris beneficiaries who would receive, if no powers
23 of appointment were exercised, a distribution of principal if
24 the trust were to terminate immediately prior to the
25 resignation, provided that no such resignation shall be
26 effective unless there is at least one such income
27 beneficiary and at least one such remainderman.

28 This subsection shall not authorize the sole trustee of a trust
29 to resign unless the governing instrument names a successor
30 trustee or provides a method for appointing a successor trustee,

1 and in either case the resignation shall not be effective until
2 the successor trustee accepts in writing his appointment.

3 (d) Liability.--The resignation of a trustee shall not by
4 itself relieve the resigning trustee of liability in connection
5 with the administration of the trust.

6 (e) Definition.--As used in this section, the term "sui
7 juris beneficiary" includes a guardian for an incapacitated
8 beneficiary, an agent acting under a durable power of attorney
9 for an incompetent beneficiary and a court-appointed guardian of
10 a minor's estate or, if none, the minor's parents.

11 § 7105. Filing resignations and appointments.

12 A resignation of a trustee, an appointment of a trustee and
13 an acceptance of an appointment of a trustee may be filed with
14 the clerk of the orphans' court division having jurisdiction
15 over the trust.

16 Section 12. Chapter 81 of Title 20 is repealed.

17 Section 13. Title 20 is amended by adding a chapter to read:

18 CHAPTER 81

19 PRINCIPAL AND INCOME

20 Subchapter

21 A. Preliminary Provisions; Power to Adjust; Power to Convert
22 to Unitrust

23 B. Decedent's Estate or Terminating Income Interest

24 C. Apportionment at Beginning and End of Income Interest

25 D. Allocation of Receipts During Administration of Trust

26 E. Allocation of Disbursements During Administration of
27 Trust

28 F. (Reserved).

29 G. (Reserved).

30 H. Miscellaneous Provisions

SUBCHAPTER A

PRELIMINARY PROVISIONS; POWER TO ADJUST;

POWER TO CONVERT TO UNITRUST

Sec.

8101. Scope.

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§ 8101. Scope.

This chapter shall be known and may be cited as the
Pennsylvania Uniform Principal and Income Act.

§ 8102. Definitions.

The following words and phrases when used in this chapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Accounting period." A calendar year, unless another 12-
month period is selected by a fiduciary. The term includes a
portion of a calendar year or other 12-month period which begins
when an income interest begins or ends when an income interest
ends.

"Beneficiary." Includes:

(1) in the case of a decedent's estate, any heir,
legatee and devisee; and

(2) in the case of a trust, an income beneficiary and a
remainder beneficiary.

"Fiduciary." A personal representative or a trustee.

"Income." Money or property which a fiduciary receives as
current return from a principal asset. The term includes a
portion of receipts from a sale, exchange or liquidation of a
principal asset, to the extent provided in Subchapter D
(relating to allocation of receipts during administration of
trust).

"Income beneficiary." A person to whom or which net income
of a trust is or may be payable.

"Income interest." The right of an income beneficiary to
receive all or part of net income, whether the governing
instrument requires it to be distributed or authorizes it to be
distributed in the trustee's discretion.

"Mandatory income interest." The right of an income
beneficiary to receive net income which the governing instrument
requires the fiduciary to distribute.

"Net income." The:

(1) total receipts allocated to income during an
accounting period; minus

(2) disbursements made from income during the period;
plus or minus

(3) transfers under this chapter to or from income
during the period.

"Person." Any individual; corporation; business trust;
estate; trust; partnership; limited liability company;
association; joint venture; government; governmental

1 subdivision, agency or instrumentality; public corporation; or
2 other legal or commercial entity.

3 "Principal." Property held in trust for distribution to a
4 remainder beneficiary when the trust terminates.

5 "Remainder beneficiary." A person entitled to receive
6 principal when an income interest ends.

7 "Sui juris beneficiary." Includes:

8 (1) a court-appointed guardian of an incapacitated
9 beneficiary;

10 (2) an agent for an incompetent beneficiary; and

11 (3) a court-appointed guardian of a minor beneficiary's
12 estate or, if none, the parents of the minor beneficiary.

13 "Trust." Includes a legal life estate arrangement.

14 "Trustee." Includes an original, additional or successor
15 trustee, whether or not appointed or confirmed by a court.

16 § 8103. Fiduciary duties; general principles.

17 (a) Allocation.--In allocating receipts and disbursements to
18 or between principal and income and with respect to any matter
19 within the scope of this chapter, the following shall apply:

20 (1) A fiduciary shall administer a trust or estate in
21 accordance with the governing instrument, even if there is a
22 different provision in this chapter.

23 (2) A fiduciary may administer a trust or estate by the
24 exercise of a discretionary power of administration regarding
25 a matter within the scope of this chapter given to the
26 fiduciary by the governing instrument, even if the exercise
27 of the power produces a result different from a result
28 required or permitted by this chapter. No inference that the
29 fiduciary has improperly exercised the discretionary power
30 shall arise from the fact that the fiduciary has made an

1 allocation contrary to a provision of this chapter.

2 (3) A fiduciary shall administer a trust or estate in
3 accordance with this chapter if the governing instrument does
4 not contain a different provision or does not give the
5 fiduciary a discretionary power of administration regarding a
6 matter within the scope of this chapter.

7 (4) A fiduciary shall add a receipt or charge a
8 disbursement to principal to the extent that the governing
9 instrument and this chapter do not provide a rule for
10 allocating the receipt or disbursement to or between
11 principal and income.

12 (b) Discretionary power.--In exercising a discretionary
13 power of administration regarding a matter within the scope of
14 this chapter, whether granted by the governing instrument or
15 this chapter, including sections 8104 (relating to trustee's
16 power to adjust) and 8105 (relating to power to convert to
17 unitrust), a fiduciary shall administer a trust or estate
18 impartially based on what is fair and reasonable to all of the
19 beneficiaries, except to the extent that the governing
20 instrument clearly manifests an intention that the fiduciary
21 shall or may favor one or more of the beneficiaries. A
22 determination in accordance with this chapter is presumed to be
23 fair and reasonable to all of the beneficiaries.

24 § 8104. Trustee's power to adjust.

25 (a) Adjustment.--Subject to subsections (c) and (f), a
26 trustee may adjust between principal and income by allocating an
27 amount of income to principal or an amount of principal to
28 income to the extent the trustee considers appropriate if:

29 (1) the governing instrument describes what may or must
30 be distributed to a beneficiary by referring to the trust's

1 income; and

2 (2) the trustee determines, after applying the rules in
3 section 8103(a) (relating to fiduciary duties; general
4 principles), that the trustee is unable to comply with
5 section 8103(b).

6 (b) Considerations.--In deciding whether and to what extent
7 to exercise the power conferred by subsection (a), a trustee may
8 consider, among other things, all of the following:

9 (1) The size of the trust.

10 (2) The nature and estimated duration of the trust.

11 (3) The liquidity and distribution requirements of the
12 trust.

13 (4) The needs for regular distributions and preservation
14 and appreciation of capital.

15 (5) The expected tax consequences of an adjustment.

16 (6) The net amount allocated to income under the other
17 sections of this chapter and the increase or decrease in the
18 value of the principal assets, which the trustee may estimate
19 as to assets for which market values are not readily
20 available.

21 (7) The assets held in the trust; the extent to which
22 they consist of financial assets, interests in closely held
23 enterprises, tangible and intangible personal property or
24 real property; the extent to which an asset is used by a
25 beneficiary; and whether an asset was purchased by the
26 trustee or received from the settlor or testator.

