

Why Delaware: The First State v. Other States

How Delaware overcomes the most common misperceptions, misinformation and fake news from other states looking to capture trust business.

Delaware Trust Conference October 23, 2019

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Evolution and Challenges of the Trust Industry

By: Jeffrey C. Wolken

Wilmington Trust, N.A.

The Delaware Trust Conference

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The trust industry: A brave new world

Over the past half-century, the role of trustees has evolved rapidly along with the trust industry itself. We have seen a transition in the investment standards guiding trustees from a “prudent man” using legal lists to a “prudent investor” employing modern portfolio theory. Jurisdictional considerations for a wealthy family have progressed from inter-state to multinational during this time as well; trustees are now required to understand concepts of foreign taxation and foreign property law regimes and remain compliant with strict federal Know Your Customer laws put in place to combat money laundering and terrorist financing.

There has also been an unbundling of the trustee’s role where co-fiduciaries take on the responsibility for directing certain aspects of a trust’s administration in a directed trust. Finally, today’s beneficiaries often request their inheritances in trust to obtain protection from creditors and to minimize transfer taxes by holding inherited assets in trust. These changes have spurred the evolution of the trust industry and presented new challenges to its continued growth and profitability.

Increased complexity of trust investments

Historically, trust laws evolved with the development of the common law as each new fiduciary issue was resolved by the courts. A trustee’s duties and obligations were often determined based upon standards of prudence and loyalty litigated after the fact. The result of judging fiduciary conduct using 20/20 hindsight was that a trustee’s default standards of care were very conservative. Statutes that attempted to modify the common law were strictly construed and, ultimately, may not be enforced by the court if there were appropriate grounds for the court to craft an exception. These circumstances required the trust industry to maintain a very conservative approach.

In the investment realm, the investment process was initially driven by “legal lists” of permissible investments including government bonds and first mortgages. By the 1940s, legal lists were replaced in most states by the prudent man rule which characterized investment in “speculative” stocks, discounted bonds, or buying any securities on margin as presumptively improper. Not until the late 1980s did states begin to repeal their prudent man rules in favor of a prudent investor rule that embraced modern portfolio theory. Until this time, it was generally not seen as prudent to invest in a diverse portfolio of securities.

Modern trust laws require a sophisticated trustee

Trust-friendly laws allowing for directed trustees and perpetual trusts are not new concepts, but their proliferation in recent years and broad acceptance in many states have expanded the scope of trustees who must administer these complex structures. Starting in the mid-1980s, states began to compete for

trust business using favorable trust laws as a lure to bring trust assets into their states. Many states began to repeal their common law rules against perpetuities to allow for perpetual trusts and to codify laws allowing the role of the trustee to be unbundled so advisors could direct how the trustee exercised its fiduciary powers, the so-called directed trust. Beginning with Alaska and Delaware in 1997, certain states began to apply spendthrift protections to self-settled trusts allowing for the creation of domestic asset protection trusts. Until this time, wealthy individuals had to use offshore asset protection trusts if they wanted creditor protection while retaining access to their assets.

During this period of evolution in the trust laws, differences in state income tax laws created opportunities for residents of one state to explore the use of personal trusts administered in another trust-friendly state for the purpose of minimizing their overall state income tax burden. The situs of trust administration became a compelling reason to seek a trustee located in a favorable jurisdiction like Delaware, South Dakota, or Alaska. State income tax arbitrage led to complex trust structures used to minimize taxes upon the recognition or receipt of income (a so-called “ING” trust) so the taxpayer remains a resident of his or her high-tax home state while exporting the assets to a trust in a low or no-tax jurisdiction to limit state income taxes.

One challenge in the trust industry today is distinguishing between complicated trust structures that require a robust trustee who is fairly compensated for these services, versus trusts that may be serviced by a thinly-staffed trustee for the purpose of essentially renting administrative situs in a preferred jurisdiction. Describing and demonstrating the value proposition regarding the services being performed may be a challenge for a corporate trustee because many families face the decision of whom to select as their trustee only once and don't appreciate the downside to picking the lowest-cost provider. Advisors who regularly counsel families on these decisions understand the value a sophisticated trustee brings and can help families find the right fit. Trustee services are not a commodity because each trust relationship is unique.

Multinational families are utilizing more trusts

A generation ago, inter-state planning was a complicating factor when structuring a family trust. Today, it is common to do trust planning for multinational families impacted by the laws and taxes of multiple countries. The variety of domestic and foreign tax laws involved when planning for the multinational family requires sophisticated tax counsel and a fiduciary partner able to meet the ongoing and evolving demands of these complex trust structures. Some multinational families seek efficient methods for importing their wealth to the United States after their children come to the U.S. for an education and then remain in the U.S. following marriage or to pursue professional opportunities in the states. Others seek a safe-haven for family wealth because their home country may be financially or politically unstable, with the United States seen as the “offshore” jurisdiction of choice. Finally, U.S. estate tax laws encourage the use of trusts to hold U.S.-based real estate by non-resident aliens to avoid U.S. estate taxes upon their death.

Driving forces behind the expansion of the trust industry

As trust and tax laws changed and investments became more complex, successful families sought the services of professional fiduciaries located in favorable jurisdictions who were adept at navigating these complex trust laws and able to take advantage of these modern investment options. The demand for fiduciary services made trust departments an attractive source of revenue to financial institutions and

some states began to compete to attract trust assets into their states. Some innovations in trust laws that states used to bring assets into their state (such as perpetual trusts, directed trustees, and self-settled spendthrift trusts (asset protection trusts, or APTs)) made the role of a trustee so complex that only a professional fiduciary skilled at navigating these complex trust laws is able to carry out the basic duties of the fiduciary. However, as the sophistication in the role of the trustee evolved to this point, pricing demands created by fierce competition for this fiduciary business put a strain on operating margins.

While some people improperly view the role of the directed trustee as an easy and passive job, the workload (and sometimes the risk) of the directed trustee is often greater than when a trustee holds all of the duties and responsibilities of a traditional trustee. Each new directed transaction carries with it a unique set of facts. The trustee must ensure that the directed transaction is proper – i.e., the investment is permitted by the trust agreement, it is legal, and the trust qualifies to make the investment. For example, some unique circumstances can arise when a federally-regulated financial institution is directed to invest in a marijuana production business that may be legal under state, but not federal law. The directed trustee must also understand whether it is an accredited investor when directed to purchase securities that are not registered with financial authorities. While the role of the directed trustee may appear passive on paper and in concept, a trustee with a deep bench of fiduciary professionals is required to properly administer most directed trusts.

The industry today

The evolution of the trust industry has highlighted the fact that modern trusts require the services of robust professional trustees adept at navigating complex legal, tax, investment, and regulatory issues. Sophisticated wealth planners demand the use of sophisticated trustees in preferred jurisdictions who have in-house legal, tax, and administrative talent to deliver these complex fiduciary services. One challenge resulting from the proliferation of investment-directed trusts and thinly-staffed trust companies willing to serve as trustee in name only is to put pricing pressure on these services when they are viewed as a commodity in the market. However, trustees with the depth of talent required to administer trusts for multinational families, trusts holding unique investments, or trusts created in support of complex planning goals, may still be paid adequately for their services if they are able to detail and demonstrate the value of their robust fiduciary services. In the end, the trust industry continues to thrive and meet the needs of wealthy multinational families in this brave new world.

Examples of Subjective State Rankings Referencing Various Features of Trust Law

Charts produced and published by Nevada attorney, Steve Oshins

6th Annual Trust Decanting State Rankings Chart – Page 1 of 2

Rank	State	Has Decanting Statute? (50% weight)	Can Decant Trust with Ascertain. Standard? (7.5% weight)	Notice to Beneficiaries Required? (7.5% weight)	Can Decant Trust with Ascertainable Standard into Discretionary Trust? (7.5% weight)	Can Remove Mandatory Income Interest? (5% weight)	Allow Power of Appointment in Second Trust to Non-Bene? (2.5% weight)	Can Accelerate Remainder Bene's Interest? (5% weight)	Dynasty Trust State Ranking (7.5% weight)	Domestic Asset Protection Trust State Ranking (2.5% weight)	Total Score
1	SD	§55-2-15	Yes	No	Yes	Yes	Yes	Yes	Ranked #1	Ranked #2	99.5
2	NV	§163.556	Yes	No	Yes	Yes	Yes	Yes	Ranked #2	Ranked #1	99
3	TN	§35-15-816(b)(27)	Yes	No	Yes	No	Yes	Silent	Ranked #3	Ranked #4 (tie)	87.5
4 (tie)	NH	§564-B:4-418	Yes	No, except charitable trusts	Yes	No	Yes	Silent	Ranked #10 (tie)	Ranked #9	83.5
4 (tie)	DE	12, §3528	Yes	No	No	Yes	Yes	No	Ranked #8	Ranked #6	83.5
6	OH	§5808.18	Yes	Yes	No	Yes	Yes	No	Ranked #7	Ranked #3	77.5
7	MO	§456.4-419	Yes	Yes, only to beneficiaries of second trust	No	Yes	Silent	Yes	Ranked #10 (tie)	Ranked #4	77
8 (tie)	AK	§13.36.157-159; §13.36.215	Yes	Yes	No	No	Yes	No	Ranked #4	Ranked #7	72.5
8 (tie)	IL	760 ILCS 5/16.4	Yes	Yes	No	No	Yes	Silent	Ranked #9	Not allowed	72.5
10 (tie)	IN	§30-4-3-36	Yes	Yes	Yes	No	Silent	Silent	Unranked	Not allowed	70
10 (tie)	SC	§62-7-816A	Yes	Yes	No	Yes	Yes	No	Unranked	Not allowed	70
10 (tie)	TX	§§112.071 to 112.087	Yes	Yes	No	No	Yes	Yes	Unranked	Not allowed	70
13	WY	§4-10-816(a)(xxviii)	Yes	No	Yes	Silent	Silent	Silent	Ranked #5	Ranked #10	69
14	RI	§18-4-31	Yes	Yes	Silent	No	Silent	No	Ranked #6	Ranked #8	66.5
15	FL	§736.04117	Yes	Yes	No	No	Silent	Silent	Ranked #12	Not allowed	66

WARNING: THIS 6TH ANNUAL TRUST DECANTING STATE RANKINGS CHART IS MERELY A GUIDE. THE USER MUST BE SURE TO ACCESS THE ACTUAL DECANTING STATUTE AND READ THE TRUST PROVISIONS RATHER THAN SIMPLY RELYING ON THIS CHART. FOR EXAMPLE, IN THE MAJORITY OF DECANTING STATES, A TRUST WITH AN ASCERTAINABLE STANDARD MAY ONLY BE DECANTED INTO A TRUST THAT HAS A SIMILAR ASCERTAINABLE STANDARD FOR THE SAME BENEFICIARIES AS THE BENEFICIARIES OF THE CURRENT TRUST. THAT IS ONE EXAMPLE OF A LIMITATION THAT WOULD NOT BE REFLECTED IN THIS STATE RANKINGS CHART.

*The Dynasty Trust State Ranking column is based on the 7th Annual Dynasty Trust State Rankings Chart and the Domestic Asset Protection State Rankings Chart is based on the 9th Annual Domestic Asset Protection State Rankings Chart, both at <http://www.oshins.com/state-rankings-charts>.

*This Trust Decanting State Rankings Chart created in January 2019. Original Trust Decanting State Rankings Chart created in January 2014.

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Steve Oshins is a member of the Law Offices of Oshins & Associates, LLC in Las Vegas, Nevada. He was inducted into the NAEPF Estate Planning Hall of Fame® in 2011. He was named one of the 24 "Elite Estate Planning Attorneys" and the "Top Estate Planning Attorney of 2018" by *The Wealth Advisor* and one of the Top 100 Attorneys in *Worth*. He is listed in *The Best Lawyers in America*® which also named him Las Vegas Trusts and Estates/Tax Law Lawyer of the Year in 2012, 2015, 2016 and 2018. He can be reached at 702-341-6000, ext. 2 or soshins@oshins.com. His law firm's website is www.oshins.com.

