

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1115 Session of  
2018

INTRODUCED BY BROWNE, OCTOBER 17, 2018

REFERRED TO JUDICIARY, OCTOBER 17, 2018

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
2 Pennsylvania Consolidated Statutes, in administration and  
3 personal representatives, providing for different duties and  
4 liabilities of personal representatives; in incapacitated  
5 persons, further providing for provisions concerning powers,  
6 duties and liabilities; in powers of attorney, further  
7 providing for durable powers of attorney and for liability  
8 for refusal to accept power of attorney and providing for  
9 judicial relief; in limitations on exercise of trustee powers  
10 and powers of beneficiaries to appoint trustees, further  
11 providing for certain trustee powers not exercisable; in  
12 powers of appointment, providing for creditors' rights; and,  
13 in trusts, further providing for cotrustees - UTC 703, for  
14 powers to direct - UTC 808 and for duty to inform and report.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Title 20 of the Pennsylvania Consolidated  
18 Statutes is amended by adding a section to read:

19 § 3327.1. Different duties and liabilities of personal  
20 representatives.

21 A will may assign different duties and different standards of  
22 care to different personal representatives and may limit the  
23 liability of a personal representative who acts upon the  
24 direction of another personal representative to whom a duty is

1 exclusively given by the will or who complies with the veto of  
2 another personal representative to whom a power to veto is  
3 exclusively given by the will. In such a situation, the rules of  
4 section 7763(i) (relating to cotrustees - UTC 703) shall apply.

5 Section 2. Section 5521 of Title 20 is amended by adding  
6 subsections to read:

7 § 5521. Provisions concerning powers, duties and liabilities.

8 \* \* \*

9 (b.1) (Reserved).

10 (b.2) Powers of guardian of the estate with further court  
11 approval.--A guardian of the estate of an incapacitated person  
12 may have the following powers only with further court  
13 authorization or confirmation:

14 (1) Continue any business in which the incapacitated  
15 person has an ownership interest, for the benefit of the  
16 incapacitated person's estate, after the court gives due  
17 regard to the order of appointment and any other factor  
18 deemed relevant, and aided by the report of a master if  
19 necessary. An order by the court under this paragraph may be  
20 with or without notice. If prior notice is not given to all  
21 parties in interest, it shall be given within five days after  
22 the order or within such extended time as the court, for  
23 cause shown, shall allow. Any party in interest may, at any  
24 time, petition the court to revoke or modify the order. The  
25 order may provide:

26 (i) for the conduct of business by the guardian of  
27 the estate alone or jointly with others, or as a  
28 corporation, partnership, limited liability company or  
29 other entity to be formed;

30 (ii) the extent of the liability of the estate or

1 any part thereof, or of the guardian of the estate, for  
2 obligations incurred in the continuation of the business;

3 (iii) whether liabilities incurred in the conduct of  
4 the business are to be chargeable solely to the part of  
5 the estate set aside for use in the business or to the  
6 estate as a whole;

7 (iv) the period of time the business may be  
8 conducted;

9 (v) for the compensation of the guardian of the  
10 estate actively managing, supervising or engaging in the  
11 operation of an entity or business, from the estate's  
12 assets or from the entity or business, as appropriate,  
13 provided that the compensation is reasonably based upon  
14 the actual responsibilities assumed and performed; and

15 (vi) other regulations, including accountings, as  
16 the court shall deem advisable.

17 (2) After notice to all parties in interest and after  
18 the court gives due regard to the order of appointment and  
19 any other factor deemed relevant and aided by the report of a  
20 master if necessary:

21 (i) Organize a corporation or form a partnership,  
22 limited liability company or other entity to carry on the  
23 business of the incapacitated person, whether the  
24 business was owned solely or with others, with the  
25 guardian of the estate exercising this power alone or  
26 jointly with others.

27 (ii) Contribute for stock of the corporation, as  
28 capital, or for an interest in a partnership, limited  
29 liability company or other entity, all or part of the  
30 property of the incapacitated person that was invested in

1 the business.

2 (3) With respect to the real property of the estate:

3 (i) Sell or buy any real property at public, private  
4 or judicial sale, exchange any real property or grant or  
5 obtain an option for the sale, purchase or exchange of  
6 any real property. The court may direct:

7 (A) The terms and security for any of these  
8 powers.