27 (8) To the extent reasonably known to the trustee, the
28 needs of the beneficiaries for present and future
29 distributions authorized or required by the governing
30 instrument.

1 (9) Whether and to what extent the governing instrument
2 gives the trustee the power to invade principal or accumulate
3 income or prohibits the trustee from invading principal or
4 accumulating income, and the extent to which the trustee has
5 exercised a power from time to time to invade principal or
6 accumulate income.

7 (10) The intent of the settlor or testator.

8 (11) The actual and anticipated effect of economic
9 conditions on principal and income and effects of inflation
10 and deflation.

11 (c) Prohibited adjustments.--A trustee may not make an
12 adjustment under this section if any of the following apply:

13 (1) The adjustment would diminish the income interest in
14 a trust which requires all of the income to be paid at least
15 annually to a spouse and for which a Federal estate tax or
16 gift tax marital deduction would be allowed, in whole or in
17 part, if the trustee did not have the power to make the
18 adjustment.

19 (2) The adjustment would reduce the actuarial value of
20 the income interest in a trust to which a person transfers
21 property with the intent to qualify for a Federal gift tax
22 exclusion.

23 (3) The adjustment would change the amount payable to a
24 beneficiary as a fixed annuity or a fixed fraction of the
25 value of the trust assets.

26 (4) The adjustment is from any amount which is
27 permanently set aside for charitable purposes under the
28 governing instrument and for which a Federal estate or gift
29 tax deduction has been taken unless both income and principal
30 are so set aside.

1 (5) If:

2 (i) possessing or exercising the power to make an
3 adjustment would cause an individual to be treated as the
4 owner of all or part of the trust for Federal income tax
5 purposes; and

6 (ii) the individual would not be treated as the
7 owner if the trustee did not possess the power to make an
8 adjustment.

9 (6) If:

10 (i) possessing or exercising the power to make an
11 adjustment would cause all or part of the trust assets to
12 be subject to Federal estate or gift tax with respect to
13 an individual; and

14 (ii) the assets would not be subject to Federal
15 estate or gift tax with respect to the individual if the
16 trustee did not possess the power to make an adjustment.

17 (7) If the trustee is a beneficiary of the trust.

18 (8) If the trust has been converted under section 8105
19 (relating to power to convert to unitrust).

20 (d) Permissible adjustment when otherwise prohibited.--If
21 subsection (c)(5), (6) or (7) applies to a trustee and there is
22 more than one trustee, a cotrustee to whom the provision does
23 not apply may make the adjustment unless the exercise of the
24 power by the remaining trustee or trustees is prohibited by the
25 governing instrument.

26 (e) Release of the power to adjust.--

27 (1) If paragraph (2) applies, a trustee may release any
28 of the following:

29 (i) The entire power conferred by subsection (a).

30 (ii) The power to adjust from income to principal.

1 (iii) The power to adjust from principal to income.

2 (2) A release under paragraph (1) is permissible if any
3 of the following apply:

4 (i) The trustee is uncertain about whether
5 possessing or exercising the power will cause a result
6 described in subsection (c)(1) through (6).

7 (ii) The trustee determines that possessing or
8 exercising the power will or may deprive the trust of a
9 tax benefit or impose a tax burden not described in
10 subsection (c).

11 (3) The release may be permanent or for a specified
12 period, including a period measured by the life of an
13 individual.

14 (f) Application.--A governing instrument which limits the
15 power of a trustee to make an adjustment between principal and
16 income does not affect the application of this section unless it
17 is clear from the governing instrument that it is intended to
18 deny the trustee the power of adjustment conferred by subsection
19 (a).

20 § 8105. Power to convert to unitrust.

21 (a) Conversion.--Unless expressly prohibited by the
22 governing instrument, a trustee may release the power under
23 section 8104 (relating to trustee's power to adjust) and convert
24 a trust into a unitrust as described in this section if all of
25 the following apply:

26 (1) The trustee determines that the conversion will
27 enable the trustee to better carry out the intent of the
28 settlor or testator and the purposes of the trust.

29 (2) The trustee gives written notice of the trustee's
30 intention to release the power to adjust and to convert the

1 trust into a unitrust and of how the unitrust will operate,
2 including what initial decisions the trustee will make under
3 this section, to all the sui juris beneficiaries who:

4 (i) are currently eligible to receive income from
5 the trust; and

6 (ii) would receive, if no powers of appointment were
7 exercised, a distribution of principal if the trust were
8 to terminate immediately prior to the giving of notice.

9 (3) There is at least one sui juris beneficiary under
10 paragraph (2)(i) and at least one sui juris beneficiary under
11 paragraph (2)(ii).

12 (4) No sui juris beneficiary objects to the conversion
13 to a unitrust in a writing delivered to the trustee within 60
14 days of the mailing of the notice under paragraph (2).

15 (b) Judicially approved conversion.--

16 (1) The trustee may petition the court to approve the
17 conversion to a unitrust if any of the following apply:

18 (i) A beneficiary timely objects to the conversion
19 to a unitrust.

20 (ii) There are no sui juris beneficiaries under
21 subsection (a)(2)(i).

22 (iii) There are no sui juris beneficiaries under
23 subsection (a)(2)(ii).

24 (2) A beneficiary may request a trustee to convert to a
25 unitrust. If the trustee does not convert, the beneficiary
26 may petition the court to order the conversion.

27 (3) The court shall approve the conversion or direct the
28 requested conversion if the court concludes that the
29 conversion will enable the trustee to better carry out the
30 intent of the settlor or testator and the purposes of the

1 trust.

2 (c) Consideration.--In deciding whether to exercise the
3 power conferred by subsection (a), a trustee may consider, among
4 other things, all of the following:

5 (1) The size of the trust.

6 (2) The nature and estimated duration of the trust.

7 (3) The liquidity and distribution requirements of the
8 trust.

9 (4) The needs for regular distributions and preservation
10 and appreciation of capital.

11 (5) The expected tax consequences of the conversion.

12 (6) The assets held in the trust; the extent to which
13 they consist of financial assets, interests in closely held
14 enterprises, tangible and intangible personal property or
15 real property; and the extent to which an asset is used by a
16 beneficiary.

17 (7) To the extent reasonably known to the trustee, the
18 needs of the beneficiaries for present and future
19 distributions authorized or required by the governing
20 instrument.

21 (8) Whether and to what extent the governing instrument
22 gives the trustee the power to invade principal or accumulate
23 income or prohibits the trustee from invading principal or
24 accumulating income and the extent to which the trustee has
25 exercised a power from time to time to invade principal or
26 accumulate income.

27 (9) The actual and anticipated effect of economic
28 conditions on principal and income and effects of inflation
29 and deflation.

30 (d) Post conversion.--After a trust is converted to a

1 unitrust, all of the following apply:

2 (1) The trustee shall follow an investment policy
3 seeking a total return for the investments held by the trust,
4 whether the return is to be derived:

5 (i) from appreciation of capital;

6 (ii) from earnings and distributions from capital;

7 or

8 (iii) from both.

9 (2) The trustee shall make regular distributions in
10 accordance with the governing instrument construed in
11 accordance with the provisions of this section.

12 (3) The term "income" in the governing instrument shall
13 mean an annual distribution (the unitrust distribution) equal
14 to 4% (the payout percentage) of the net fair market value of
15 the trust's assets, whether such assets would be considered
16 income or principal under other provisions of this chapter,
17 averaged over the lesser of:

18 (i) the three preceding years; or

19 (ii) the period during which the trust has been in
20 existence.

21 (e) Discretion of trustee.--The trustee may in the trustee's
22 discretion from time to time determine all of the following:

23 (1) The effective date of a conversion to a unitrust.