6th Annual Trust Decanting State Rankings Chart – Page 2 of 2

Rank	State	Has Decanting Statute? (50% weight)	Can Decant Trust with Ascertain. Standard? (7.5% weight)	Notice to Beneficiaries Required? (7.5% weight)	Can Decant Trust with Ascertainable Standard into Discretionary Trust? (7.5% weight)	Can Remove Mandatory Income Interest? (5% weight)	Allow Power of Appointment in Second Trust to Non-Bene? (2.5% weight)	Can Accelerate Remainder Bene's Interest? (5% weight)	Dynasty Trust State Ranking (7.5% weight)	Domestic Asset Protection Trust State Ranking (2.5% weight)	Total Score
16 (tie)	AL	HB 163	Yes	Yes	No	No	Yes	No	Unranked	Not Allowed	65
16 (tie)	CA	SB 909	Yes	Yes	No	No	Yes	No	Unranked	Not Allowed	65
16 (tie)	CO	§15-16-901-930	Yes	Yes	No	No	Yes	No	Unranked	Not allowed	65
16 (tie)	GA	HB 121	Yes	Yes	Yes	Silent	Yes	No	Unranked	Not Allowed	65
16 (tie)	KY	§386.175	Yes	Yes	No	No	Yes	No	Unranked	Not allowed	65
16 (tie)	NM	§46-12-101-129	Yes	Yes	No	No	Yes	No	Unranked	Not allowed	65
16 (tie)	NC	§36C-8-816.1	Yes	Yes	No	No	Yes	No	Unranked	Not allowed	65
16 (tie)	VA	§64.2-779.1-.25	Yes	Yes	No	No	Yes	No	Unranked	Ranked #NR	65
16 (tie)	WA	§11.107	Yes	Yes	No	No	Yes	No	Unranked	Not allowed	65
25	MI	§700.7820a / §556.115a	No	Yes	No	No	Yes	Silent	Unranked	Ranked #12	63
26 (tie)	AZ	§14-10819	Yes	No	Yes	No	Silent	Silent	Unranked	Not allowed	62.5
26 (tie)	MN	§502.851	Yes	Yes	No	No	No	No	Unranked	Not allowed	62.5
26 (tie)	NY	§10-6.6	Yes	Yes	No	No	Yes	No	Unranked	Not allowed	62.5
26 (tie)	WI	§701.0418	Yes	Yes	No	No	Silent	No	Unranked	Not allowed	62.5

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7th Annual Dynasty Trust State Rankings Chart

Rank	State	Perpetuities Statute	Rule Against Perpetuities (40% weight)	State Income Tax (25% weight)	Third-Party Spendthrift Trust Provision Effective Against Divorcing Spouse/Child Support (Divorcing Spouse – 7.5% weight/Child Support – 2.5% weight)	Discretionary Trust Protected from Divorcing Spouse/Child Support (2.5% weight)	Domestic Asset Protection Trust State Ranking (10% weight)	Trust Decanting State Ranking (10% weight)	Non-Judicial Settlement Agreement Statute (2.5% weight)	Total Score
1	SD	SD Codified L § 43-5-8	Perpetual	No	Protected	Protected	Ranked #2	Ranked #1	Yes	99.5
2	NV	NV Rev Stat § 111.1031	365 years	No	Protected	Protected	Ranked #1	Ranked #2	Yes	98.5
3	TN	TN Code § 66-1-202(f)	360 years	No (except dividends/ interest on residents)	Protected	Protected	Ranked #4 (tie)	Ranked #3	Yes	95.5
4	AK	AK Stat § 34.27.051	Perpetual/ 1,000 years if exercise power of appointment	No	Protected	Protected	Ranked #7	Ranked #7 (tie)	No	94
5	WY	WY Stat § 34-1-139	1,000 years	No	Divorcing spouse = Protected Child support = Not Protected (WY Stat § 4-10-503(b))	Protected	Ranked #10	Ranked #10 (tie)	Yes	89.5
6	RI	RI Gen L § 34-11-38	Perpetual	No (except residents)	Protected	Protected	Ranked #8	Ranked #20	No	87.5
7	OH	Ohio Rev Code § 2131.09(B) and (C)	Perpetual/ 1,000 years if exercise power of appointment	No (except residents)	Divorcing spouse = Not Protected Child support = Not Protected (Ohio Rev Code § 5805.02(B)(1))	Protected	Ranked #3	Ranked #6	Yes	86
8	DE	25 DE Code § 503	Perpetual for personal property/ 110 years for real estate	No (except residents)	Divorcing spouse = Not Protected Child support = Not Protected (Garretson v. Garretson (1973))	Protected	Ranked #6	Ranked #5	Yes	85
9	IL	765 ILCS 305/3	Perpetual	No (except residents)	Divorcing spouse = Protected Child support = Not Protected (735 ILCS 5/2-1403 codifying In re Matt (1985))	Protected	None	Ranked #7 (tie)	Yes	84.5
10 (tie)	MO	MO Rev Stat § 456.025	Perpetual	No (except residents)	Divorcing spouse = Not Protected Child support = Not Protected (Mo. Rev. Stat. § 456.5-503(2))	Protected	Ranked #4 (tie)	Ranked #10 (tie)	Yes	84
10 (tie)	NH	NH Rev Stat § 564:24	Perpetual	No (except dividends, interest on residents)	Divorcing spouse = Not Protected Child support = Not Protected (NH Rev Stat § 564-B:5-503(b)(1)-(2))	Protected	Ranked #9	Ranked #4	Yes	84
12	FL	FL Stat § 689.225(2)(f)	360 years	No	Divorcing spouse = Not Protected Child support = Not Protected (FL Stat § 736.0503(2)(a) codifying Bacardi v. White (1985))	Writ of garnishment allowed for spouse, former spouse, child support (FL Stat § 736.0503(3); Berlinger v. Casselberry (2013))	None	Ranked #26	Yes	68

*The Domestic Asset Protection Trust State Ranking column is based on the 9th Annual Domestic Asset Protection Trust State Rankings Chart created in April 2018 at http://www.oshins.com/images/DAPT_Rankings.pdf.

*The Trust Decanting State Ranking column is based on the 5th Annual Trust Decanting State Rankings Chart created in January 2018 at http://www.oshins.com/images/Decanting_Rankings.pdf.

*This Dynasty Trust State Rankings Chart created in October 2018. Original Dynasty Trust State Rankings Chart created in October 2012.

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10th Annual Domestic Asset Protection Trust State Rankings Chart

Rank	State	Statute (50% weight)	State Income Tax (5% weight)	Uniform Voidable Transactions Act (12.5% weight)	Statute of Limitations (Future/Preexisting Creditor) (5% weight)	Spouse/Child Support Exception Creditors (Spouse 3%, Alimony 1%, Child Support 1% weight)	Preexisting Torts Exception Creditors/Other Exception Creditors (5% weight)	Ease of Use – New Affidavit of Solvency required for every new transfer? (7.5% weight)	Fraudulent Transfer Standard (5% weight)	Decanting State Ranking (5% weight)	Total Score
1	NV	§§166.010 to 166.170	No	No	2 Yrs./2 Yrs. or 0.5 Yr. Discovery	No	No	No Affidavit Required	Clear and convincing	Ranked #2	99
2	SD	§§55-16-1 to 16	No	No	2 Yrs./2 Yrs. or 0.5 Yr. Discovery	Divorcing Spouse; Alimony; Child Support (only if indebted at time of transfer)	No	No Affidavit Required	Clear and convincing	Ranked #1	98
3	OH	Ch. 5816	No (except residents)	No	1.5 Yrs./1.5 Yrs. or 0.5 Yr. Discovery	Divorcing Spouse; Alimony; Child Support	No	Affidavit Required (with exceptions)	Clear and convincing	Ranked #6	85
4	MO	§456.5-505	No (except Missouri source income)	No	4 Yrs./4 Yrs. or 1 Yr. Discovery	Alimony; Child Support	State/U.S. to extent state/federal law provides	No Affidavit Required	Clear and convincing	Ranked #7	84.5
5(tie)	NH	§564-B:5-505A	No (except dividends/interest on residents)	No	4 Yrs./4 Yrs. or 1 Yr. Discovery	Divorcing Spouse; Alimony; Child Support	No	No Affidavit Required	Limited clear and convincing standard	Ranked #4 (tie)	84
5(tie)	TN	§§35-16-101 to 112	No (except dividends/interest on residents)	No	2 Yrs./2 Yrs. or 0.5 Yr. Discovery	Divorcing Spouse; Alimony; Child Support	No	Affidavit Required	Clear and convincing	Ranked #3	84
7	DE	Tit. 12, §§3570-3576	No (except residents)	No	4 Yrs./4 Yrs. or 1 Yr. Discovery	Divorcing Spouse; Alimony; Child Support	Preexisting Torts	No Affidavit Required	Clear and convincing	Ranked #4 (tie)	83
8	AK	§34.40.110; §13.36.310	No	No	4 Yrs./4 Yrs. or 1 Yr. Discovery	Divorcing Spouse	No	Affidavit Required	Clear and convincing	Ranked #8 (tie)	82.5
9	RI	§18-9.2	No	No	4 Yrs./4 Yrs. or 1 Yr. Discovery	Divorcing Spouse; Alimony; Child Support	Preexisting Torts	No Affidavit Required	Clear and convincing	Ranked #14	82
10	WY	§§4-10-502, 504, 506(c), 510-523	No	No	4 Yrs./4 Yrs. or 1 Yr. Discovery	Child Support	Property listed on app. to obtain credit – but only as to that lender	Affidavit Required	Clear and convincing	Ranked #13	78
11	HI	§554G	No (except residents)	No	2 Yrs./2 Yrs. Pers. Injury; 6 Yrs. Contract	Divorcing Spouse; Alimony; Child Support	Preexisting Torts/ Certain Lenders/ Hawaii Tax	No Affidavit Required	Limited clear and convincing standard	None	77
12	MI	§§700.1041 to 700.10502	No (except residents)	Yes	2 Yrs./2 Yrs. or 1 Yr. Discovery	Divorcing Spouse	No	Affidavit Required (with exceptions)	Clear and convincing	Ranked #25 (tie)	75
13	MS	§§91-9-701 to 91-9-723	Yes	No	2 Yrs./2 Yrs. or 0.5 Yr. Discovery	Divorcing Spouse; Alimony; Child Support	Preexisting Torts, State/ Criminal Restitution/ Up to \$1.5MM if no \$1MM Umbrella Policy	Affidavit Required	Clear and convincing	None	72.5
14	UT	§25-6-13	Yes	Yes	None/2 Yrs. or 1 Yr. Discovery (also 120-day mailing/publication option)	No	No	Affidavit Required	Missing clear and convincing standard	None	65
NR	OK	Tit. 31, §§10 to 18	No (except residents)	No	4 Yrs./4 Yrs. or 1 Yr. Discovery	Child Support	Must be majority Oklahoma assets	No Affidavit Required	Clear and convincing	None	NR
NR	VA	§64.2-745.1; §64.2-745.2	Yes	No	None/5 Yrs.	Child Support	Creditor who has provided services to protect trust/ U.S./city, etc.	No Affidavit Required	Clear and convincing	Ranked #16 (tie)	NR
NR	WV	§44D-5-503A; §44D-5-503B	No (except residents)	No	None/4 Yrs.	No	No	Affidavit Required	Missing clear and convincing standard	None	NR

*9th Annual Domestic Asset Protection Trust State Rankings Chart created in April 2019. Original State Rankings Chart created in April 2010.