9 (B) The reasonable notice to the parties in  
10 interest, including heirs of the incapacitated  
11 person.

12 (ii) Join with the spouse of the incapacitated  
13 person in the performance of any of the acts under  
14 subparagraph (i) with respect to property held by the  
15 entireties.

16 (iii) Release the right of the incapacitated person  
17 in the real property of the person's spouse and join in  
18 the deed of the spouse on behalf of the incapacitated  
19 person.

20 (iv) Abandon any real property.

21 (4) A guardian of the estate may compromise or settle  
22 any claim by or against the estate, through litigation or  
23 otherwise. The guardian shall seek approval of the orphans'  
24 court division having jurisdiction of the guardianship of any  
25 such compromise or settlement, subject to the following:

26 (i) The court may enter a decree authorizing the  
27 compromise or settlement to be made:

28 (A) On petition by the guardian of the estate or  
29 any party in interest setting forth all the facts and  
30 circumstances.

1                   (B) After notice as the court directs.

2                   (C) Aided if necessary by the report of a  
3                   master.

4                   (ii) For a compromise or settlement of an action in  
5                   which damages are sought on behalf of the estate, the  
6                   court that has jurisdiction and in which the action is  
7                   pending may approve the compromise or settlement,  
8                   including an agreement for the payment of counsel fees  
9                   and other proper expenses incident to the action, upon:

10                   (A) oral motion by plaintiff's counsel of record  
11                   in the action; or

12                   (B) petition by the guardian of the estate.

13                   (iii) The order of the court approving the  
14                   compromise or settlement or the agreement for the payment  
15                   of counsel fees and other expenses shall be subject to  
16                   approval of the orphans' court division having  
17                   jurisdiction of the guardianship.

18                   (iv) The guardian of the estate shall file a copy of  
19                   the order of the court approving the compromise or  
20                   settlement with the clerk of the court having  
21                   jurisdiction of the estate. When the guardian of the  
22                   estate has been required to give bond, the guardian may  
23                   not receive the proceeds of the compromise or settlement  
24                   until:

25                   (A) the court of the county having jurisdiction  
26                   of the estate has made an order excusing the guardian  
27                   from entering additional security; or

28                   (B) the guardian has entered the additional  
29                   security that is required by the court of the county  
30                   having jurisdiction of the estate.

1 \* \* \*

2 Section 3. Sections 5604(d) and (e) and 5608.1(b)(7) and (8)  
3 of Title 20 are amended to read:

4 § 5604. Durable powers of attorney.

5 \* \* \*

6 (d) Discovery of information and records regarding actions  
7 of agent.--

8 (1) If the agency acting pursuant to the act of November  
9 6, 1987 (P.L.381, No.79), known as the Older Adults  
10 Protective Services Act, or the act of October 7, 2010  
11 (P.L.484, No.70), known as the Adult Protective Services Act,  
12 is denied access to records necessary for the completion of a  
13 proper investigation of a report or a client assessment and  
14 service plan or the delivery of needed services in order to  
15 prevent further abuse, neglect, exploitation or abandonment  
16 of the adult principal or older adult principal reported to  
17 be in need of protective services, the agency may petition  
18 the court of common pleas for an order requiring the  
19 appropriate access when either of the following conditions  
20 applies:

21 (i) the adult principal or older adult principal has  
22 provided written consent for confidential records to be  
23 disclosed and the agent denies access; or

24 (ii) the agency can demonstrate that the adult  
25 principal or older adult principal has denied or directed  
26 the agent to deny access to the records because of  
27 incompetence, coercion, extortion or justifiable fear of  
28 future abuse, neglect, exploitation or abandonment.

29 (2) This petition may be filed in the county wherein the  
30 agent resides or has his principal place of business or, if a

1 nonresident, in the county wherein the adult principal or  
2 older adult principal resides. The court, after reasonable  
3 notice to the agent and to the adult principal or older adult  
4 principal, may conduct a hearing on the petition.

5 (3) Upon the failure of the agent to provide the  
6 requested information, the court may make and enforce such  
7 further orders.