24 (2) The provisions for prorating a unitrust distribution
25 for a short year in which a beneficiary's right to payments
26 commences or ceases.

27 (3) The frequency of unitrust distributions during the
28 year.

29 (4) The effect of other payments from or contributions
30 to the trust on the trust's valuation.

1 (5) Whether to value the trust's assets annually or more
2 frequently.

3 (6) What valuation dates to use.

4 (7) How frequently to value nonliquid assets and whether
5 to estimate their value.

6 (8) Whether to omit from the calculations trust property
7 occupied or possessed by a beneficiary.

8 (9) Any other matters necessary for the proper
9 functioning of the unitrust.

10 (f) Allocation.--

11 (1) Expenses which would be deducted from income if the
12 trust were not a unitrust may not be deducted from the
13 unitrust distribution.

14 (2) Unless otherwise provided by the governing
15 instrument, the unitrust distribution shall be paid from net
16 income, as such term would be determined if the trust were
17 not a unitrust. To the extent net income is insufficient, the
18 unitrust distribution shall be paid from net realized short-
19 term capital gains. To the extent income and net realized
20 short-term capital gains are insufficient, the unitrust
21 distribution shall be paid from net realized long-term
22 capital gains. To the extent income and net realized short-
23 term and long-term capital gains are insufficient, the
24 unitrust distribution shall be paid from the principal of the
25 trust.

26 (g) Court orders.--The trustee or, if the trustee declines
27 to do so, a beneficiary may petition the court to:

28 (1) Select a payout percentage different than 4%.

29 (2) Provide for a distribution of net income, as would
30 be determined if the trust were not a unitrust, in excess of

1 the unitrust distribution if such distribution is necessary
2 to preserve a tax benefit.

3 (3) Average the valuation of the trust's net assets over
4 a period other than three years.

5 (4) Reconvert from a unitrust. Upon a reconversion, the
6 power to adjust under section 8104 shall be revived.

7 (h) Application.--A conversion to a unitrust does not affect
8 a provision in the governing instrument directing or authorizing
9 the trustee to distribute principal or authorizing a beneficiary
10 to withdraw a portion or all of the principal.

11 (i) Prohibited conversions.--A trustee may not convert a
12 trust into a unitrust in any of the following circumstances:

13 (1) If payment of the unitrust distribution would change
14 the amount payable to a beneficiary as a fixed annuity or a
15 fixed fraction of the value of the trust assets.

16 (2) If the unitrust distribution would be made from any
17 amount which is permanently set aside for charitable purposes
18 under the governing instrument and for which a Federal estate
19 or gift tax deduction has been taken, unless both income and
20 principal are so set aside.

21 (3) If:

22 (i) possessing or exercising the power to convert
23 would cause an individual to be treated as the owner of
24 all or part of the trust for Federal income tax purposes;
25 and

26 (ii) the individual would not be treated as the
27 owner if the trustee did not possess the power to
28 convert.

29 (4) If:

30 (i) possessing or exercising the power to convert

1 would cause all or part of the trust assets to be subject
2 to Federal estate or gift tax with respect to an
3 individual; and

4 (ii) the assets would not be subject to Federal
5 estate or gift tax with respect to the individual if the
6 trustee did not possess the power to convert.

7 (5) If the conversion would result in the disallowance
8 of a Federal estate tax or gift tax marital deduction which
9 would be allowed if the trustee did not have the power to
10 convert.

11 (6) If the trustee is a beneficiary of the trust.
12 (j) Permissible conversion when otherwise prohibited.--

13 (1) If subsection (i)(3), (4) or (6) applies to a
14 trustee and there is more than one trustee, a cotrustee to
15 whom the provision does not apply may convert the trust,
16 unless the exercise of the power by the remaining trustee or
17 trustees is prohibited by the governing instrument.

18 (2) If subsection (i)(3), (4) or (6) applies to all the
19 trustees, the trustees may petition the court to direct a
20 conversion.

21 (k) Release of the power to convert.--

22 (1) A trustee may release the power conferred by
23 subsection (a) to convert to a unitrust if any of the
24 following apply:

25 (i) The trustee is uncertain about whether
26 possessing or exercising the power will cause a result
27 described in subsection (i)(3), (4) or (5).

28 (ii) The trustee determines that possessing or
29 exercising the power will or may deprive the trust of a
30 tax benefit or impose a tax burden not described in

1 subsection (i).

2 (2) The release may be permanent or for a specified
3 period, including a period measured by the life of an
4 individual.

5 § 8106. Judicial control of discretionary powers.

6 (a) Standard of review.--A court shall not change a
7 fiduciary's decision to exercise or not to exercise a
8 discretionary power conferred by this chapter unless it
9 determines that the decision was an abuse of the fiduciary's
10 discretion.

11 (b) Remedies.--If a court determines that a fiduciary has
12 abused its discretion regarding a discretionary power conferred
13 by this chapter, the remedy is to restore the income and
14 remainder beneficiaries to the positions they would have
15 occupied if the fiduciary had not abused its discretion,
16 according to the following rules:

17 (1) To the extent that the abuse of discretion has
18 resulted in no distribution to a beneficiary or a
19 distribution which is too small, the court shall require the
20 fiduciary to distribute from the trust to the beneficiary an
21 amount that the court determines will restore the
22 beneficiary, in whole or in part, to the beneficiary's
23 appropriate position.

24 (2) To the extent that the abuse of discretion has
25 resulted in a distribution to a beneficiary which is too
26 large, the court shall restore the beneficiaries, the trust
27 or both, in whole or in part, to their appropriate positions
28 by requiring the fiduciary to withhold an amount from one or
29 more future distributions to the beneficiary who received the
30 distribution that was too large or requiring that beneficiary

1 or that beneficiary's estate to return some or all of the
2 distribution to the trust, notwithstanding a spendthrift or
3 similar provision.

4 (3) If the abuse of discretion concerns the power to
5 convert a trust into a unitrust, the court shall require the
6 trustee either to convert into a unitrust or to reconvert
7 from a unitrust.

8 (4) To the extent that the court is unable, after
9 applying paragraphs (1), (2) and (3), to restore the
10 beneficiaries, the trust or both to the positions they would
11 have occupied if the fiduciary had not abused its discretion,
12 the court may require the fiduciary to pay an appropriate
13 amount from its own funds to one or more of the beneficiaries
14 or the trust or both.

15 § 8107. (Reserved).

16 § 8108. (Reserved).

17 § 8109. (Reserved).

18 § 8110. (Reserved).

19 § 8111. (Reserved).

20 § 8112. (Reserved).

21 § 8113. Charitable trusts.

22 (a) Election.--Notwithstanding the foregoing provisions of
23 this chapter, the trustee of a trust held exclusively for
24 charitable purposes may elect to be governed by this section
25 unless the governing instrument expressly provides that the
26 election provided by this section shall not be available.

27 (b) Eligibility for election.--To make an election under
28 this section, the trustee shall adopt and follow an investment
29 policy seeking a total return for the investments held by the
30 trust, whether the return is to be derived from appreciation of

1 capital or earnings and distributions with respect to capital or
2 both. The policy constituting the election shall be in writing,
3 shall be maintained as part of the permanent records of the
4 trust and shall recite that it constitutes an election to be
5 governed by this section.

6 (c) Effect of election.--If an election is made to be
7 governed by this section, the term "income" shall mean a
8 percentage of the value of the trust. The trustee shall in a
9 writing maintained as part of the permanent records of the trust
10 annually select the percentage and determine that it is
11 consistent with the long-term preservation of the real value of
12 the principal of the trust, but in no event shall the percentage
13 be less than 2% nor more than 7% per year. The term "principal"
14 shall mean all other assets held by the trustee with respect to
15 the trust.