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The Delaware Trust Infrastructure
By: Todd A. Flubacher

Delaware Trust Conference
October 23, 2019

1. **Growth of an Industry.** In the last quarter-century, Delaware has experienced exponential growth in its trust industry. In 1996, the State began chartering limited purpose trust companies under new laws that reduced the capital and employee requirements previously applicable to banks and trust companies. This immediately resulted in an influx of Delaware trust company affiliates of major financial institutions seeking to offer their clients the Delaware advantage. In 1997, Delaware enacted the country's second asset protection trust statute (immediately following Alaska). By the end of the late 90's, the stage was set for an expansion of the trust industry over the next 2 decades that few might have predicted. Today, Delaware is widely recognized as the preeminent jurisdiction for trusts. The trust industry has become a vitally important part of Delaware's economy, sustaining hundreds of professionals in the trust management field, including trust officers, fiduciary risk specialists, in-house counsel, tax advisers, accountants, attorneys and other skill positions. It is a mature industry focused on adding those "extra touches" to steady its foundation. Here are just two examples.
 - (a) **Competition.** Certainly, Delaware is a leader with its innovative laws. However, the last several years have produced a wave of jurisdictions (and even Uniform Laws) that are also evolving to replicate what Delaware has done. But I posit that the reason why clients and their advisers choose Delaware has as much to do with Delaware's trust infrastructure as it does with the laws on the books. Beyond the innovative solutions found in the black letter law, the well-developed infrastructure of Delaware's trust industry provides consistency, reliability, flexibility and depth that is not found anywhere else.
 - (b) **The Delaware Trust Conference.** In collaboration with the industry, the Delaware Bankers Association hosts the annual Delaware Trust Conference at the Chase Riverfront Center, attracting well-known national speakers and boasting more than 500 attendees (a number that increases every year). There is literally no other Delaware-based conference of its kind that educates and promotes a local industry and attracts out-of-town visitors to our State, including attendees, sponsors and exhibitors, and no other trust jurisdiction has anything like it.
2. **Trust Management Minor at UD.** The University of Delaware began accredited Trust Management Minor program in the Lerner College of Business. This program was made possible by the efforts and resources of a partnership between the University of Delaware, the Delaware Bankers Association, financial institutions, law firms, accounting firms and the State of Delaware. It provides mentoring and internships within the Delaware trust industry and importantly, will ensure an ongoing supply of well-trained personnel to support the growing industry and ensure that the people providing Delaware trust administration services will be skilled and experienced.

3. **The Courts.** Of course, Delaware has been the preeminent jurisdiction in the world for businesses to incorporate since the early 1900's. More than one-half of the Fortune 500 companies are incorporated in Delaware and toward the latter half of last century, Delaware also became a favored jurisdiction for alternative entities. Many of the same reasons why businesses have turned to Delaware as their jurisdiction of choice are the same factors that make Delaware so appealing to settlors of trusts.

The Delaware Court of Chancery, the court recognized worldwide for its reputation in corporate and commercial matters, is the same court with primary jurisdiction over Delaware trusts. Matters are presented to sophisticated judges on the Chancery Court who are appointed (not elected) by the Governor of Delaware, at the recommendation of a nominating committee, for 12 year terms. The Chancellor and Vice Chancellors hold the reputation of the Court in the highest regard and are accustomed to routinely deciding cases of national importance. Delaware trust cases are never tried before a jury and cases are appealed directly to the Delaware Supreme Court, also a preeminent court recognized around the world for its thoughtful and sophisticated decisions. Because of Delaware's sizable and experienced bar, litigants in Delaware are generally represented by lawyers who are knowledgeable about trust law issues. Delaware also has a large and long-standing body of trust-related case law. Many of the decisions cited in the major treatises are Delaware cases. Delaware's well-developed jurisprudence addresses many issues with clarity, and assures trustees and trust beneficiaries that they can predict, with a fair degree of certainty, how the Delaware courts likely will rule upon trust law matters.

4. **The Law.** Answering the needs of trust settlors and beneficiaries, Delaware's trust statutes have gradually developed into a very detailed and clear framework for the body of law that governs trusts. The answers to most questions can be found in Title 12 of the Delaware Code, and if there is an area of uncertainty or concern, it is often addressed with legislative updates. The Estates and Trusts Section of the Delaware State Bar Association maintains a standing legislative drafting committee that proffers new legislation annually. The new laws often respond to issues that require clarification, or the needs of settlors and beneficiaries. Delaware's legislature is quick to react to new developments and respond to concerns, and has attempted to create flexible trust laws that are best able to effectuate the wishes of trust settlors and meet the needs of trust beneficiaries.

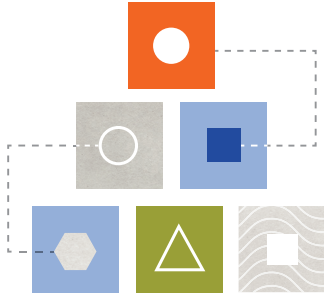
Many of the statutes enacted over the past 2 decades have been followed by other jurisdictions throughout the country and the notable developments are too numerous to recount. For example, Delaware's directed trust statute is inarguably the most successfully implemented directed trust regime in the country and has been copied by many jurisdictions. It is functionally the model for the Uniform Directed Trust Act that is being finalized by the Uniform Laws Commission. Delaware enacted the country's very first total return unitrust statute in 2000, and I could go on and on with other examples, like Delaware's statutes addressing decanting, merger, non-judicial settlement agreements, pet trusts and purpose trusts, designated representatives, pre-mortem validation, silent trusts, etc.

5. **The Trust Companies.** Today, Delaware boasts over 60 trust companies, most of which are affiliates of the largest, most recognizable financial institutions in the world. This critical mass of corporate fiduciaries provides plenty of alternatives for clients and ensures that the trust infrastructure remains robust. The many prominent financial institutions that have invested in Delaware, and are committed to the continued success of the industry, provide solid stewardship, ensure stability and secure Delaware's future success as a trust jurisdiction.

6. **Why Choose Delaware?** There are many scorecards in the form of charts, comparisons and rankings that compare Delaware's laws to other jurisdictions, but I believe the following factors are vitally important to consider when choosing among trust jurisdictions:
 - Responsiveness and efficiency of the jurisdiction's legislature and the quality of updates
 - Stability of the trust industry and the reliability of the State's long-term commitment to the industry
 - Quality of the court system
 - Quality of the judges, how are they appointed/elected, and length of term
 - Depth, breadth and quality of case law
 - History and experience of the trust industry and its professional support infrastructure
 - Different drafting styles
 - Quality and depth of legal counsel
 - Variety of options among trust companies and number and diversity of high quality options now and in the future
 - Availability and stability of experienced, high-quality, well-trained trust officers and other trust professionals
 - Different trust administration practices
 - Taxation of trusts

TRUST AND ESTATE SERVICES

Trust Comparisons



Delaware enjoys international renown for its trust and tax law advantages and its innovative estate planning vehicles. Even if you don't live in Delaware, there are numerous reasons why you should consider establishing a new trust in Delaware and why you should explore moving an existing trust to the First State.

Establish Your Trust in the Right State, the First State

Delaware is called the First State because it was the first to ratify the U.S. Constitution. Delaware is also the First State when determining which jurisdiction is the best for your clients' personal trusts. It was the first state to pioneer many innovative trust laws and the infrastructure supporting personal trusts in Delaware is unmatched. Some of the advances started in Delaware include:

- Delaware created the "directed trust" early in the twentieth century by bifurcating trust duties between corporate trustees and investment advisers
- Delaware's Supreme Court and its Court of Chancery, both known for their corporate law opinions, have rendered many of the country's early trust decisions and a number of key trust decisions in more recent years
- Delaware enacted the prudent investor rule in 1986, several years before the 1994 promulgation of the Uniform Prudent Investor Act (UPIA)
- Delaware and Alaska were the first states to allow the domestic asset protection trust (APT) in 1997
- In 2001, Delaware became the first state to enact a total return unitrust-conversion statute
- Delaware enacted a noncharitable purpose trust statute in 2006 and for several years Delaware was the only state in which such a trust could be perpetual
- In 2016, Delaware adopted the lowest premium tax rate in the United States—0%— for large private-placement life-insurance policies

The chart on page two comparing leading trust-friendly jurisdictions shows why Delaware is recognized nationally and internationally as the First State, and the best state, when comparing personal trust jurisdictions.

Continued

Point of Comparison	DE	SD	AK	NV
Year State Became Trust-Friendly	1903	1983	1997	1999
Number of ACTEC Fellows www.actec.org (as of May 27, 2019)	21	12	8	7
Population within 150 miles (per 2010 census)	Wilmington, DE 40,244,858	Sioux Falls, SD 1,656,250	Anchorage, AK 457,849	Reno, NV 4,942,483
Self-Settled Asset Protection Trusts	Delaware has allowed APTs since 1997 . In 2015, Delaware Court of Chancery held creditors' attempt to reach assets of DE APTs to be time-barred in unpublished decision (TrustCo, 2015 WL 295373 (Del. Ch. 2015))	South Dakota has allowed APTs since 2005	Alaska has allowed APTs since 1997 . In two instances, federal bankruptcy courts have set aside transfers to Alaska APTs	Nevada has allowed APTs since 1999. Utah Supreme Court allowed wife to reach assets of poorly designed Nevada APT in divorce proceeding (Dahl, 2015 UT 23 (2015))
Delaware Tax Trap (a Tax Opportunity)	Nongeneral power of appointment may be exercised to spring Delaware tax trap and get stepped-up income-tax basis. An opportunity to use beneficiaries' unused exemptions.	Nongeneral power of appointment may NOT be exercised to spring Delaware tax trap and get stepped-up income-tax basis.	Nongeneral power of appointment may NOT be exercised to spring Delaware tax trap and get stepped-up income-tax basis.	Nongeneral power of appointment may NOT be exercised to spring Delaware tax trap and get stepped-up income-tax basis.
Rule Against Perpetuities	Perpetual trust in personal property is permitted.	Perpetual trust is permitted.	Perpetual trust is permitted.	365-year trust is permitted. Might be invalid—Nevada Constitution provides: "No perpetuities shall be allowed except for eleemosynary purpose."

This publication is for information purposes only. It is not designed or intended to provide financial, tax, legal, accounting, investment, or other professional advice since such advice always requires consideration of individual circumstances. If professional advice is needed, the services of a professional advisor should be sought.

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that, while this publication is not intended to provide tax advice, in the event that any information contained in this publication is construed to be tax advice, the information was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax related penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any matters addressed herein.

Note that a few states, including Delaware, have special trust advantages that may not be available under the laws of your state of residence, including asset protection trusts and directed trusts.

Wilmington Trust is a registered service mark. Wilmington Trust Corporation is a wholly owned subsidiary of M&T Bank Corporation. Wilmington Trust Company, operating in Delaware only, Wilmington Trust, N.A., M&T Bank, and certain other affiliates, provide various fiduciary and non-fiduciary services, including trustee, custodial, agency, investment management, and other services. International corporate and institutional services are offered through Wilmington Trust Corporation's international affiliates. Loans, credit cards, retail and business deposits, and other business and personal banking services and products are offered by M&T Bank, member FDIC.