8 (4) A determination to grant or deny an order, whether  
9 in whole or in part, shall not be considered a finding  
10 regarding the competence, capacity or impairment of the adult  
11 principal or older adult principal, nor shall the granting or  
12 denial of an order preclude the availability of other  
13 remedies involving protection of the person or estate of the  
14 adult principal or older adult principal or the rights and  
15 duties of the agent.

16 (e) Definitions.--As used in this section, the following  
17 words and phrases shall have the meanings given to them in this  
18 subsection:

19 "Abandonment." As that term is defined in the act of  
20 November 6, 1987 (P.L.381, No.79), known as the Older Adults  
21 Protective Services Act[.], or the act of October 7, 2010  
22 (P.L.484, No.70), known as the Adult Protective Services Act.

23 "Abuse." As that term is defined in the act of November 6,  
24 1987 (P.L.381, No.79), known as the Older Adults Protective  
25 Services Act[.], or the act of October 7, 2010 (P.L.484, No.70),  
26 known as the Adult Protective Services Act.

27 "Adult principal." A principal who is 18 years of age or  
28 older but under 60 years of age.

29 "Agency." As that term is defined in the act of November 6,  
30 1987 (P.L.381, No.79), known as the Older Adults Protective

1 Services Act, except that in cities of the first class the term  
2 shall mean the Department of Aging[.], or the act of October 7,  
3 2010 (P.L.484, No.70), known as the Adult Protective Services  
4 Act.

5 "Exploitation." As that term is defined in the act of  
6 November 6, 1987 (P.L.381, No.79), known as the Older Adults  
7 Protective Services Act[.], or the act of October 7, 2010  
8 (P.L.484, No.70), known as the Adult Protective Services Act.

9 "Neglect." As that term is defined in the act of November 6,  
10 1987 (P.L.381, No.79), known as the Older Adults Protective  
11 Services Act[.], or the act of October 7, 2010 (P.L.484, No.70),  
12 known as the Adult Protective Services Act.

13 "Older adult principal." A principal who is 60 years of age  
14 or older.

15 § 5608.1. Liability for refusal to accept power of attorney.

16 \* \* \*

17 (b) Acceptance not required.--A person may not be required  
18 to accept a power of attorney if any of the following applies:

19 \* \* \*

20 (7) The person makes a report to the local protective  
21 services agency under section 302 of the act of November 6,  
22 1987 (P.L.381, No.79), known as the Older Adults Protective  
23 Services Act, or the act of October 7, 2010 (P.L.484, No.70),  
24 known as the Adult Protective Services Act, stating a good  
25 faith belief that the principal may be subject to physical or  
26 financial abuse, neglect, exploitation or abandonment by the  
27 agent or someone acting for or with the agent.

28 (8) The person has actual knowledge that another person  
29 has made a report to the local protective services agency  
30 under section 302 of the Older Adults Protective Services Act

1 or the Adult Protective Services Act stating a good faith  
2 belief that the principal may be subject to physical or  
3 financial abuse, neglect, exploitation or abandonment by the  
4 agent or someone acting for or with the agent.

5 \* \* \*

6 Section 4. Title 20 is amended by adding a section to read:  
7 § 5615. Judicial relief.

8 (a) Petitioner.--The following may petition a court to  
9 construe a power of attorney or review the agent's conduct and  
10 grant appropriate relief:

11 (1) the principal or the agent;

12 (2) a guardian, conservator or other fiduciary acting  
13 for the principal;

14 (3) a person authorized to make health care decisions  
15 for the principal;

16 (4) the principal's spouse, parent or descendant;

17 (5) an individual who could qualify as an intestate  
18 successor of the principal;

19 (6) a person named as a beneficiary:

20 (i) to receive any property, benefit or contractual  
21 right on the principal's death; or

22 (ii) of a trust created by or for the principal;

23 (7) a governmental agency having regulatory authority to  
24 protect the welfare of the principal;

25 (8) the principal's caregiver or another person that  
26 demonstrates sufficient interest in the principal's welfare;  
27 and

28 (9) a person asked to accept the power of attorney.

29 (b) Principal.--Upon motion by the principal, the court  
30 shall dismiss a petition filed under this section, unless the

1 court finds that the principal lacks capacity to revoke the  
2 agent's authority or the power of attorney.