16 (d) Revocation of election.--The trustee may revoke an
17 election to be governed by this section if the revocation is
18 made as part of an alternative investment policy seeking the
19 long-term preservation of the real value of the principal of the
20 trust. The revocation and alternative investment policy shall be
21 in writing and maintained as part of the permanent records of
22 the trust.

23 (e) Value determination.--For purposes of applying this
24 section, the value of the trust shall be the fair market value
25 of the cash and other assets held by the trustee with respect to
26 the trust, whether such assets would be considered "income" or
27 "principal" under the other provisions of this chapter,
28 determined at least annually and averaged over a period of three
29 or more preceding years. However, if the trust has been in
30 existence less than three years, the average shall be determined

1 over the period during which the trust has been in existence.

2 SUBCHAPTER B

3 DECEDENT'S ESTATE OR

4 TERMINATING INCOME INTEREST

5 Sec.

6 8121. Determination and distribution of net income.

7 8122. Distribution to residuary and remainder beneficiaries.

8 § 8121. Determination and distribution of net income.

9 After a decedent dies in the case of an estate, or after an
10 income interest in a trust ends, the following rules apply:

11 (1) A fiduciary of an estate or of a terminating income
12 interest shall determine the amount of net income and net
13 principal receipts received from property specifically given
14 to a beneficiary under paragraph (5) and the provisions
15 applicable to trustees in Subchapters C (relating to
16 apportionment at beginning and end of income interest), D
17 (relating to allocation of receipts during administration of
18 trust) and E (relating to allocation of disbursements during
19 administration of trust). The fiduciary shall distribute the
20 net income and net principal receipts to the beneficiary who
21 is to receive the specific property.

22 (2) A fiduciary shall distribute to a beneficiary who
23 receives a pecuniary amount outright and shall allocate to a
24 pecuniary amount in trust the interest, other income or other
25 amount provided by the governing instrument or section 3543
26 (relating to interest or income on distributive shares) or
27 7187 (relating to interest or income on distributive shares)
28 from net income determined under paragraph (3) or from
29 principal to the extent that net income is insufficient.

30 (3) A fiduciary shall determine the remaining net income

1 of a decedent's estate or a terminating income interest under
2 the provisions applicable to trustees in Subchapters C, D and
3 E and by:

4 (i) including in net income all income from property
5 used to discharge liabilities; and

6 (ii) paying from principal debts, funeral expenses,
7 costs of disposition of remains, the family exemption,
8 fees of personal representatives and their attorneys and
9 accountants, and death taxes and related interest and
10 penalties which are apportioned to the estate or
11 terminating income interest by the governing instrument
12 or applicable law.

13 (4) A fiduciary shall distribute the net income
14 remaining after distributions required by paragraph (2) in
15 the manner described in section 8122 (relating to
16 distribution to residuary and remainder beneficiaries) to all
17 other beneficiaries.

18 (5) A fiduciary may not reduce principal or income
19 receipts from property described in paragraph (1) because of
20 a payment described in section 8151 (relating to minerals,
21 water and other natural resources) or 8152 (relating to
22 timber) to the extent that the governing instrument or
23 applicable law requires the fiduciary to make the payment
24 from assets other than the property or to the extent that the
25 fiduciary recovers or expects to recover the payment from a
26 third party. The net income and principal receipts from the
27 property are determined by:

28 (i) including all of the amounts the fiduciary
29 receives or pays with respect to the property, whether
30 those amounts accrued or became due before, on or after

1 the date of a decedent's death or an income interest's
2 terminating event; and

3 (ii) making a reasonable provision for amounts that
4 the fiduciary believes the estate or terminating income
5 interest may become obligated to pay after the property
6 is distributed.

7 § 8122. Distribution to residuary and remainder beneficiaries.

8 (a) Distribution of net income.--Each beneficiary described
9 in section 8121(4) (relating to determination and distribution
10 of net income) is entitled to receive a portion of the net
11 income equal to the beneficiary's fractional interest in
12 undistributed principal assets, using values as of the
13 distribution date. If a fiduciary makes more than one
14 distribution of assets to beneficiaries to whom this section
15 applies, each beneficiary, including one who does not receive
16 part of the distribution, is entitled, as of each distribution
17 date, to the net income the fiduciary has received after the
18 date of death or terminating event or earlier distribution date
19 but has not distributed as of the current distribution date.

20 (b) Allocation of net income.--In determining a
21 beneficiary's share of net income, the following rules apply:

22 (1) The beneficiary is entitled to receive a portion of
23 the net income equal to the beneficiary's fractional interest
24 in the undistributed principal assets immediately before the
25 distribution date, including assets that later may be sold or
26 applied to meet principal obligations.

27 (2) The beneficiary's fractional interest in the
28 undistributed principal assets must be calculated without
29 regard to property specifically given to a beneficiary and
30 property required to pay pecuniary amounts.

1 (3) The beneficiary's fractional interest in the
2 undistributed principal assets must be calculated on the
3 basis of the aggregate value of those assets as of the
4 distribution date without reducing the value by any unpaid
5 principal obligation.

6 (c) Collected but undistributed net income.--If a fiduciary
7 does not distribute all of the collected but undistributed net
8 income to each person as of a distribution date, the fiduciary
9 shall maintain appropriate records showing the interest of each
10 beneficiary in that net income.

11 (d) Application.--To the extent that the fiduciary considers
12 it appropriate, if this section applies to the income from an
13 asset, the fiduciary may apply the rules in this section to net
14 gain or loss from the disposition of a principal asset realized
15 after the date of death or terminating event or earlier
16 distribution date.

17 (e) Distribution date.--For purposes of this section, the
18 distribution date may be the date as of which the fiduciary
19 calculates the value of the assets if that date is reasonably
20 near the date on which assets are actually distributed.

21 SUBCHAPTER C

22 APPORTIONMENT AT BEGINNING

23 AND END OF INCOME INTEREST

24 Sec.

25 8131. When right to income begins and ends.

26 8132. Apportionment of receipts and disbursements when
27 decedent dies or income interest begins.

28 8133. Apportionment when income interest ends.

29 § 8131. When right to income begins and ends.

30 (a) Accrual of income interest.--An income beneficiary is

1 entitled to net income from the date on which the income
2 interest begins. An income interest begins:

3 (1) on the date specified in the governing instrument;
4 or

5 (2) if no date is specified, on the date an asset
6 becomes subject to a trust or successive income interest.

7 (b) Asset subject to a trust.--An asset becomes subject to a
8 trust:

9 (1) on the date it is transferred to the trust in the
10 case of an asset which is transferred to a trust during the
11 transferor's life;

12 (2) on the date of a testator's death in the case of an
13 asset which becomes subject to a trust by reason of a will,
14 even if there is an intervening period of administration of
15 the testator's estate; or

16 (3) on the date of an individual's death in the case of
17 an asset which is transferred to a fiduciary by a third party
18 because of the individual's death.

19 (c) Asset subject to a successive income interest.--An asset
20 becomes subject to a successive income interest on the day after
21 the preceding income interest ends, as determined under
22 subsection (d), even if there is an intervening period of
23 administration to wind up the preceding income interest.

24 (d) End of income interest.--An income interest ends on:

25 (1) the day before an income beneficiary dies or another
26 terminating event occurs; or

27 (2) the last day of a period during which there is no
28 beneficiary to whom a trustee may distribute income.

29 § 8132. Apportionment of receipts and disbursements when
30 decedent dies or income interest begins.