Investments: Are NOT FDIC Insured | Have NO Bank Guarantee | May Lose Value

Trust Companies Licensed to Do Business in South Dakota as of Oct. 1, 2019

Credential Number	Name	Address	City	State	Zip	First Issuance Date
TC.125-1	A&D Private Family Trust Company, LLC	212 S. Main Ave., Suite 141	Sioux Falls	SD	57104	03/09/2018
TC.002-1	Acorn Trust Company	2930 Airport Road	Pierre	SD	57501	04/30/1997
TC.008-1	Adler Trust Company	101 S. Phillips Ave., Suite 508	Sioux Falls	SD	57104	12/04/1998
TC.083-2	AdvisorTrust, Inc.	212 S. Main Ave., Suite 123	Sioux Falls	SD	57104	11/12/2013
TC.036-2	Alta Trust Company	101 S. Main Avenue, Suite 310	Sioux Falls	SD	57104	02/06/2008
TC.126-2	Amicorp Trustees (South Dakota), LLC	330 S. Poplar Avenue, Suite 103-N	Pierre	SD	57501	07/03/2018
TC.136-2	Anchorage Trust Company	4901 S. Isabel Place, Suite 200	Sioux Falls	SD	57108	07/12/2019
TC.129-1	Anthos Trust Company South Dakota, LLC	212 S. Main Ave., Suite 146	Sioux Falls	SD	57104	11/16/2018
TC.071-2	Argonne Trust Company, Inc.	4418 S. Technology Drive	Sioux Falls	SD	57106	03/29/2012
TC.013-2	Bankers Trust Company of South Dakota	5032 S. Bur Oak Place, Suite 131	Sioux Falls	SD	57108	12/17/1999
TC.030-2	Biltmore Trust Company	212 S. Main Ave., Suite 203	Sioux Falls	SD	57104	07/10/2007
TC.128-2	BitGo Trust Company, Inc.	6216 Pinnacle Place, Suite 101	Sioux Falls	SD	57108	10/25/2018
TC.016-1	Blue Lake Trust Company	401 East 8th Street, Suite 200B	Sioux Falls	SD	57103	06/12/2002
TC.113-1	Bluebird Trust Company LLC	212 S. Main Ave. Suite 136	Sioux Falls	SD	57104	07/08/2016
TC.040-1	Boulder Bridge Trust Company	201 S. Phillips Ave., Ste. 216	Sioux Falls	SD	57104	12/15/2008
TC.074-2	Bridgeford Trust Company, LLC	330 S. Poplar Avenue, Suite 103	Pierre	SD	57501	07/16/2012
TC.131-2	Bridges Trust Company of South Dakota	One River Place, 600 Stevens Port Drive #140	Dakota Dunes	SD	57049	01/08/2019
TC.107-2	BTC Trust Company of South Dakota	5032 South Bur Oak Place, Suite 131A	Sioux Falls	SD	57108-2244	09/22/2015
TC.051-1	Butterfly Trust Company	212 S. Main Ave., Suite 201	Sioux Falls	SD	57104	06/28/2010
TC.009-2	Capital First Trust Company, Inc.	3101 W. 41st St., Suite 214	Sioux Falls	SD	57105	03/17/1999
TC.053-1	Carlson Family Trust Company, LLC	201 S. Phillips Avenue, Suite 217	Sioux Falls	SD	57104	07/07/2010
TC.078-1	Causeway Trust Company	212 S. Main Ave., Suite 118	Sioux Falls	SD	57104	11/05/2012
TC.114-2	CISA Trust Company (South Dakota), LLC	140 North Phillips Avenue, Suite 305	Sioux Falls	SD	57104	03/14/2016
TC.001-2	Citicorp Trust South Dakota	5800 South Corporate Place, 4th Floor	Sioux Falls	SD	57108	11/09/1995
TC.069-2	Concord Trust Company, LLC	211 Founders Park Drive, Suite D	Rapid City	SD	57701	02/28/2012
TC.049-1	Condor Trust Company	212 S Main Ave., Suite 205	Sioux Falls	SD	57104	03/12/2010
TC.017-2	Cornerstone Private Asset Trust Company, LLC	2101 West 41st Street, # 2000	Sioux Falls	SD	57106	01/09/2002
TC.021-2	Corundum Trust Company, Inc	401 E. 8th St., Ste. 303	Sioux Falls	SD	57103	12/31/2002
TC.034-1	Dillon Trust Company LLC	201 S. Phillips Ave., Ste. 212	Sioux Falls	SD	57104	01/01/2008
TC.012-2	Dorsey & Whitney Trust Company LLC	401 E. 8th Street, Suite 319	Sioux Falls	SD	57103	11/23/1999
TC.064-2	Dorsey Trust International Inc.	401 East Eighth Street, Suite 319	Sioux Falls	SD	57103	10/26/2011
TC.081-1	Ellis Ring Family Trust Company, LLC	212 S. Main Ave., Suite 113	Sioux Falls	SD	57104	03/25/2013
TC.044-2	Equiom Trust (South Dakota), LLC	212 S. Main Ave., Suite 202	Sioux Falls	SD	57104	08/12/2009
TC.022-2	Equity Trust Company	140 N. Phillips Ave.	Sioux Falls	SD	57104	03/01/2003
TC.086-2	Expedition Trust Company	330 S Poplar Avenue, Suite 103-K	Pierre	SD	57501	02/20/2014
TC.062-2	First Covenant Trust and Advisors, LLC	330 South Poplar, Suite 103G	Pierre	SD	57501	04/20/2011
TC.047-2	First Trust Company, LLC	909 St. Joseph Street, Suite 200	Rapid City	SD	57701	11/18/2009

Trust Companies Licensed to Do Business in South Dakota as of Oct. 1, 2019

Credential Number	Name	Address	City	State	Zip	First Issuance Date
TC.093-2	FNN Trust Company, LLC	210 N Lawler	Mitchell	SD	57301	07/21/2014
TC.130-1	Forthright Trust Corporation	212 S. Main Ave., Suite 149	Sioux Falls	SD	57104	11/16/2018
TC.041-1	Gallardo Trust Company	101 S. Main Ave., Ste. 301	Sioux Falls	SD	57104	11/25/2008
TC.007-1	General Trust Company	300 N. Dakota Ave., Suite 305A	Sioux Falls	SD	57104	10/01/1998
TC.121-1	Generations Trust Company	300 N. Dakota Ave., Suite 305B	Sioux Falls	SD	57104	07/13/2017
TC.111-1	Gore Creek Trust Company LLC	212 S. Main Ave., Suite 134	Sioux Falls	SD	57104	12/21/2015
TC.059-2	Great Plains Trust Company of South Dakota	101 S. Reid Street, Suite 307, Office 324	Sioux Falls	SD	57103	01/05/2011
TC.018-2	GWLRA US Trust Company LLC	212 S. Main Ave., Suite 236	Sioux Falls	SD	57104	03/29/2002
TC.090-2	Hamilton Trust Company of South Dakota LLC	212 S. Main Ave., Suite 124	Sioux Falls	SD	57104	04/02/2014
TC.057-2	Hampshire Trust LLC	300 N. Dakota Avenue, Suite 503	Sioux Falls	SD	57104	12/20/2010
TC.066-1	Hermes Trust Company, LLC	212 S. Main Ave., Suite 122	Sioux Falls	SD	57104	02/13/2012
TC.033-1	HRK Trust Company	201 S. Phillips Ave., Ste. 214	Sioux Falls	SD	57104	11/02/2007
TC.023-1	IJ Trust Company, LLC	212 S. Main Ave., Ste. 211	Sioux Falls	SD	57104	02/01/2004
TC.060-2	Independent Trust Company of America, LLC	1301 West Omaha Street, Suite 203	Rapid City	SD	57701	04/06/2011
TC.119-1	International Chemical Overseas Trust Company	212 S. Main Ave., Suite 144	Sioux Falls	SD	57104	05/30/2017
TC.110-2	IRA Financial Trust Company	221 South Phillips Avenue, Suite 206	Sioux Falls	SD	57104	11/02/2015
TC.037-2	IRA Services Trust Company	401 East 8th Street, Suite 222	Sioux Falls	SD	57103	06/06/2008
TC.127-2	IRAR Trust Company	401 E. 8th Street, Suite 200E	Sioux Falls	SD	57103	08/16/2018
TC.027-1	JHN Trust Company	212 S. Main Ave., Suite 232	Sioux Falls	SD	57104	01/02/2007
TC.116-2	JTC TRUSTEES (USA) LTD	140 North Phillips Avenue, Suite 301	Sioux Falls	SD	57104	10/28/2016
TC.115-2	KENDRIS TRUSTEES (USA) LLC	212 S. Main Ave., Suite 139	Sioux Falls	SD	57104	10/28/2016
TC.025-1	Kinnimaka Trust Company	206 W 14th St., Ste 5A	Sioux Falls	SD	57104	09/29/2006
TC.112-1	Lavender Trust Company Inc.	212 S. Main Ave., Suite 133	Sioux Falls	SD	57104	02/26/2016
TC.029-1	LBJ Trust (S.D.) Inc.	212 S. Main Ave., Suite 218	Sioux Falls	SD	57104	04/30/2007
TC.079-2	Liberty Trust Company, Ltd.	101 S. Reid Street, Suite 307, Office 310	Sioux Falls	SD	57103	11/13/2012
TC.123-2	Life Insurance Trust Company	101 S Reid Street Suite 307, Office 307	Sioux Falls	SD	57103	11/21/2017
TC.045-1	Lion Trust Corporation	212 S. Main Ave., Suite 235	Sioux Falls	SD	57104	10/20/2009
TC.026-1	Longview Trust Company LLC	212 S. Main Ave., Suite 213	Sioux Falls	SD	57104	09/29/2006
TC.085-2	Madison Trust Company, Inc.	401 E. 8th Street, Suite 200P	Sioux Falls	SD	57103	01/29/2014
TC.084-2	Mariner Trust Company, LLC	212 S. Main Ave., Suite 125	Sioux Falls	SD	57104	11/12/2013
TC.080-1	Marlow Trust Company USA	212 S. Main Ave., Suite 128	Sioux Falls	SD	57104	01/03/2013
TC.104-1	Maroon Private Trust Company, LLC	350 South Main Avenue, Suite 401	Sioux Falls	SD	57104	07/09/2015
TC.102-2	Meristem Trust Company, LLC	212 S. Main Ave., Suite 131	Sioux Falls	SD	57104	03/30/2015
TC.056-2	Mid Atlantic Trust Company	330 Poplar Avenue, Suite 103-E	Pierre	SD	57501	09/24/2010
TC.117-2	Midland Trust Company	330 North Main Avenue, Suite 203	Sioux Falls	SD	57104	02/24/2017
TC.082-2	National Advisors Trust of South Dakota, Inc.	5132 S. Cliff Ave., Suite 3	Sioux Falls	SD	57108	05/10/2013
TC.122-2	New Vision Trust Company	401 East 8th Street, Suite 200R	Sioux Falls	SD	57103	10/31/2017