3 Section 5. Section 7504(c) (2) of Title 20 is amended to  
4 read:

5 § 7504. Certain trustee powers not exercisable.

6 \* \* \*

7 (c) Exceptions.--This section shall not apply to:

8 \* \* \*

9 (2) A trust created under a governing instrument  
10 executed on or before March 21, 1999, if no part of the  
11 principal of the trust would have been included in the gross  
12 estate of the trustee for Federal estate tax purposes if the  
13 trustee had died [on March 21, 1999,] without the benefit of  
14 this section having been enacted, without having exercised  
15 the power under the governing instrument to make  
16 discretionary distributions of principal or income to or for  
17 the benefit of the trustee, the trustee's estate or the  
18 creditors of either.

19 Section 6. Title 20 is amended by adding a section to read:

20 § 7607. Creditors' rights.

21 Property subject to a power of appointment shall not, by  
22 virtue of the power, be available to the creditors of the donee  
23 of the power, except to the extent:

24 (1) the donee expressly exercises a broad power of  
25 appointment in favor of the donee's creditors or the estate's  
26 creditors;

27 (2) the creation of the power was connected with a  
28 fraudulent conveyance on those creditors;

29 (3) the power of appointment is broad and the donee is  
30 also the donor of the power; or

1       (4) the power is broad and is presently exercisable by  
2 the donee, except that an unrestricted power to withdraw the  
3 greater of the amount specified in section 2041(b)(2),  
4 2503(b) or 2514(e) of the Internal Revenue Code of 1986  
5 (Public Law 99-514, 26 U.S.C. § 2041(b)(2), 2503(b) or  
6 2514(e)) or any lesser amount determined by reference to one  
7 or more of these provisions may not be treated as a presently  
8 exercisable broad power of appointment for purposes of this  
9 section.

10       Section 7. Sections 7763(g) and 7778 heading, (b), (c) and  
11 (d) of Title 20 are amended and the sections are amended by  
12 adding subsections to read:

13 § 7763. Cotrustees - UTC 703.

14       \* \* \*

15       (g) Reasonable care.--[Each] Except as provided in  
16 subsection (i), each trustee shall exercise reasonable care to:

17           (1) prevent a cotrustee from committing a breach of  
18 trust involving fraud or self-dealing; and

19           (2) compel a cotrustee to redress a breach of trust  
20 involving fraud or self-dealing.

21       \* \* \*

22       (i) Different duties and standards of care among  
23 cotrustees.--A trust instrument may assign different duties and  
24 standards of care to different trustees and may limit the  
25 liability of a trustee who acts upon the direction of another  
26 trustee to whom a duty is exclusively given by the trust  
27 instrument or who complies with the veto of another trustee to  
28 whom a power to veto is exclusively given by the trust  
29 instrument. The duties and powers assigned may be those of a  
30 trust director described in section 7778 (relating to powers to

1 direct). Where a trust instrument confers upon a cotrustee the  
2 power to direct or to veto certain actions of the trustees and  
3 excludes another trustee from participating in the exercise of  
4 the power, the following rules apply in respect to the actions  
5 unless the trust instrument provides otherwise:

6       (1) The excluded trustee shall act in accordance with  
7 the cotrustee's written direction or written veto and shall  
8 not be liable, individually or as a fiduciary, for any loss  
9 resulting directly or indirectly from compliance with that  
10 direction or veto or from the cotrustee's failure to respond  
11 to a recommendation by the excluded trustee that the  
12 cotrustee has the power to veto.

13       (2) The excluded trustee has no duty, beyond seeking the  
14 cotrustee's direction or veto, to monitor the conduct of the  
15 cotrustee, to provide advice to or consult with the cotrustee  
16 or to inquire, investigate or evaluate the cotrustee's  
17 decisions or lack of decisions. If the excluded trustee takes  
18 any action beyond the excluded trustee's duty, the excluded  
19 trustee shall not be liable for failure to do so in the  
20 future.

21       (3) The excluded trustee shall not be required to give  
22 notice to any beneficiary of any action taken or not taken by  
23 the cotrustee, whether or not the excluded trustee agrees  
24 with the action. If the excluded trustee gives the notice,  
25 the excluded trustee shall not be liable for failure to do so  
26 in the future. An excluded trustee shall not be liable for  
27 taking administrative actions to implement the cotrustee's  
28 actions or for confirming that those actions have been taken.