(a) Allocation to principal.--Unless section 8121(1) (relating to determination and distribution of net income) applies, a trustee shall allocate an income receipt or disbursement to principal if its due date occurs before:

- (1) a decedent dies in the case of an estate; or
- (2) an income interest begins in the case of a trust or successive income interest.

(b) Allocation to income.--A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement must be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins must be allocated to principal and the balance must be allocated to income.

(c) Due dates.--An item of income or an obligation is due on the date the payor is required to make a payment. If a payment date is not stated, there is no due date for the purposes of this chapter. Distributions to shareholders or other owners from an entity to which section 8141 (relating to character of receipts) applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

§ 8133. Apportionment when income interest ends.

(a) End of mandatory income interest.--When a mandatory

1 income interest ends, the trustee shall pay to a mandatory
2 income beneficiary who survives that date, or the estate of a
3 deceased mandatory income beneficiary whose death causes the
4 interest to end, the beneficiary's share of the undistributed
5 income which is not disposed of under the governing instrument
6 unless the beneficiary has an unqualified power to revoke more
7 than 5% of the trust immediately before the income interest
8 ends. In the latter case, the undistributed income from the
9 portion of the trust that may be revoked shall be added to
10 principal.

11 (b) Proration of final payment.--When a trustee's obligation
12 to pay a fixed annuity or a fixed fraction of the value of the
13 trust's assets ends, the trustee shall prorate the final payment
14 if and to the extent required by applicable law to accomplish a
15 purpose of the trust or its settlor or testator relating to
16 income, gift, estate or other tax requirements.

17 (c) Definition.--As used in this section, the term
18 "undistributed income" means net income received before the date
19 on which an income interest ends. The term does not include an
20 item of income or expense which is due or accrued or net income
21 which has been added or is required to be added to principal
22 under the governing instrument.

23 SUBCHAPTER D

24 ALLOCATION OF RECEIPTS DURING

25 ADMINISTRATION OF TRUST

26 Sec.

27 8141. Character of receipts.

28 8142. Distribution from trust or estate.

29 8143. Business and other activities conducted by trustee.

30 8144. Principal receipts.

1 8145. Rental property.

2 8146. Obligation to pay money.

3 8147. Insurance policies and similar contracts.

4 8148. Insubstantial allocations not required.

5 8149. Retirement benefits, individual retirement accounts,
6 deferred compensation, annuities and similar payments.

7 8150. Liquidating asset.

8 8151. Minerals, water and other natural resources.

9 8152. Timber.

10 8153. Property not productive of income.

11 8154. Derivatives and options.

12 8155. Asset-backed securities.

13 § 8141. Character of receipts.

14 (a) Allocation to income.--Except as otherwise provided in
15 this section, a trustee shall allocate to income money received
16 from an entity including reinvested cash dividends.

17 (b) Allocation to principal.--A trustee shall allocate the
18 following receipts from an entity to principal:

19 (1) Property other than money excluding reinvested cash
20 dividends.

21 (2) Money received in one distribution or a series of
22 related distributions in exchange for part or all of a
23 trust's interest in the entity.

24 (3) Money received in total or partial liquidation of
25 the entity.

26 (4) Money received from an entity that is a regulated
27 investment company or a real estate investment trust if the
28 money distributed is a short-term or long-term capital gain
29 dividend for Federal income tax purposes.

30 (c) When received in partial liquidation.--Money is received

1 in partial liquidation:

2 (1) to the extent that the entity, at or near the time
3 of a distribution, indicates that it is a distribution in
4 partial liquidation; or

5 (2) if the total amount of money and property received
6 in a distribution or series of related distributions is
7 greater than 20% of the entity's gross assets, as shown by
8 the entity's year-end financial statements immediately
9 preceding the initial receipt.

10 (d) When not received in partial liquidation.--Money is not
11 received in partial liquidation nor may it be taken into account
12 under subsection (c)(2) to the extent that it does not exceed
13 the amount of income tax that a trustee or beneficiary must pay
14 on taxable income of the entity that distributes the money.

15 (e) Reliance upon a statement.--A trustee may rely upon a
16 statement made by an entity about the source or character of a
17 distribution if the statement is made at or near the time of
18 distribution by the entity's board of directors or other person
19 or group of persons authorized to exercise powers to pay money
20 or transfer property comparable to those of a corporation's
21 board of directors.

22 (f) Definition.--As used in this section, the term "entity"
23 means a corporation, partnership, limited liability company,
24 regulated investment company, real estate investment trust,
25 common trust fund or any other organization, in which a trustee
26 has an interest other than:

27 (1) a trust or estate to which section 8142 (relating to
28 distribution from trust or estate) applies;

29 (2) a business or activity to which section 8143
30 (relating to business and other activities conducted by

trustee) applies;

(3) a payment to which section 8149 (relating to retirement benefits, individual retirement accounts, deferred compensation, annuities and similar payments) applies; or

(4) an asset-backed security to which section 8155 (relating to asset-backed securities) applies.

§ 8142. Distribution from trust or estate.

A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, section 8141 (relating to character of receipts) or 8155 (relating to asset-backed securities) applies to a receipt from the trust.

§ 8143. Business and other activities conducted by trustee.

(a) Separate accounting for business or activity.--If a trustee that conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

(b) Net receipts.--

(1) A trustee that accounts separately for a business or other activity may determine the extent to which:

(i) its net cash receipts must be retained for

1 working capital, the acquisition or replacement of fixed
2 assets and other reasonably foreseeable needs of the
3 business or activity; and

4 (ii) the remaining net cash receipts are accounted
5 for as principal or income in the trust's general
6 accounting records.

7 (2) If a trustee sells assets of the business or other
8 activity, other than in the ordinary course of the business
9 or activity, the trustee shall account for the net amount
10 received as principal in the trust's general accounting
11 records to the extent the trustee determines that the amount
12 received is no longer required in the conduct of the
13 business.

14 (c) Permissible activities for separate accounting.--
15 Activities for which a trustee may maintain separate accounting
16 records include:

17 (1) Retail, manufacturing, service and other traditional
18 business activities.

19 (2) Farming.

20 (3) Raising and selling livestock and other animals.

21 (4) Management of rental properties.

22 (5) Extraction of minerals and other natural resources.

23 (6) Timber operations.

24 (7) Activities to which section 8154 (relating to
25 derivatives and options) applies.

26 § 8144. Principal receipts.

27 A trustee shall allocate to principal any of the following:

28 (1) To the extent not allocated to income under this
29 chapter, assets received from:

30 (i) a transferor during the transferor's lifetime;

1 (ii) a decedent's estate;

2 (iii) a trust with a terminating income interest; or

3 (iv) a payor under a contract naming the trust or
4 its trustee as beneficiary.

5 (2) Money or other property received from a principal
6 asset's sale, exchange, liquidation or change in form. This
7 paragraph includes realized profit subject to this
8 subchapter.

9 (3) Amounts recovered from third parties to reimburse
10 the trust because of disbursements described in section
11 8162(a)(8) (relating to mandatory disbursements from
12 principal) or for other reasons to the extent not based on
13 the loss of income.

14 (4) Proceeds of property taken by eminent domain. A
15 separate award made for the loss of income with respect to an
16 accounting period during which a current income beneficiary
17 had a mandatory income interest is income.

18 (5) Net income received in an accounting period during
19 which there is no beneficiary to whom a trustee may or must
20 distribute income.

21 (6) Other receipts as provided in sections 8148
22 (relating to insubstantial allocations not required) through
23 8155 (relating to asset-backed securities).

24 § 8145. Rental property.

25 (a) Rent.--To the extent that a trustee accounts for
26 receipts from rental property pursuant to this section, the
27 trustee shall allocate to income an amount received as rent of
28 real or personal property. This subsection includes an amount
29 received for cancellation or renewal of a lease.