Trust Companies Licensed to Do Business in South Dakota as of Oct. 1, 2019

Credential Number	Name	Address	City	State	Zip	First Issuance Date
TC.118-2	Next Generation Trust Company	401 East 8th Street, Suite 200H	Sioux Falls	SD	57103	05/16/2017
TC.011-2	North Point Trust Company, LLC	333 West Boulevard, Suite 305	Rapid City	SD	57701	10/20/1999
TC.120-2	NuView Trust Company	330 S. Poplar Avenue, Suite 103-M	Pierre	SD	57501	06/07/2017
TC.109-1	Old Hickory Trust Company LLC	212 S. Main Ave., Suite 129	Sioux Falls	SD	57104	10/22/2015
TC.072-2	Old Mission Trust Company, LLC	212 S. Main Ave., Suite 223	Sioux Falls	SD	57104	05/31/2012
TC.073-2	PAI Trust Company, Inc.	3904 West Technology Circle, Suite 104	Sioux Falls	SD	57106	07/10/2012
TC.124-2	PandoTree Trust Company, LLC	212 S. Main Ave., Suite 145	Sioux Falls	SD	57104	02/06/2018
TC.048-2	PenChecks Trust Company of America	401 East 8th Street, Suite 305L	Sioux Falls	SD	57103	02/22/2010
TC.133-1	Pheasant Paradise Trust Company, LLC	212 S. Main Avenue, Suite 137	Sioux Falls	SD	57104	04/09/2019
TC.070-1	Pilot Grove Private Trust Company	201 S. Phillips Avenue, Suite 219	Sioux Falls	SD	57104	03/02/2012
TC.065-1	Prudence Trust Company	401 East 8th Street, Suite 311	Sioux Falls	SD	57103	12/23/2011
TC.132-1	Roaring Fork Trust Company, Inc.	212 S. Main Ave., Suite 147	Sioux Falls	SD	57104	01/25/2019
TC.099-2	Sageworth Trust Company of South Dakota, LLC	300 S. Phillips Avenue, Suite 204	Sioux Falls	SD	57104	11/12/2014
TC.135-2	Saint Joseph Trust Company, LLC	224 N. Phillips Ave., Suite 213	Sioux Falls	SD	57104	07/12/2019
TC.024-2	Sawmill Trust Company	222 S Main Ave.	Sioux Falls	SD	57104	08/09/2004
TC.020-2	South Dakota Trust Company LLC	201 S. Phillips Ave., Ste. 200	Sioux Falls	SD	57104	04/23/2002
TC.134-2	Standard Trust, LLC	1601 E. 69th Street, Suite 308	Sioux Falls	SD	57108	05/29/2019
TC.052-2	Sterling Trustees LLC	101 S. Phillips Avenue, Suite 509	Sioux Falls	SD	57104	07/07/2010
TC.097-1	Summer Street Trust Company, LLC	212 S. Main Ave., Suite 130	Sioux Falls	SD	57104	09/08/2014
TC.038-2	SVA Trust Company, LLC	3130 West 57th Street, Suite 101	Sioux Falls	SD	57106	06/23/2008
TC.058-2	The Kingdom Trust Company	4300 South Louise Avenue, Suite 107	Sioux Falls	SD	57106	12/29/2010
TC.068-1	Tilia Trust Company LLC	212 S. Main Ave., Suite 210	Sioux Falls	SD	57104	02/27/2012
TC.039-1	Travers Trust Company LLC	201 S. Phillips Ave., Ste. 215	Sioux Falls	SD	57104	12/01/2008
TC.098-2	Trident Trust Company (South Dakota) Inc.	200 N Phillips Avenue, Suite 301	Sioux Falls	SD	57104	10/15/2014
TC.106-1	UDQ Private Trust Company, LLC	350 South Main Avenue, Suite 402	Sioux Falls	SD	57104	07/10/2015
TC.005-2	UMB Trust Company of South Dakota	300 North Dakota Avenue, Suite 404	Sioux Falls	SD	57104	01/02/1998
TC.006-1	Way Trust	2500 West 49th Street, Suite 203	Sioux Falls	SD	57105	07/01/1998
TC.042-2	Wealth Advisors Trust Company	2650 Jackson Blvd, Suite 12	Rapid City	SD	57702	05/12/2009
TC.032-1	Wrigley Private Trust Company	212 S. Main Ave., Suite 208	Sioux Falls	SD	57104	10/17/2007



State of Delaware
OFFICE OF THE STATE BANK COMMISSIONER

DELAWARE FINANCIAL INSTITUTIONS
As Of July 16, 2019

State Chartered Banks

Applied Bank

2200 Concord Pike
Suite 102
Wilmington, DE 19803

Mr. Rocco Abessinio
Chairman of the Board & CEO
Telephone: 1-302-326-4200

Bancorp Bank, The

409 Silverside Road
Suite 105
Wilmington, DE 19809

Mr. Damian Kozlowski
President & Chief Executive Officer
Telephone: 1-302-385-5000
1-800-545-0289

Bank of Delmarva, The

910 Norman Eskridge Highway
Seaford, DE 19973

Mr. Jeffrey F. Turner
Chairman of the Board
Telephone: 1-302-629-2700
1-800-787-4542

Bank of New Castle

12 Reads Way
New Castle, DE 19720

Mr. James J. Roszkowski
President
Telephone: 1-302-323-7176

Mailing Address:

P.O. Box 15158
Wilmington, DE 19886-1004

Barclays Bank Delaware

125 South West Street
Wilmington, DE 19801

Mr. Amer Sajed
Chairman of the Board
Telephone: 1-302-255-8000
1-877-200-7625

BNY Mellon Trust of Delaware

301 Bellevue Parkway
3rd Floor
Wilmington, DE 19809

Mr. Lee James Woolley
Chairman of the Board & CEO
Telephone: 1-302-791-3600

Comenity Bank

Delaware Corporate Center I
One Righter Parkway, Suite 100
Wilmington, DE 19803

Mr. Ivan M. Szeftel
Chairman of the Board
Telephone: 1-302-529-6140

Community Bank Delaware

16982 Kings Highway
Lewes, DE 19958

Mr. Alexander J. Pires, Jr.
Chairman of the Board & CEO
Telephone: 1-302-226-3333

Mailing Address:

P.O. Box 742
Lewes, DE 19958

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

State Chartered Banks

County Bank

19927 Shuttle Road
Rehoboth Beach, DE 19971

Mr. David E. Gillan
Chairman of the Board & CEO
Telephone: 1-302-226-9800

Deutsche Bank Trust Company Delaware

1011 Centre Road
Suite 200
Wilmington, DE 19805

Mr. Walter Bishop
Chairman of the Board
Telephone: 1-302-636-3301

Discover Bank

502 East Market Street
Greenwood, DE 19950

Mr. David W. Nelms
Chairman of the Board & CEO
Telephone: 1-302-349-4512

Mailing Address:

P.O. Box C
Greenwood, DE 19950

MidCoast Community Bank

1011 Centre Road
Suite 119
Wilmington, DE 19805

Mr. L. Peter Temple
Chairman of the Board
Telephone: 1-302-250-4366
1-866-877-4892

Mailing Address:

P.O. Box 6085
Wilmington, DE 19804

Count = 12

State Savings Banks

Artisans' Bank

Red Clay Center at Little Falls
2961 Centerville Road
Wilmington, DE 19808

Mr. Mark E. Huntley
President & Chief Executive Officer
Telephone: 1-302-658-6881
1-800-282-8255

Count = 1

Resulting Branches

Bank of America, National Association

100 North Tryon Street
Suite 170
Charlotte, NC 28202

Mr. Bruce R. Thompson
Chairman of the Board
Mr. Terrence P. Laughlin
Chairman of the Board
Telephone: 1-800-432-1000

Bank of Ocean City

10005 Golf Course Road
Ocean City, MD 21842

Mr. Hugh Cropper, IV.
Chairman of the Board
Telephone: 1-410-213-0173

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

Resulting Branches

Bryn Mawr Trust Company, The

801 Lancaster Avenue
Bryn Mawr, PA 19010

Mr. Britton H. Murdoch
Chairman of the Board
Telephone: 1-610-525-1700

Calvin B. Taylor Banking Company of Berlin

24 North Main Street
Berlin, MD 21811

Mr. Raymond M. Thompson
President & Chief Executive Officer
Telephone: 1-410-641-1700

Mailing Address:

P.O. Box 5
Berlin, MD 21811-0005

Capital One, N.A.

1680 Capital One Drive
McLean, VA 22102

Mr. Richard D. Fairbank
Founder/Chairman/President/CEO
Telephone: 1-703-720-1000

Citizens Bank, N.A.

One Citizens Plaza
Providence, RI 02903

Mr. Bruce Van Saun
Chairman of the Board/Pres/CEO/COO
Telephone: 1-401-282-7000

Farmers Bank of Willards, The

31522 Winterplace Parkway
Salisbury, MD 21804

Mr. R. Furman Richardson
Chairman of the Board
Telephone: 1-410-835-8404

FSNB, National Association

,

Mr. John R. Davis
Chairman of the Board/President/CEO
Telephone: 1-580-357-9880
1-800-749-4583

Mailing Address:

P.O. Box 33009
Fort Sill, OK 73503

Fulton Bank, N.A.

One Penn Square
Lancaster, PA 17602

Mr. Phil Wenger
Chairman of the Board & CEO
Telephone: 1-717-581-3000
1-800-752-9580

Mailing Address:

P.O. Box 520
Georgetown, DE 19947

HSBC Bank USA, National Association

1800 Tysons Boulevard
Suite 50
Mc Lean, VA 22102

Mr. Patrick J. Burke
Chairman of the Board/President/CEO
Telephone: 1-703-883-8029
1-800-975-4722

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

Resulting Branches

Manufacturers and Traders Trust Company

One M&T Plaza
Buffalo, NY 14203

Mr. René F. Jones
Chairman of the Board & CEO
Telephone: 1-716-842-5445

Shore United Bank

18 East Dover Street
Easton, MD 21601

Mr. Frank E. Mason, III.
Chairman of the Board
Telephone: 1-410-822-1400
1-877-758-1600

Mailing Address:

P.O. Box 949
Easton, MD 21601

Wells Fargo Bank, National Association

101 North Phillips Avenue
Sioux Falls, SD 57104

Mr. Stephen W. Sanger
Chairman of the Board
Telephone: 1-605-575-6900

Count = 13

National Banks

Chase Bank USA, National Association

201 North Walnut Street
Wilmington, DE 19801

Mr. William C. Weldon
Chairman of the Board-Non Executive
Telephone: 1-302-634-1000

HSBC Trust Company (Delaware), N.A.

300 Delaware Avenue
Suite 1401
Wilmington, DE 19801

Mr. Christopher J. Camp
President & Chief Executive Officer
Matthew W. Ryan
Chairman of the Board
Telephone: 1-302-657-8400

PNC Bank, National Association

PNC Bank Center
222 Delaware Avenue
Wilmington, DE 19801

Mr. William S. Demchak
Chairman/President/CEO
Telephone: 1-412-762-2000
1-800-722-1172

Mailing Address:

249 Fifth Avenue
Pittsburgh, PA 15222-2707

Santander Bank, National Association

824 North Market Street
Wilmington, DE 19801

Mr. T. Timothy Ryan, Jr.
Chairman of the Board
Telephone: 1-302-654-5182
1-877-768-2265

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

National Banks

TD Bank USA, National Association

2035 Limestone Road
Wilmington, DE 19808

Mr. Bharat B. Masrani
Chairman of the Board
Telephone: 1-207-761-8558

Mailing Address:

P.O. Box 9540
Portland, ME 04112

TD Bank, N.A.

2035 Limestone Road
Wilmington, DE 19808

Mr. Bharat B. Masrani
Chairman of the Board
Telephone: 1-302-351-4560

Mailing Address:

P.O. Box 9540
Legal Department
Portland, ME 04112

Wilmington Trust, National Association

Rodney Square North
1100 North Market Street
Wilmington, DE 19890

Mr. René F. Jones
Chairman of the Board/President/CEO
Telephone: 1-716-842-5445
1-800-814-8386

Count = 7

Foreign Bank Representative Office

Royal Bank of Canada

200 Bay Street
Toronto, ON M5J 2J5

Mailing Address:

P.O. Box 1
Toronto, ON M5J 2J5

— Little Falls Centre II
2751 Centreville Road, Suite 212
Wilmington, DE 19808

Count = 1

National Non-Deposit Trust Companies

Bessemer Trust Company of Delaware, N.A.

1007 North Orange Street
Wilmington, DE 19801

Mr. Stuart S. Janney, III
Chairman of the Board
Telephone: 1-302-230-2675

Brown Brothers Harriman Trust Company of Delaware, N.A.

1013 Centre Road
Suite 101
Wilmington, DE 19805

Mr. Brett D. Sovine
Chairman of the Board & CEO
Telephone: 1-302-552-4041

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

National Non-Deposit Trust Companies

Citicorp Trust Delaware, National Association

20 Montchanin Road
Suite 180
Greenville, DE 19807

Mr. Donald R. Young
Chairman of the Board
Telephone: 1-302-298-3691

Evercore Trust Company, N.A.

300 Delaware Avenue
Suite 1225
Wilmington, DE 19801

Mr. Christopher Zander
Chairman of the Board/President
Telephone: 1-212-822-7622

Goldman Sachs Trust Company, N.A., The

200 Bellevue Parkway
Suite 250
Wilmington, DE 19809

Mr. Walter H. Haydock
Chairman of the Board/President/CEO
Telephone: 1-302-793-3272

Key National Trust Company of Delaware

1105 North Market Street
Suite 500
Wilmington, DE 19801

Ms. Catherine O'Malley Kearney
Chairman of the Board & COO
Telephone: 1-302-574-4702

Neuberger Berman Trust Company of Delaware N.A.