29       (4) The cotrustee who holds the power to direct or to  
30 veto certain actions with respect to the trust is liable to

1 the beneficiaries with respect to the exercise of or failure  
2 to exercise the power to the same extent as if the excluded  
3 trustee were not in office and has the exclusive obligation  
4 to account to the beneficiaries and defend any action brought  
5 by the beneficiaries with respect to the exercise of or  
6 failure to exercise the power.

7 § 7778. Powers to direct [- UTC 808].

8 \* \* \*

9 [(b) Compliance with power.--If a trust instrument confers  
10 upon a person other than the settlor of a revocable trust power  
11 to direct certain actions of the trustee, the trustee shall act  
12 in accordance with a written exercise of the power unless the  
13 attempted exercise is manifestly contrary to the trust  
14 instrument or the trustee knows the attempted exercise would  
15 constitute a serious breach of a fiduciary duty that the person  
16 holding the power owes to the beneficiaries of the trust.

17 (c) Modification or termination of trust.--A trust  
18 instrument may confer upon a trustee or other person a power to  
19 modify or terminate the trust.

20 (d) Fiduciary relationship.--A person other than a  
21 beneficiary who holds a power to direct certain actions of a  
22 trustee is presumptively a fiduciary who, as such, is required  
23 to act in good faith with regard to the purposes of the trust  
24 and the interests of the beneficiaries. The holder of a power to  
25 direct is liable for any loss that results from breach of the  
26 holder's fiduciary duty.]

27 (e) Trust director, in general.--A trust instrument may  
28 appoint a trust director to make or veto investment,  
29 distribution or other decisions affecting the trust or to serve  
30 as a trust protector. A trust director may but need not be a

1 trustee of the trust. The trust instrument may appoint more than  
2 one person in any such capacity. Trust directors are fiduciaries  
3 within the scope of their appointment.

4 (f) Trust director for investments.--Unless the trust  
5 instrument provides otherwise:

6 (1) A trust director for investments shall have the  
7 power to:

8 (i) direct the trustee or veto the trustee's  
9 recommendations as to the investment of the trust assets;

10 (ii) direct the trustee or veto the trustee's  
11 recommendations as to the voting of proxies and the  
12 exercise of other voting powers associated with the  
13 trust's assets;

14 (iii) select and determine reasonable compensation  
15 of one or more investment advisors or managers, even if a  
16 trustee, and authorize or engage them to perform any of  
17 the investment powers of the trust director;

18 (iv) determine the frequency and methodology for  
19 valuing trust assets; and

20 (v) exercise or veto the trustee's exercise of any  
21 other investment power the trustee has or might have.

22 (2) The provisions of Chapter 72 (relating to prudent  
23 investor rule) shall apply to a trust director for  
24 investments to the same extent they would apply to the  
25 trustee.

26 (g) Trust director for distributions.--A trust instrument  
27 may appoint a trust director for distributions to direct the  
28 trustee or veto the trustee's recommendations regarding whether,  
29 how and to whom to make discretionary distributions from the  
30 trust and the amount of the distributions. If the trust

1 instrument does not specify the powers of the trust director for  
2 distributions, the office of trust director for distributions  
3 shall be deemed vacant.

4 (h) Trust protector.--

5 (1) Subject to paragraph (2), a trust instrument may  
6 appoint a trust director as trust protector to exercise the  
7 powers as the trust instrument may specify, which may include  
8 the powers to:

9 (i) amend the trust instrument to achieve favorable  
10 tax status or to respond to changes in tax laws, apply  
11 changes in the rule against perpetuities to the trust or  
12 improve the trust's administration;

13 (ii) change the trust's situs, the trust's governing  
14 law or both;

15 (iii) remove, appoint or replace an investment  
16 advisor or manager or a member of an investment or  
17 distribution committee and prescribe a plan of succession  
18 for future holders of the office;

19 (iv) remove, appoint or replace a trustee, appoint  
20 one or more successor trustees and prescribe a plan of  
21 succession for future trustees;

22 (v) remove, appoint or replace a trust director and  
23 specify his powers, which appointment and specification  
24 shall be deemed made by the trust instrument;