30 (b) Deposit.--An amount received as a refundable deposit,

1 including a security deposit or a deposit which is to be applied
2 as rent for future periods:

3 (1) shall be added to principal;

4 (2) shall be held subject to the terms of the lease; and

5 (3) is not available for distribution to a beneficiary
6 until the trustee's contractual obligations have been
7 satisfied with respect to that amount.

8 § 8146. Obligation to pay money.

9 (a) Interest allocated to income.--An amount received as
10 interest, whether determined at a fixed, variable or floating
11 rate, on an obligation to pay money to the trustee, including an
12 amount received as consideration for prepaying principal, shall
13 be allocated to income without any provision for amortization of
14 premium.

15 (b) Allocation of obligations.--A trustee shall allocate to
16 principal an amount received from the sale, redemption or other
17 disposition of an obligation to pay money to the trustee more
18 than one year after it is purchased or acquired by the trustee,
19 including an obligation the purchase price or value of which
20 when it is acquired is less than its value at maturity. If the
21 obligation matures within one year after it is purchased or
22 acquired by the trustee, an amount received in excess of its
23 purchase price or its value when acquired by the trust shall be
24 allocated to income.

25 (c) Application.--This section does not apply to an
26 obligation to which any of the following apply:

27 (1) Section 8149 (relating to retirement benefits,
28 individual retirement accounts, deferred compensation,
29 annuities and similar payments).

30 (2) Section 8150 (relating to liquidating asset).

1 (3) Section 8151 (relating to minerals, water and other
2 natural resources).

3 (4) Section 8152 (relating to timber).

4 (5) Section 8154 (relating to derivatives and options).

5 (6) Section 8155 (relating to asset-backed securities).

6 § 8147. Insurance policies and similar contracts.

7 (a) General rule.--

8 (1) Except as otherwise provided in subsection (b) or
9 (c), a trustee shall allocate to principal the proceeds of a
10 life insurance policy or other contract in which the trust or
11 its trustee is named as beneficiary. This paragraph includes
12 a contract which insures the trust or its trustee against
13 loss for damage to, destruction of or loss of title to a
14 trust asset.

15 (2) If the premiums on the policy or contract are paid
16 from income, the trustee shall allocate to income dividends
17 on the policy or contract.

18 (3) If the premiums on the policy or contract are paid
19 from principal, the trustee shall allocate to principal
20 dividends on the policy or contract.

21 (b) Allocation of proceeds to income.--Except as provided in
22 subsection (c), a trustee shall allocate to income proceeds of a
23 contract which insures the trustee against any of the following:

24 (1) Loss of occupancy or other use by an income
25 beneficiary.

26 (2) Loss of income.

27 (3) Subject to section 8143 (relating to business and
28 other activities conducted by trustee), loss of profits from
29 a business.

30 (c) Application.--This section does not apply to a contract

1 to which section 8149 (relating to retirement benefits,
2 individual retirement accounts, deferred compensation, annuities
3 and similar payments) applies.

4 § 8148. Insubstantial allocations not required.

5 If a trustee determines that an allocation between principal
6 and income required by section 8149 (relating to retirement
7 benefits, individual retirement accounts, deferred compensation,
8 annuities and similar payments), 8150 (relating to liquidating
9 asset), 8151 (relating to minerals, water and other natural
10 resources), 8152 (relating to timber) or 8155 (relating to
11 asset-backed securities) is insubstantial, the trustee may
12 allocate the entire amount to principal unless one of the
13 circumstances described in section 8104(c) (relating to
14 trustee's power to adjust) applies to the allocation. This power
15 may be exercised by a cotrustee in the circumstances described
16 in section 8104(d) and may be released for the reasons and in
17 the manner described in section 8104(e). An allocation is
18 presumed to be insubstantial if:

19 (1) the amount of the allocation would increase or
20 decrease net income in an accounting period, as determined
21 before the allocation, by less than 5%; or

22 (2) the value of the asset producing the receipt for
23 which the allocation would be made is less than 5% of the
24 total value of the trust's assets at the beginning of the
25 accounting period.

26 § 8149. Retirement benefits, individual retirement accounts,
27 deferred compensation, annuities and similar
28 payments.

29 (a) General rule.--

30 (1) The trustee shall allocate to income the greater of:

1 (i) the portion of a payment characterized by the
2 payor as interest or a dividend or a remittance in lieu
3 of interest or a dividend; or

4 (ii) the portion of the payment characterized as
5 imputed interest for Federal income tax purposes.

6 (2) The balance of any such payment shall be allocated
7 to principal.

8 (b) Allocation under contract calling for equal
9 installments.--

10 (1) If no part of a payment under a contract calling for
11 equal installments over a fixed period of time is allocable
12 to income under the provisions of subsection (a), the
13 difference between the trust's acquisition value of the
14 contract and the total expected return shall be deemed to be
15 interest.

16 (2) The trustee shall allocate to income the portion of
17 each payment equivalent to interest on the then unpaid
18 principal balance at the rate specified in the contract or a
19 rate necessary to thus amortize the difference between the
20 expected return and the acquisition value, where that rate is
21 readily ascertainable by the trustee.

22 (c) Allocation when internal net income of fund is readily
23 ascertained.--

24 (1) If no portion of a payment from a separate fund held
25 exclusively for the benefit of the trust is allocable to
26 income under subsections (a) and (b) but the internal net
27 income of the fund determined as if the fund were a separate
28 trust subject to Subchapters B (relating to decedent's estate
29 or terminating income interest) through E (relating to
30 allocation of disbursements during administration of trust)

1 is readily ascertainable by the trustee, the portion of the
2 payment equal to the then undistributed net income of the
3 fund realized since the trust acquired its interest in the
4 fund shall be deemed to be a distribution of such income and
5 shall be allocated to the trust income account.

6 (2) The balance of any such payment shall be allocated
7 to principal.

8 (d) When not otherwise allocable to income.--

9 (1) The trustee shall allocate to income 10% of the part
10 of the payment which is required to be made during the
11 accounting period and the balance to principal if:

12 (i) no part of the payment is allocable to income
13 under subsection (a), (b) or (c); and

14 (ii) all or part of the payment is required to be
15 made.

16 (2) The trustee shall allocate the entire payment to
17 principal if:

18 (i) no part of a payment is required to be made; or

19 (ii) the payment received is the entire amount to
20 which the trustee is entitled.

21 (3) For purposes of this subsection, a payment is not
22 required to be made to the extent that it is made because the
23 trustee exercises a right of withdrawal.

24 (e) Allocation to obtain marital deduction.--If, to obtain a
25 Federal estate or gift tax marital deduction for a trust, the
26 trustee must allocate more of a payment to income than provided
27 for by this section, the trustee shall allocate to income the
28 additional amount necessary to obtain the marital deduction.

29 (f) Application.--This section does not apply to payments to
30 which section 8150 (relating to liquidating asset) applies.

1 (g) Definition.--As used in this section, the term "payment"
2 means a payment that a trustee may receive over a fixed period
3 of time or during the life of one or more individuals because of
4 services rendered or property transferred to the payor in
5 exchange for future payments. The term includes all of the
6 following:

7 (1) A payment made in money or property from:

8 (i) the payor's general assets; or

9 (ii) a separate fund created by the payor or
10 another.

11 (2) A payment on or from:

12 (i) an installment contract or note;

13 (ii) a private or commercial annuity;

14 (iii) a deferred compensation agreement;

15 (iv) an employee death benefit;

16 (v) an individual retirement account; or

17 (vi) a pension, profit-sharing, stock or other
18 bonus, or stock-ownership plan.