919 North Market Street
Suite 506
Wilmington, DE 19801

Ms. Diane E. Lederman
Chairman of the Board
Telephone: 1-212-476-9000

Stifel Trust Company Delaware, National Association

100 South West Street
Wilmington, DE 19801

Mr. Harry O'Mealia
Chairman of the Board/President/CEO
Telephone: 1-302-351-8900
1-844-735-9472

U.S. Bank Trust National Association

300 Delaware Avenue
9th Floor
Wilmington, DE 19801-1608

Mr. Gunjan Kedia
Chairman of the Board/President
Telephone: 1-302-576-3703

Wells Fargo Delaware Trust Company, N.A.

919 North Market Street
Suite 1600
Wilmington, DE 19801-3023

Mr. Michael Watchke
Chairman of the Board/President/CEO
Telephone: 1-302-575-2002

Count = 10

State Non-Deposit Trust Companies

Brandywine Trust Company, LLC

7234 Lancaster Pike
Suite 300A
Hockessin, DE 19707

Mr. David C. Patterson
Chairman of the Board
Telephone: 1-302-234-5750

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

State Non-Deposit Trust Companies

Commonwealth Trust Company

29 Bancroft Mills Road
Wilmington, DE 19806

Mr. Peter A. Horthy
Chairman of the Board
Telephone: 1-302-658-7214

Delaware Charter Guarantee & Trust Company

1013 Centre Road
3rd Floor
Wilmington, DE 19805

Mr. Mike Gaul
Chairman of the Board & CEO
Telephone: 1-302-995-2131
1-800-209-9010

Delaware Trust Company

251 Little Falls Drive
Wilmington, DE 19808

Mr. William G. Popeo
Chairman of the Board/President/CEO
Telephone: 1-302-636-5401x68763
1-877-374-6010

J.P. Morgan Trust Company of Delaware

500 Stanton Christiana Road
Newark, DE 19713-2107

Mr. Wilson J.C. Braun, Jr.
Chairman of the Board/President/CEO
Telephone: 1-302-634-1000

New York Private Trust Company

200 Bellevue Parkway
Suite 500
Wilmington, DE 19809

Mr. Timothy B. Carroll
Chairman of the Board/Pres/CEO/COO
Telephone: 1-302-798-2160

RBC Trust Company (Delaware) Limited

4550 Linden Hill Road
Suite 200
Wilmington, DE 19808

Mr. Michael Appley
Managing Director
Telephone: 1-302-892-6900
1-800-441-7698

Wilmington Trust Company

Rodney Square North
1100 North Market Street
Wilmington, DE 19890-0001

René F. Jones
Chairman of the Board
Telephone: 1-716-842-5445
1-800-814-8386

Count = 8

State Limited Purpose Trust Companies

Arden Trust Company

2751 Centerville Road
Suite 400
Wilmington, DE 19808

Mr. Michael E. Roberts
President
Telephone: 1-302-246-5400
1-888-803-7466

BMO Delaware Trust Company

20 Montchanin Road
Suite 240
Greenville, DE 19807

Mr. Richard Immesberger
Chairman of the Board/President/CEO
Telephone: 1-302-652-1660

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

State Limited Purpose Trust Companies

BNY Mellon Investment Servicing Trust Company

301 Bellevue Parkway
Wilmington, DE 19809

Mr. Calvin G. Holmquist
Chairman of the Board/President/CEO
Telephone: 1-302-791-2000
1-800-441-9800

Brown Advisory Trust Company of Delaware, LLC

5701 Kennett Pike
Suite 100
Centreville, DE 19807

Mr. Michael D. Hankin
Chairman of the Board & President
Telephone: 1-302-351-7600
1-800-645-3923

Bryn Mawr Trust Company of Delaware, The

20 Montchanin Road
Suite 100
Greenville, DE 19807

Ms. Jennifer Dempsey Fox
Chairman of the Board
Telephone: 1-302-798-1792

Charles Schwab Trust Company of Delaware

4250 Lancaster Pike
Suite 100
Wilmington, DE 19805

Mr. Edward A. Reznick
President & Chief Executive Officer
Telephone: 1-800-745-7721

Christiana Trust Company of Delaware

501 Carr Road
Suite 101
Wilmington, DE 19809

Mr. Paul D. Geraghty
Chairman of the Board
Telephone: 1-302-792-6000

CIBC Delaware Trust Company

One Righter Parkway
Suite 180
Wilmington, DE 19803

Mr. John S. Markwalter, Jr.
Chairman of the Board & CEO
Telephone: 1-302-478-4050

Depository Trust Company of Delaware, LLC

3601 North Market Street
Wilmington, DE 19802

Mr. Jonathon E. Potts
Chairman of the Board/President/CEO
Telephone: 1-302-483-1006

Eleutherian Trust Company, LLC

1105 North Market Street
Suite 900
Wilmington, DE 19801

Mr. Peter H. Flint
Chairman of the Board
Telephone: 1-302-294-0821

Fiduciary Trust International of Delaware

1220 Market Street
Suite 333
Wilmington, DE 19801

Ms. Jody L. Jenkins, Esq.
Chairman/Managing Dir/Trust Counsel
Telephone: 1-302-429-0910

First Republic Trust Company of Delaware LLC

1201 North Market Street
Suite 1002
Wilmington, DE 19801

Mr. Michael Harrington
Chairman of FRTC-DE
Telephone: 1-302-888-2988

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

State Limited Purpose Trust Companies

First State Trust Company

Delaware Corporate Center I
One Righter Parkway - Suite 120
Wilmington, DE 19803

Mr. Subir Chatterjee
Chairman of the Board
Telephone: 1-302-573-5816
1-800-554-1364

Goldman Sachs Trust Company of Delaware, The

200 Bellevue Parkway
Suite 250
Wilmington, DE 19809

Mr. Lon M. Selbst
Director - President
Telephone: 1-302-830-1857

Greenleaf Trust Delaware

4001 Kennett Pike
Suite 226
Greenville, DE 19807-2029

Mr. Michael F. Odar
President
Telephone: 1-800-416-4555

LeFrak Trust Company, The

1105 North Market Street
Suite 801
Wilmington, DE 19801

Mr. Harrison T. LeFrak
President
Telephone: 1-302-656-2390

Northern Trust Company of Delaware, The

1313 North Market Street
Suite 5300
Wilmington, DE 19801

Mr. David A. Diamond
Chairman of the Board & President
Telephone: 1-302-428-8700

Oppenheimer Trust Company of Delaware

3411 Silverside Road
Tatnall Building Suite 105
Wilmington, DE 19810

Mr. Albert G. Lowenthal
Chairman of the Board
Telephone: 1-302-792-3500

Parkwood Trust Company

919 North Market Street
Suite 429
Wilmington, DE 19801

Mr. Bradley S. Smith
President
Telephone: 1-302-426-1220

PGB Trust & Investments of Delaware

Montchanin Corporate Center
20 Montchanin Road, Suite 201
Greenville, DE 19807

Mr. Daniel J. Leary, III
President
Telephone: 1-302-255-1506

PIM Trust Company

200 Bellevue Parkway
Suite 150
Wilmington, DE 19809

Mr. Howard P. Milstein
Chairman of the Board/President/CEO
Telephone: 1-302-798-2160

PNC Delaware Trust Company

222 Delaware Avenue
Wilmington, DE 19801

Ms. Janet P. Jolles
President /CEO/Secretary
Telephone: 1-855-852-0158

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

State Limited Purpose Trust Companies

Rockefeller Trust Company (Delaware), The

1201 North Market Street
Suite 1401
Wilmington, DE 19801

Ms. Elizabeth P. Munson
President & Chief Compliance Officer
Telephone: 1-302-498-6000

Rodney Trust Company

121 Continental Drive
Suite 107
Newark, DE 19713

Mr. Louis B. Thalheimer
Chairman of the Board & CEO
Telephone: 1-302-737-1205
1-866-213-1008

SunTrust Delaware Trust Company

1011 Centre Road
Suite 108
Wilmington, DE 19805

Mr. John J. Geraghty
President
Telephone: 1-302-892-9930

Tiedemann Trust Company

200 Bellevue Parkway
Suite 525
Wilmington, DE 19809

Mr. Craig L. Smith
President
Telephone: 1-302-656-5644

U.S. Trust Company of Delaware

2951 Centerville Road
Wilmington, DE 19808

Mr. Thomas M. Forrest
Chairman/President/CEO
Telephone: 1-302-416-3400
1-800-878-7878

Mailing Address:

1100 North King Street
DE5-002-04-12
Wilmington, DE 19884

Count = 27

Out of State Federal Savings Banks with DE Branches

First Shore Federal Savings & Loan Association

106 South Division Street
Salisbury, MD 21801

Mr. Martin T. Neat
President/Chief Executive Officer/COO
Telephone: 1-410-546-1101
1-800-634-6309

Count = 1

Federal Savings Banks

AIG Federal Savings Bank

503 Carr Road
Suite 130
Wilmington, DE 19809

Mr. John T. Genoy
Chairman of the Board
Telephone: 1-302-765-1889

DELAWARE FINANCIAL INSTITUTIONS

As Of July 16, 2019

Federal Savings Banks

Wilmington Savings Fund Society, FSB

500 Delaware Avenue
Wilmington, DE 19801

Mr. Mark A. Turner
Chairman of the Board/President/CEO
Telephone: 1-302-792-6000
1-888-973-7226

Count = 2

State Building and Loan Associations

Arden Building and Loan Association

2117 The Highway
Arden, DE 19810

Mr. David Scott
President
Telephone: 1-302-793-9525

Bridgeville Building & Loan Association

102 Market Street
Bridgeville, DE 19933

Mr. Howard E. Hardesty, II.
Chairman of the Board & President
Telephone: 1-302-337-8001

Mailing Address:

P.O. Box 315
Bridgeville, DE 19933

Count = 2

Count All Filings Listed = 84

End of Report

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Statutes Permitting Modification of Irrevocable Trusts* [LAST UPDATED 9/20/19]

State	Decanting Permitted By Statute	Trust Merger Permitted By Statute	Express Modification of Trusts Generally Permitted By Statute	NJSA or Similar Statute
Alabama (UTC) [Ala. Code]	Yes [§§19-3d-1 to 19-3d-29]	Without a court order [§19-3B-417]	With consent and a court order [§19-3B-411]	Wrapper permitted** [§19-3B-111]
Alaska [Alaska Stat.]	Yes [§§13.36.157 to 13.36.159]			
Arizona (UTC) [Ariz. Rev. Stat. Ann.]	Yes [§14-10819]	Without a court order [§14-10417]	With consent and a court order [§14-10411]	Wrapper permitted [§14-10111]
Arkansas (UTC) [Ark. Code. Ann.]		Without a court order [§28-73-417]	With consent only/with consent and a court order [§28-73-411]	Wrapper permitted [§28-73-111]
California [Cal. Prob. Code]	Yes [§19501 to 19530]	Only with a court order [§15411]	With consent (but parties may seek a court order) [§15404]	
Colorado [Colo. Rev. Stat.]	Yes [§§15-16-901 to 15-16-930]	Without a court order [§15-5-417]	With consent and a court order/without consent if court is satisfied that interests of nonconsenting beneficiaries will be adequately protected [§15-5-411]	Wrapper permitted [§15-5-111]
Connecticut [Conn. Gen. Stat.]		Inter vivos trusts without a court order Testamentary trusts with a court order [H.B. 07104 §38, 2019 Leg., Reg. Sess. (Conn. 2019)] [effective January 1, 2020]	With consent and a court order [H.B. 07104 §31, 2019 Leg., Reg. Sess. (Conn. 2019)] [effective January 1, 2020]	Modifications expressly prohibited Wrapper permitted [H.B. 07104 §11, 2019 Leg., Reg. Sess. (Conn. 2019)] [effective January 1, 2020]
Delaware [12 Del. C.]	Yes [§5528]	Without a court order [§3325(29)]	If Trustor is living, upon consent or non-objection of all interested persons [§5342]	Wrapper permitted [§3338]
District of Columbia (UTC) [D.C. Code Ann.]		Without a court order [§19-1304.17]	With consent only/with consent and a court order [§19-1304.11]	Wrapper permitted [§19-1301.11]
Florida (UTC) [Fla. Stat.]	Yes [§736.04117]	Without a court order [§736.0417]	With consent only/with consent and a court order [§736.0412; 736.04113] Through NJSA (but cannot modify a trust in an impermissible manner) [§736.011(3)]	Wrapper permitted [§736.011]