25 (vi) appoint one or more successor trust protectors  
26 and prescribe a plan of succession for future trust  
27 protectors;

28 (vii) modify or eliminate the interests of any  
29 beneficiaries of the trust, except that the trust  
30 protector may not increase the trust protector's

1 beneficial interest, if any, in the trust;

2 (viii) grant a power of appointment to one or more  
3 beneficiaries of the trust on the terms as the trust  
4 protector may specify or modify the terms of or terminate  
5 a power of appointment granted to a beneficiary by the  
6 trust instrument, except by doing so, the trust protector  
7 may not establish as an object of the power:

8 (A) any individual or class of individuals who  
9 were not beneficiaries of the trust; or

10 (B) the trust protector, the trust protector's  
11 estate, creditors or the creditors of the trust  
12 protector's estate; and

13 (ix) terminate the trust and direct the trustee on  
14 how to distribute the trust property, except that the  
15 trust protector may not increase the trust protector's  
16 beneficial interest, if any, in the trust.

17 (2) If the trust instrument grants the same power to  
18 both a trust protector and a trust director who shall not be  
19 a trust protector, the trust protector shall control the  
20 exercise of the power. The trust protector shall notify the  
21 Office of Attorney General of the exercise of any of the  
22 foregoing powers if the trustee would be required to give  
23 notice if the trustee exercised the same power.

24 (i) Trustee disabling provisions applicable to trust  
25 director.--Unless the trust instrument provides otherwise, the  
26 restrictions set forth in Chapter 75 (relating to limitations on  
27 exercise of trustee powers and powers of beneficiaries to  
28 appoint trustees) shall apply to a trust director as if the  
29 trust director were a trustee.

30 (j) Duty and liability of trust director.--

1           (1) In exercising or not exercising the authority  
2 granted in this section or by the trust instrument, a trust  
3 director is subject to the same fiduciary duties and  
4 liabilities that apply to a trustee, unless the trust  
5 instrument provides otherwise, except that the trust  
6 instrument may not exonerate a trust director from liability  
7 to an extent greater than the trust instrument might  
8 exonerate a trustee. A donee of a power of appointment shall  
9 not be a fiduciary with respect to the exercise or  
10 nonexercise of the power of appointment, even if the donee is  
11 also a trust director. A trust director has no duty to:

12           (i) monitor the trustee's conduct;

13           (ii) provide advice to or consult with the trustee  
14 on matters outside the trust director's role; or

15           (iii) give notice to any beneficiary of any action  
16 taken or not taken by a trustee, whether or not the trust  
17 director agrees with the action.

18           (2) If a trust director takes any such action beyond the  
19 trust director's duty, the trust director shall not be liable  
20 for failure to do so in the future.

21           (k) Duty and liability of trustee.--If a trust instrument  
22 confers upon a trust director the power to make or to veto  
23 certain decisions regarding the trust, the following rules apply  
24 in relation to the matters the trust director may decide or veto  
25 unless the trust instrument provides otherwise:

26           (1) The trustee shall act in accordance with the trust  
27 director's written direction or written veto and shall not be  
28 liable, individually or as a fiduciary, for any loss  
29 resulting directly or indirectly from compliance with that  
30 direction or veto or from the trust director's failure to

1 respond to a recommendation by the trustee that the trust  
2 director has the power to veto.

3 (2) If the trust instrument provides that a trustee  
4 shall act only with the consent of a trust director, the  
5 trustee shall not be liable, individually or as a fiduciary,  
6 for any loss resulting directly or indirectly from any action  
7 taken or not taken as a result of the trust director's  
8 failure to provide the consent.

9 (3) The trustee has no duty, beyond seeking the trust  
10 director's direction or veto, to monitor the conduct of the  
11 trust director, to provide advice to or consult with the  
12 trust director or to inquire, investigate or evaluate the  
13 trust director's decisions or lack of decisions. If a trust  
14 director takes any such action beyond the trust director's  
15 duty, the trust director shall not be liable for failure to  
16 do so in the future.