19 § 8150. Liquidating asset.

20 (a) Allocation.--A trustee shall allocate to income 10% of
21 the receipts from a liquidating asset and the balance to
22 principal.

23 (b) Definition.--As used in this section, the term
24 "liquidating asset" means an asset the value of which will
25 diminish or terminate because the asset is expected to produce
26 receipts for a period of limited duration. The term includes a
27 leasehold, patent, copyright, royalty right and right to receive
28 payments during a period of more than one year under an
29 arrangement which does not provide for the payment of interest
30 on the unpaid balance. The term does not include any of the

1 following:

2 (1) A payment subject to section 8149 (relating to
3 retirement benefits, individual retirement accounts, deferred
4 compensation, annuities and similar payments).

5 (2) Resources subject to section 8151 (relating to
6 minerals, water and other natural resources).

7 (3) Timber subject to section 8152 (relating to timber).

8 (4) An activity subject to section 8154 (relating to
9 derivatives and options).

10 (5) An asset subject to section 8155 (relating to asset-
11 backed securities).

12 (6) An asset for which the trustee establishes a reserve
13 for depreciation under section 8163 (relating to
14 discretionary allocation of disbursements).

15 § 8151. Minerals, water and other natural resources.

16 (a) Allocation for receipts from minerals and other natural
17 resources.--To the extent that a trustee accounts for receipts
18 from an interest in minerals or other natural resources under
19 this section, the trustee shall allocate them as follows:

20 (1) If received as nominal delay rental or nominal
21 annual rent on a lease, a receipt shall be allocated to
22 income.

23 (2) If received from a production payment, a receipt
24 shall be allocated to income if and to the extent that the
25 agreement creating the production payment provides a factor
26 for interest or its equivalent. The balance shall be
27 allocated to principal.

28 (3) If an amount received as a royalty, shut-in-well
29 payment, take-or-pay payment, bonus or delay rental is more
30 than nominal:

1 (i) sixty-six and two-thirds percent shall be
2 allocated to principal; and

3 (ii) the balance shall be allocated to income.

4 (4) If an amount is received from a working interest or
5 any other interest not provided for in paragraph (1), (2) or
6 (3):

7 (i) sixty-six and two-thirds percent of the net
8 amount received shall be allocated to principal; and

9 (ii) the balance shall be allocated to income.

10 (b) Allocation for receipts from water.--

11 (1) An amount received on account of an interest in
12 renewable water shall be allocated to income.

13 (2) An amount received on account of an interest in
14 nonrenewable water shall be allocated as follows:

15 (i) Sixty-six and two-thirds percent of the amount
16 shall be allocated to principal.

17 (ii) The balance shall be allocated to income.

18 (c) Application.--This chapter applies whether or not a
19 decedent or donor was extracting minerals, water or other
20 natural resources before the interest became subject to the
21 trust.

22 § 8152. Timber.

23 (a) Allocation of net receipts.--To the extent that a
24 trustee accounts for receipts from the sale of timber and
25 related products under this section, the trustee shall allocate
26 the net receipts:

27 (1) To income to the extent that the amount of timber
28 removed from the land does not exceed the rate of growth of
29 the timber during the accounting periods in which a
30 beneficiary has a mandatory income interest.

(2) To principal to the extent that:

(i) the amount of timber removed from the land exceeds the rate of growth of the timber; or

(ii) the net receipts are from the sale of standing timber.

(3) To or between income and principal, by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs (1) and (2) if the net receipts are from:

(i) the lease of timberland; or

(ii) a contract to cut timber from land owned by a trust.

(4) To principal to the extent that advance payments, bonuses and other payments are not allocated under paragraph (1), (2) or (3).

(b) Determining net receipts.--In determining net receipts to be allocated under subsection (a), a trustee shall deduct and transfer to principal a reasonable amount for depletion.

(c) Application.--This chapter applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

§ 8153. Property not productive of income.

(a) General rule.--If a Federal estate or gift tax marital deduction is allowed for all or part of a trust whose income is required to be paid to the settlor's or testator's spouse and whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under section 8104 (relating to trustee's power to adjust) and that the trustee distributes to the spouse

1 from principal pursuant to the governing instrument are
2 insufficient to provide the spouse with the beneficial enjoyment
3 required to obtain the marital deduction, the spouse may require
4 the trustee to make property productive of income, convert
5 property within a reasonable time, or exercise the power
6 conferred by section 8104(a). The trustee may decide which
7 action or combination of actions to take.

8 (b) Other cases.--In cases not governed by subsection (a),
9 proceeds from the sale or other disposition of an asset are
10 principal without regard to the amount of income the asset
11 produces during any accounting period.

12 § 8154. Derivatives and options.

13 (a) Derivatives.--To the extent that a trustee does not
14 account under section 8143 (relating to business and other
15 activities conducted by trustee) for transactions in
16 derivatives, the trustee shall allocate to principal receipts
17 from and disbursements made in connection with those
18 transactions.

19 (b) Options.--If a trustee grants an option to buy property
20 from the trust, whether or not the trust owns the property when
21 the option is granted, grants an option that permits another
22 person to sell property to the trust, or acquires an option to
23 buy property for the trust or an option to sell an asset owned
24 by the trust, and the trustee or other owner of the asset is
25 required to deliver the asset if the option is exercised, an
26 amount received for granting the option must be allocated to
27 principal. An amount paid to acquire the option must be paid
28 from principal. A gain or loss realized upon the exercise of an
29 option, including an option granted to a settlor or testator of
30 the trust for services rendered, must be allocated to principal.

1 (c) Definition.--As used in this section, "derivative" means
2 a contract or financial instrument or a combination of contracts
3 and financial instruments which gives a trust the right or
4 obligation to participate in some or all changes in the price of
5 a tangible or intangible asset or group of assets, or changes in
6 a rate, an index of prices or rates, or other market indicator
7 for an asset or a group of assets.

8 § 8155. Asset-backed securities.

9 (a) General rule.--If a trust receives a payment from
10 interest or other current return and from other proceeds of the
11 collateral financial assets:

12 (1) The trustee shall allocate to income the portion of
13 the payment which the payor identifies as being from interest
14 or other current return.

15 (2) The trustee shall allocate the balance of the
16 payment to principal.

17 (b) Allocation where liquidating trust's interest in
18 security.--

19 (1) If a trust receives one or more payments in exchange
20 for the trust's entire interest in an asset-backed security
21 in one accounting period, the trustee shall allocate the
22 payments to principal.

23 (2) If a payment is one of a series of payments which
24 will result in the liquidation of the trust's interest in the
25 security over more than one accounting period, the trustee
26 shall allocate:

27 (i) ten percent of the payment to income; and

28 (ii) the balance to principal.

29 (c) Definition.--As used in this section, the term "asset-
30 backed security" means an asset the value of which is based upon

1 the right it gives the owner to receive distributions from the
2 proceeds of financial assets which provide collateral for the
3 security. The term includes an asset which gives the owner the
4 right to receive from the collateral financial assets only the
5 interest or other current return or only the proceeds other than
6 interest or current return. The term does not include an asset
7 to which section 8141 (relating to character of receipts) or
8 8149 (relating to retirement benefits, individual retirement
9 accounts, deferred compensation, annuities and similar payments)
10 applies.

11 SUBCHAPTER E

12 ALLOCATION OF DISBURSEMENTS DURING

13 ADMINISTRATION OF TRUST

14 Sec.

15 8161. Mandatory disbursements from income.

16 8162. Mandatory disbursements from principal.

17 8163. Discretionary allocation of disbursements.

18 8164. Transfers from income to principal for depreciation.