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Statutes Permitting Modification of Irrevocable Trusts* [LAST UPDATED 9/20/19]

State	Decanting Permitted By Statute	Trust Merger Permitted By Statute	Express Modification of Trusts Generally Permitted By Statute	NJSA or Similar Statute
Georgia [Ga. Code Ann.]	Yes [§53-12-62]	Without a court order if permitted by instrument [§53-12-61]	With a court order [§53-12-61]	Wrapper possibly permitted [§53-12-9]
Hawaii				
Idaho [Idaho Code]		Without a court order if proper consents are obtained [§15-7-402(2)]		Wrapper possibly permitted [§15-8-103(1); 15-8-302]
Illinois (UTC) [H.B. 1471, 101st Gen. Ass. (Ill. 2019)] [effective January 1, 2020]	Yes [H.B. 1471, 1201 et. seq., 101st Gen. Ass. (Ill. 2019)] [effective January 1, 2020]	Without a court order [H.B. 1471, 101st Gen. Ass. (Ill. 2019)] [effective January 1, 2020]	With consent and a court order [H.B. 1471, 101st Gen. Ass. (Ill. 2019)] [effective January 1, 2020]	Wrapper permitted [H.B. 1471, §111, 101st Gen. Ass. (Ill. 2019)] [effective January 1, 2020]
Indiana [Ind. Code]	Yes [§30-4-3-36]	Without a court order [§30-4-3-3(27)(A)]		
Iowa [Iowa Code]		May or may not need a court order [§633A.2207]	With consent only [§633A.2202]	Wrapper permitted [§633A.6308]
Kansas (UTC) [Kan. Stat. Ann.]		Without a court order [§58a-417]	With consent only/with consent and court order [§58a-411]	Wrapper not permitted [§58a-411]
Kentucky (UTC) [Ky. Rev. Stat. Ann.]	Yes [§386.175]	Without a court order [§386B.4-170]	With consent only/with consent and court order [§386B.4-110]	Wrapper permitted [§386B.1-090]
Louisiana [La. Rev. Stat. Ann.]		Without a court order [§9-2030]		
Maine (UTC) [Me. Rev. Stat. Ann. tit. 18-B]		Without a court order [§417]	With consent and court order [§411]	Wrapper permitted [§111]
Maryland (UTC) [Md. Code Ann. Est. & Trusts]		Only with a court order [§14.5-415]	With consent and court order [§14.5-410]	Wrapper permitted [§14.5-111]
Massachusetts (UTC) [Mass. Gen. Laws. ch. 203E]		Without a court order [§417]	With consent and court order [§411]	Wrapper permitted [§111]

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Statutes Permitting Modification of Irrevocable Trusts* [LAST UPDATED 9/20/19]

State	Decanting Permitted By Statute	Trust Merger Permitted By Statute	Express Modification of Trusts Generally Permitted By Statute	NJSA or Similar Statute
Michigan (UTC) [Mich. Comp. Laws]	Yes [§556.115a; 700.7820a]	Without a court order [§700.7417]	With consent only/with consent and court order [§700.7411]	Wrapper permitted [§700.7111]
Minnesota (UTC) [Minn. Stat.]	Yes [§502.851]	Without a court order [§501C.0417]	With consent only/with consent and court order [§501C.0411]	Wrapper permitted [§501C.0111]
Mississippi (UTC) [Miss. Code Ann.]		Without a court order [§91-8-417]	With consent only/with consent and court order [§91-8-411]	Wrapper permitted [§91-8-111]
Missouri (UTC) [Mo. Rev. Stat.]	Yes [§456.4-419]	Without a court order [§456.4-417]	Through an NJSA but only for reasons a court could modify [§456.4A-411] With consent [§456.4A-411]	Wrapper permitted [§456.1-111]
Montana (UTC) [Mont. Code Ann.]		Without a court order [§72-38-417]	With consent only/with consent and court order [§72-38-411]	Wrapper permitted [§72-38-111]
Nebraska (UTC) [Neb. Rev. Stat.]		Without a court order [§50-3843]	With consent only/with consent and court order [§30-3837]	Wrapper permitted [§30-3811]
Nevada [Nev. Rev. Stat.]	Yes [§163.556]			
New Hampshire (UTC) [N.H. Rev. Stat. Ann.]	Yes [§564-B:4-418]	Without a court order [§564-B:4-417]	Through an NJSA [§564-B:1-111(d)(7)] With consent only/with consent and court order [§564-B:4-411]	Wrapper permitted [§564-B:1-111]
New Jersey (UTC) [N.J. Rev. Stat. Ann.]		Without a court order [§3B:31-34]	With consent or court order [§3B:31-27]	Wrapper permitted [§3B:31-1]
New Mexico (UTC) [N.M. Stat. Ann.]	Yes [§46-12-101 to 46-12-129]	Without a court order [§46A-4-417]	With consent only/with consent and court order [§46A-4-411]	Wrapper permitted [§46A-1-111]

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Statutes Permitting Modification of Irrevocable Trusts* [LAST UPDATED 9/20/19]

State	Decanting Permitted By Statute	Trust Merger Permitted By Statute	Express Modification of Trusts Generally Permitted By Statute	NJSA or Similar Statute
New York [N.Y. EPTL]	Yes [§10-6.6(b)]	Without a court order, but only if trusts are created under the same instrument [§11-1.1(b)(18)]	Creator of the trust may amend with consent of all persons beneficially interested [§7-1.9]	
North Carolina (UTC) [N.C. Gen. Stat.]	Yes [§36C-8-816.1]	Without a court order [§36C-4-417]	With consent only/with consent and court order [§36C-4-411]	Wrapper permitted [§36C-1-111]
North Dakota (UTC) [N.D. Cent. Code]		Without a court order [§59-12-17]	With consent and court order [§59-12-11]	Wrapper permitted [§59-09-11]
Ohio (UTC) [Ohio Rev. Code Ann.]	Yes [§5808.18]	Without a court order [§5804.17]	Through an NJSA if modification is not inconsistent with a material purpose [§5801.10(C)(4)] With consent and court order [§5804.11]	Wrapper permitted [§5801.10]
Oklahoma				
Oregon (UTC) [Or. Rev. Stat.]		Without a court order [§130.230]	Through an NJSA [§130.045(i)]: 130.200(6) With consent and court order [§130.200]	Wrapper permitted [§130.045]
Pennsylvania (UTC) [20 Pa. Cons. Stat.]		Requires a court order in some cases [§7740.8]	Through an NJSA [§7710.1(d)(11)] With consent only/with consent and court order [§7740.1]	Wrapper permitted [§7710.1]
Rhode Island [R.I. Gen. Laws]	Yes [§18-4-31]	Only with a court order [§18-4-25]		
South Carolina (UTC) [S.C. Code Ann.]	Yes [§62-7-816A]	Without a court order [§62-7-417]	With consent and court order [§62-7-411]	Wrapper permitted [§62-7-111]
South Dakota [S.D. Codified Laws]	Yes [§55-2:15 to 5-2:21]	Without a court order [§55-3-29]	With consent only [§55-3-24]	

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Statutes Permitting Modification of Irrevocable Trusts* [LAST UPDATED 9/20/19]

State	Decanting Permitted By Statute	Trust Merger Permitted By Statute	Express Modification of Trusts Generally Permitted By Statute	NJSA or Similar Statute
Tennessee (UTC) [Tenn. Code Ann.]	Yes [§35-15-816(b)(27)]	Without a court order [§35-15-417]	With consent only/with consent and court order [§35-15-411]	Wrapper permitted [§35-15-111]
Texas [Tex. Prop. Code Ann.]	Yes [§112.071]	Without a court order [§112.057(c)]		
Utah (UTC) [Utah Code Ann.]		Without a court order [§75-7-417]	With consent only/with consent and court order [§75-7-411]	Wrapper permitted [§75-7-110]
Vermont (UTC) [Vt. Stat. Ann. tit. 14A]		Without a court order [§417]	With consent only/with consent and court order [§411]	Wrapper permitted [§111]
Virginia (UTC) [Va. Code. Ann.]	Yes [§64.2-779.1 to 64.2-779.25]	Without a court order [§64.2-735]	With consent and court order [§64.2-729]	Wrapper permitted [§64.2-709]
Washington [Wash. Rev. Code Ann.]	Yes [§11.107.010 to 11.107.080]	Without a court order [§11.98.080]		Wrapper possibly permitted [§11.96A.030(2)]
West Virginia (UTC) [W. Va. Code]		Without a court order [§44D-4-417]	Through an NJSA [§44D-1-111(b)(12)] With consent and court order [§44D-4-411]	Wrapper permitted [§44D-1-111]
Wisconsin (UTC) [Wis. Stat.]	Yes [§701.0418]	Without a court order [§701.0417]	With consent only/with consent and court order [§701.0411]	Wrapper permitted [§701.0111]
Wyoming (UTC) [Wyo. Stat. Ann.]	Yes [§4-10-816(a)(xxviii)]	Without a court order [§4-10-418]	With consent only/with consent and court order [§4-10-412]	Wrapper permitted [§4-10-111]

Notes:

* This chart summarizes the common statutory methods available for modifying irrevocable trusts, including decanting, trust merger, modifications by consent, and non-judicial settlement agreements (NJSA).

** An "NJSA wrapper" is a tool whereby interested parties use a NJSA to appoint a trustee, grant a trustee a power, direct another trustee not to exercise that power, and/or address the liability and compensation of the trustees.

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Decanting Statutes (LAST UPDATED 9/20/19)

State	Extent of Power to Decant	Jurisdictional Nexus	How Exercised	Notice and Consent	Court Approval
Alabama (UTDA) Ala. Code §§19-3d-1 to 19-3d-29	<ul style="list-style-type: none"> - Applies to power over principal - Applies to power over income with respect to a trust for a "beneficiary with a disability" - Adopts Uniform Trust Decanting Act 	Trusts administered in Alabama or governed by Alabama law	In a record signed by an authorized fiduciary, identifying the first trust and the second trust(s), and stating the property being distributed and the property that will remain with the first trust.	<ul style="list-style-type: none"> - An authorized fiduciary must provide 60 days' notice to the settlor, each "qualified beneficiary", each holder of a presently exercisable power of appointment, each person that currently has power to replace the authorized fiduciary, each other fiduciary of the first trust, each fiduciary of the second trust, and the Attorney General for charitable beneficiaries, unless all parties entitled to notice waive the notice period in a signed record. - Consent not required by statute except when decanting would result in an increase in compensation of, or a modification of the power to remove or replace, an authorized fiduciary. 	<ul style="list-style-type: none"> - Court approval not required by statute except when consent is required but not obtained. - An authorized fiduciary, a person entitled to notice, a beneficiary or the Attorney General may seek court approval.
Alaska [Alaska Stat. §§13.36.157 to 159]	<ul style="list-style-type: none"> - Applies to power over principal - Statute distinguishes between authorized trustees with unlimited or limited discretion - May not exercise if there is evidence of a contrary intent of settlor or invaded trust 	Trusts administered in Alaska or governed by Alaska law	In a written instrument signed, dated and acknowledged by the authorized trustee	<ul style="list-style-type: none"> - Must provide 30 days' notice to the settlor, any "qualified beneficiaries", and any person with the right to remove and replace the trustee exercising the power - Consent not required by statute 	<ul style="list-style-type: none"> - Court approval required if the decanting (i) decreases or indemnifies against trustee liability or exonerates failure of trustee to exercise reasonable care, prudence or diligence, (ii) eliminates power of another to remove and replace the authorized trustee, (iii) changes trustee compensation, or (iv) if a beneficiary objects during notice period. - Trustee may seek court approval for any reason
Arizona [Ariz. Rev. Stat. Ann. §14-10819]	<ul style="list-style-type: none"> - Applies to power over principal and income - If the first trust has a standard, the standard in the second trust must be the same or more restrictive 	Testamentary and inter vivos trusts governed by Arizona law	No prescribed manner, but trustee may exercise the power by restating the first trust	Notice and consent not required by statute	<ul style="list-style-type: none"> - Court approval not required - Trustee may request court approval before and after the decanting