17 (4) The trustee shall not be required to give notice to  
18 any beneficiary of any action taken or not taken by a trust  
19 director, whether or not the trustee agrees with the action.  
20 If a trust director gives the notice, the trust director  
21 shall not be liable for failure to do so in the future. The  
22 trustee shall not be liable for taking administrative actions  
23 to implement the trust director's actions or for confirming  
24 that those actions have been taken.

25 (1) Acceptance and rejection of trust director's role.--

26 (1) A person designated as a trust director accepts the  
27 appointment to serve in that capacity:

28 (i) by substantially complying with a method of  
29 acceptance specified in the trust instrument; or

30 (ii) if the trust instrument does not specify a

1 method for acceptance, or the method provided in the  
2 trust instrument shall not be expressly exclusive, by  
3 exercising powers or performing duties as a trust  
4 director or otherwise indicating acceptance of the  
5 appointment to serve as a trust director.

6 (2) A person designated as a trust director may reject  
7 the appointment to serve in that capacity. A trustee may  
8 request in writing that a person designated as a trust  
9 director accept that role in writing. If requested to accept  
10 that role in writing, the person designated as a trust  
11 director who does not accept in writing an appointment within  
12 60 days after receipt of the trustee's written request shall  
13 be considered to have rejected the appointment to serve as a  
14 trust director. If the trust director does not accept  
15 appointment or there is a vacancy in the position, the  
16 powers, duties and responsibilities of the trustee shall be  
17 determined as if the office of the trust director had not  
18 been created, unless the trust instrument provides otherwise.

19 (m) Action by multiple trust directors who share a role.--  
20 When more than one trust director is authorized to act on a  
21 matter entrusted to them and they are unable to reach a  
22 unanimous decision on the matter, they may act by majority vote,  
23 unless the trust instrument provides otherwise.

24 (n) Resignation by trust director.--A trust director may  
25 resign:

26 (1) if allowed to do so by the trust instrument;

27 (2) upon at least 30 days' advance notice in writing to  
28 the qualified beneficiaries of the trust, the settlor if sui  
29 juris and all trustees, unless the trust instrument provides  
30 otherwise; or

1           (3) with court approval.

2           (o) Removal of trust director.--The settlor, a trustee or a  
3 beneficiary of an irrevocable trust may petition the court to  
4 remove a trust director, or a trust director may be removed by  
5 the court on its own initiative, for any of the reasons for  
6 which the court may remove a trustee. Pending a final decision  
7 whether to remove a trust director, or in lieu of or in addition  
8 to removing a trust director, the court may order appropriate  
9 relief to protect the trust or the interests of the  
10 beneficiaries.

11           (p) Compensation and reimbursement of trust director.--A  
12 trust director is entitled to reasonable compensation and  
13 reimbursement of expenses on the terms provided in the trust  
14 instrument or, in the absence of the terms, as the law provides  
15 for trustees.

16           (q) Jurisdiction over trust director.--By accepting an  
17 appointment to serve as a trust director of a trust having its  
18 situs in this Commonwealth, the trust director submits to the  
19 jurisdiction of the courts of this Commonwealth to the same  
20 extent as the trustee, notwithstanding any contrary provision in  
21 the trust instrument or in any agreement apart from the trust  
22 instrument. The trust director may be made a party to any action  
23 or proceeding involving issues relating to a decision and action  
24 or inaction by the trust director within the scope of the trust  
25 director's authority.

26           (r) Trustee may not delegate trust director's role.--A  
27 trustee may not delegate a duty or power under section 7777  
28 (relating to delegation by trustee) that the trust instrument  
29 gives to a trust director.

30           Section 8. Section 7780.3(i) of Title 20 is amended to read:

1 § 7780.3. Duty to inform and report.

2 \* \* \*

3 (i) Contents of notice.--Except as provided in subsection  
4 (g), any notice under this section shall be written and convey  
5 the following information:

6 (1) The fact of the trust's existence.

7 (2) The identity of the settlor.

8 (3) The [trustee's] name, address and telephone number  
9 of each trustee.

10 (4) The recipient's right to receive [upon request] a  
11 copy of the trust instrument.

12 (5) Each current beneficiary's right to receive, at  
13 least annually, upon request, periodic written financial  
14 reports concerning the trust.

15 (6) The name, address and telephone number of each trust  
16 director.

17 \* \* \*

18 Section 9. This act shall take effect in 60 days.