19 8165. Transfers from income to reimburse principal.

20 8166. Income taxes.

21 8167. Adjustments between principal and income because of
22 taxes.

23 § 8161. Mandatory disbursements from income.

24 A trustee shall make the following disbursements from income:

25 (1) Interest, except interest on death taxes.

26 (2) Ordinary repairs.

27 (3) Real estate and other regularly recurring taxes
28 assessed against principal.

29 (4) Recurring premiums on fire or other insurance
30 covering the loss of a principal asset or the loss of income

1 from, or use of, the asset.

2 § 8162. Mandatory disbursements from principal.

3 (a) Mandatory disbursements.--A trustee shall make the
4 following disbursements from principal:

5 (1) Extraordinary expenses incurred in connection with
6 the administration, management or preservation of trust
7 property and the distribution of income.

8 (2) Extraordinary repairs.

9 (3) Compensation for legal services to the trustee.

10 (4) Expenses in connection with accountings and judicial
11 or other proceedings. This paragraph includes proceedings to
12 construe, modify or reform the trust or to protect the trust
13 or its property.

14 (5) Payments on the principal of a trust debt.

15 (6) Premiums paid on a policy of insurance not described
16 in section 8161(4) (relating to mandatory disbursements from
17 income) of which the trust is the owner and beneficiary.

18 (7) Estate, inheritance and other transfer taxes,
19 including interest and penalties, apportioned to the trust.

20 (8) Disbursements related to environmental matters. This
21 paragraph includes:

22 (i) Reclamation.

23 (ii) Assessing environmental conditions.

24 (iii) Remedying and removing environmental
25 contamination.

26 (iv) Monitoring remedial activities and the release
27 of substances.

28 (v) Preventing future releases of substances.

29 (vi) Collecting amounts from persons liable or
30 potentially liable for the costs of those activities.

(vii) Penalties imposed under environmental statutes or regulations and other payments made to comply with those statutes or regulations.

(viii) Statutory or common law claims by third parties.

(ix) Defending claims based on environmental matters.

(b) Mandatory reimbursement.--If a principal asset is encumbered with an obligation which requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

§ 8163. Discretionary allocation of disbursements.

Subject to sections 8161 (relating to mandatory disbursements from income) and 8162 (relating to mandatory disbursements from principal), a trustee may, in the trustee's discretion, allocate to income or principal or partly to each ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including, but not limited to, the compensation of the trustee and of any person providing investment advisory, custodian or income tax return preparation services to the trustee.

§ 8164. Transfers from income to principal for depreciation.

(a) Transfers.--A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation. However, a trustee may not transfer any amount for depreciation:

(1) of that portion of real property used or available for use by a beneficiary as a residence or of tangible

1 personal property held or made available for the personal use
2 or enjoyment of a beneficiary;

3 (2) during the administration of a decedent's estate; or

4 (3) under this section if the trustee is accounting
5 under section 8143 (relating to business and other activities
6 conducted by trustee) for the business or activity in which
7 the asset is used.

8 (b) Separate fund unnecessary for amount transferred.--An
9 amount transferred to principal need not be held as a separate
10 fund.

11 (c) Definition.--As used in this section, the term
12 "depreciation" means a reduction in value due to wear, tear,
13 decay, corrosion or gradual obsolescence of a fixed asset having
14 a useful life of more than one year.

15 § 8165. Transfers from income to reimburse principal.

16 (a) Permissible reimbursements.--A trustee may transfer an
17 appropriate amount from income to principal in one or more
18 accounting periods to reimburse principal or to provide a
19 reserve for future disbursements, if the trustee makes or
20 expects to make a disbursement from principal which is allocable
21 to income under section 8161 (relating to mandatory
22 disbursements from income) or 8163 (relating to discretionary
23 allocation of disbursements) and which:

24 (1) is paid from principal because it is unusually
25 large; or

26 (2) is made to prepare property for rental, including
27 tenant allowances, leasehold improvements and broker's
28 commissions.

29 (b) Continued transfers.--If the asset whose ownership gives
30 rise to the disbursements becomes subject to a successive income

1 interest after an income interest ends, a trustee may continue
2 to transfer amounts from income to principal as provided in
3 subsection (a).

4 (c) Application.--This section shall not apply to the extent
5 the trustee has been or expects to be reimbursed by a third
6 party.

7 § 8166. Income taxes.

8 (a) Receipts allocated to income.--A tax required to be paid
9 by a trustee based on receipts allocated to income shall be paid
10 from income.

11 (b) Receipts allocated to principal.--A tax required to be
12 paid by a trustee based on receipts allocated to principal shall
13 be paid from principal, even if the tax is called an income tax
14 by the taxing authority.

15 (c) Tax on entity's taxable income.--A tax required to be
16 paid by a trustee on the trust's share of an entity's taxable
17 income shall be paid proportionately:

18 (1) from income to the extent that receipts from the
19 entity are allocated to income; and

20 (2) from principal to the extent that:

21 (i) receipts from the entity are allocated to
22 principal; and

23 (ii) the trust's share of the entity's taxable
24 income exceeds the total receipts described in paragraph

25 (1) and subparagraph (i).

26 (d) Reductions in receipts allocated to principal or
27 income.--For purposes of this section, receipts allocated to
28 principal or income shall be reduced by the amount distributed
29 to a beneficiary from principal or income for which the trust
30 receives a deduction in calculating the tax.

1 § 8167. Adjustments between principal and income because of
2 taxes.

3 A trustee may make adjustments between principal and income
4 to offset the shifting of economic interests or tax benefits
5 between income beneficiaries and remainder beneficiaries which
6 arise from any of the following:

7 (1) An election or decision which the trustee makes
8 regarding tax matters.

9 (2) An income tax or any other tax which is imposed upon
10 the trustee or a beneficiary as a result of a transaction
11 involving the trust or distribution from the trust.

12 (3) The ownership by a trust of an interest in an entity
13 the taxable income of which, whether or not distributed, is
14 includable in the taxable income of the trust or a
15 beneficiary.

16 SUBCHAPTERS F AND G

17 RESERVED

18 SUBCHAPTER H

19 MISCELLANEOUS PROVISIONS

20 Sec.

21 8191. Uniformity of application and construction.

22 § 8191. Uniformity of application and construction.

23 In applying and construing this chapter, consideration shall
24 be given to the need to promote uniformity of the law with
25 respect to its subject matter among states which enact it.

26 Section 14. (a) Except as otherwise expressly provided in
27 the governing instrument, in the addition of 20 Pa.C.S. Ch. 81
28 or in subsection (b), this act shall apply to all of the
29 following:

30 (1) A trust existing on or after the effective date of

1 this act.

2 (2) The estate of a decedent who dies on or after the
3 effective date of this act.

4 (b) This act shall apply as follows:

5 (1) The amendment of 20 Pa.C.S. § 724 shall apply to
6 trusts created before, on or after the effective date of this
7 act.

8 (2) The amendment of 20 Pa.C.S. § 2104 shall apply to
9 intestacies occurring on or after the effective date of this
10 act, even if the trust became irrevocable before the
11 effective date of this act.

12 (3) The amendment of 20 Pa.C.S. § 6205 shall apply to
13 disclaimers made on or after the effective date of this act
14 and shall apply to disclaimers made before the effective date
15 of this act to the extent the distribution thereunder is made
16 after the effective date of this act or, if made prior to the
17 effective date, such distribution was consistent with this
18 act.

19 (4) The addition of 20 Pa.C.S. §§ 7104 and 7105 shall
20 apply to trusts created before, on or after the effective
21 date of this act.

22 Section 15. This act shall take effect in 60 days.