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Decanting Statutes (LAST UPDATED 9/20/19)

State	Extent of Power to Decant	Jurisdictional Nexus	How Exercised	Notice and Consent	Court Approval
California (UTDA [Cal. Prob. Code §§19501 to 19530])	<ul style="list-style-type: none"> - Applies to power over principal - Applies to power over income with respect to a trust for a beneficiary with a disability - Adopts Uniform Trust Decanting Act 	Trusts administered in California or governed by California law	In a writing signed by an authorized fiduciary, identifying the first trust and the second trust(s), and stating the property being distributed and the property that will remain in the first trust	<ul style="list-style-type: none"> - An authorized fiduciary must provide 60 days' notice to the settlor, each qualified beneficiary, each holder of a presently exercisable power of appointment, each person that currently has power to replace the authorized fiduciary, each other fiduciary of the first trust, each fiduciary of the second trust, and the Attorney General for charitable beneficiaries, unless all parties entitled to notice waive the notice period in a signed record. - Consent not required by statute except when decanting would result in an increase in compensation of, or a modification of the power to remove or replace, an authorized fiduciary. 	<ul style="list-style-type: none"> - Court approval not required by statute except when consent is required but not obtained. - An authorized fiduciary, a person entitled to notice, a beneficiary, or the Attorney General or other person with standing to enforce a charitable interest may seek court approval.
Colorado (UTDA [Colo. Rev. Stat. §§15-16-901 to 15-16-930])	<ul style="list-style-type: none"> - Applies to power over principal - Applies to power over income with respect to a trust for a beneficiary with a disability - Adopts Uniform Trust Decanting Act 	Trusts administered in Colorado or governed by Colorado law	In a record signed by an authorized fiduciary, identifying the first trust and the second trust(s), and stating the property being distributed and the property that will remain with the first trust	<ul style="list-style-type: none"> - An authorized fiduciary must provide 63 days' notice to the settlor, each qualified beneficiary, each holder of a presently exercisable power of appointment, each person that currently has power to replace the authorized fiduciary, each other fiduciary of the first trust, each fiduciary of the second trust, and the Attorney General for charitable beneficiaries, unless all parties entitled to notice waive the notice period in a signed record. - Consent not required by statute except when decanting would result in an increase in compensation of or a modification of the power to remove or replace, an authorized fiduciary. 	<ul style="list-style-type: none"> - Court approval not required by statute except when consent is required but not obtained. - An authorized fiduciary, a person entitled to notice, a beneficiary or the Attorney General may seek court approval.
Delaware [2 Del. C. §3528]	<ul style="list-style-type: none"> - Applies to power over principal and income - Decanting must abide by any standard in the first trust 	Trusts administered in Delaware	In a written instrument signed by the trustee	Notice and consent not required by statute	Statute does not require court approval

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State	Extent of Power to Decant	Jurisdictional Nexus	How Exercised	Notice and Consent	Court Approval
Florida (Fla. Stat. §736.04117)	<ul style="list-style-type: none"> - Applies to power over principal - Trustee must have "absolute" power over principal, and an ascertainable standard is not considered absolute 	Not addressed	In an instrument in writing, signed and acknowledged by the trustee of the first trust and filed with the records of the first trust	<ul style="list-style-type: none"> - Must provide 60 days' notice to all "qualified beneficiaries" - Consent not required by statute 	Statute does not require court approval
Georgia (Ga. Code Ann. §53-12-62)	<ul style="list-style-type: none"> - Applies to power over principal 	Not addressed	In an instrument in writing, signed and acknowledged by the trustee, and filed with the records of the original trust	<ul style="list-style-type: none"> - Consent not required if trustee provides written notice to any living settlor and those persons then entitled to annual reports from the trustee of the original trust. - Notice must describe manner in which the trustee intends to exercise the power, specify the date that the trustee proposes to distribute to the second trust, and be delivered at least 60 days before the proposed distribution 	Trustee may seek court approval
Illinois (H.B. 1471 §1201 et seq. (101st Gen. Ass. (Ill. 2019)) (effective January 1, 2020))	<ul style="list-style-type: none"> - Applies to power over principal - Statute distinguishes between authorized trustees with unlimited or limited discretion 	Trusts administered in Illinois under Illinois law or governed by Illinois law	In a record, signed by an authorized fiduciary that identifies the first trust and the second trust(s), the property being distributed, and the property, if any, that remains in the first trust	<ul style="list-style-type: none"> - Must provide 60 days' notice to each settlor of the first trust; if living, each qualified beneficiary of the first trust; each holder of a presently exercisable power of appointment over any part or all of the first trust; each person that currently has the right to remove or replace the authorized fiduciary; each other fiduciary of the first trust; each fiduciary of the second trust; and the Attorney General, if the first trust contains a charitable interest - Consent not required by statute except when decanting would result in an increase in compensation or a modification of the power to remove or replace, an authorized fiduciary. 	Statute does not require court approval except for trusts with charitable interests when the Attorney General objects
Indiana (Ind. Code §30-4-3-36)	<ul style="list-style-type: none"> - Applies to power over principal - Absolute power to distribute principal no longer required 	Not addressed	In an instrument in writing, signed and acknowledged by the trustee and filed with the records of the first trust	<ul style="list-style-type: none"> - Must provide 60 days' notice to the "qualified beneficiaries" of the first trust - Consent not required by statute 	Statute does not require court approval

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State	Extent of Power to Decant	Jurisdictional Nexus	How Exercised	Notice and Consent	Court Approval
Kentucky [Ky. Rev. Stat. Ann. §386.175]	<ul style="list-style-type: none"> - Applies to power over principal or income - If trustee power is limited to a standard, standard in new trust must be the same or more restrictive 	Not addressed	In an instrument signed and acknowledged by the trustee and filed with records of the original trust	<ul style="list-style-type: none"> - Must provide 60 days' notice to (i) all current beneficiaries, and (ii) the oldest generation of remainder beneficiaries of the original trust - Consent not required by statute 	Court approval not required unless a beneficiary entitled to notice objects within 30 days of receipt of notice
Michigan [Mich. Comp. Laws §§556.115a; 700.7820a]	<ul style="list-style-type: none"> - Applies to power over principal or income - Bifurcated standard for decanting if trustee has a "presently exercisable discretionary power" as opposed to a "discretionary trust provision" - May not indemnify the trustee of the first trust for actions taken in bad faith or with reckless disregard 	Not addressed	If the first trust contains a "discretionary trust provision", a written instrument required	<ul style="list-style-type: none"> - No notice required if trustee of first trust has a presently exercisable discretionary power - Must give 63 days' notice to the settlor and "qualified beneficiaries" if the first trust has a discretionary trust provision - Consent not required by statute 	Statute expressly provides that court approval is not required
Minnesota [Minn. Stat. §502.85]	<ul style="list-style-type: none"> - Applies to power over principal - Statute distinguishes between authorized trustees with unlimited or limited discretion 	Trusts governed by Minnesota law	In an instrument in writing, signed, dated, and acknowledged by the authorized trustee	<ul style="list-style-type: none"> - Must give 60 days' notice to all persons interested in the invaded trust and all persons with power to remove and replace the trustee exercising the power - Consent not required by statute 	Court approval required if the decanting changes compensation provisions

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State	Extent of Power to Decant	Jurisdictional Nexus	How Exercised	Notice and Consent	Court Approval
Missouri [Mo. Rev. Stat. §456.4-419]	<ul style="list-style-type: none"> - Applies to power over principal or income - Distribution standard does not have to be unlimited, but limitations on distribution standard must be included in second trust - Trustee has affirmative duty to determine that decanting is necessary or desirable 	Any trust governed by Missouri law	No specific manner described, but may be exercised in an instrument other than the instrument creating the first trust	<ul style="list-style-type: none"> - Must give 60 days' notice to the "permissible beneficiaries" of second trust or, if none, to the "qualified beneficiaries" of second trust - Consent not required 	Statute does not require court approval
Nevada [Nev. Rev. Stat. §163.556]	Applies to power over principal or income	Testamentary and inter vivos trusts situated in Nevada or administered under Nevada law	In a written instrument signed by the trustee and filed with records of the original trust	<ul style="list-style-type: none"> - May (but not required to) give notice to trust beneficiaries and, if so, notice must contain opinion of trustee of how trustee compensation and other trust expenses affected - A beneficiary specifically allocated property in first trust and no longer allocated under either or both trusts after decanting must consent in writing 	Not required, but the trustee may petition court for approval and, if so, petition must contain opinion of trustee of how trustee compensation and other trust expenses affected
New Hampshire [N.H. Rev. Stat. Ann. §564-B:4-418]	<ul style="list-style-type: none"> - Applies to power over principal or income - Absolute discretion not required - Trustee has a duty to administer, invest and manage the trust and distribute the trust property in good faith when exercising the power to decant - Decanting cannot violate a material purpose of the first trust 	Not addressed	No specified manner of exercise	<ul style="list-style-type: none"> - Must give 30 days' notice to the NH Director of Charitable Trusts if a charity is a "qualified beneficiary" - Consent not required by statute 	Statute does not require court approval

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State	Extent of Power to Decant	Jurisdictional Nexus	How Exercised	Notice and Consent	Court Approval
New Mexico (UTDA) N.M. Stat. Ann. §§46-12-101 to 46-12-129	<ul style="list-style-type: none"> - Applies to power over principal - Applies to power over income with respect to a trust for a beneficiary with a disability - Adopts Uniform Trust Decanting Act 	Trusts administered in New Mexico or governed by New Mexico law	In a record signed by an authorized fiduciary, identifying the first trust and the second trust(s), and stating the property being distributed and the property that will remain with the first trust.	<ul style="list-style-type: none"> - An authorized fiduciary must provide 60 days' notice (inclusive of the notice date) to the settlor, each "qualified beneficiary," each holder of a presently exercisable power of appointment, each person that currently has power to replace the authorized fiduciary, each other fiduciary of the first trust, each fiduciary of the second trust, and the Attorney General for charitable beneficiaries, unless all parties entitled to notice waive the notice period in a signed record. - Consent not required by statute except when the decanting would result in an increase in compensation of, or a modification of the power to remove or replace, an authorized fiduciary. 	<ul style="list-style-type: none"> - Court approval not required by statute except when consent is required but not obtained. - An authorized fiduciary, a person entitled to notice, a beneficiary or the Attorney General may seek court approval.
New York N.Y. EPTL §10-6.6(b)	<ul style="list-style-type: none"> - Applies to power over principal - Statute distinguishes between authorized trustees with unlimited or limited discretion - Cannot be used to decrease standard of care beyond or exonerate trustee for failure to exercise reasonable care, diligence, and prudence 	Inter vivos and testamentary trusts governed by New York law	<ul style="list-style-type: none"> - In an instrument signed, dated and acknowledged by the trustee and filed with the records of the invaded trust - Court filing required if invaded trust was a testamentary trust or inter vivos trust subject to a prior court proceeding 	<ul style="list-style-type: none"> - Notice must be given to the trust creator, any persons interested in the invaded trust and appointed trust, and any person having the right to remove or replace the trustee of the invaded trust - Consent not required by statute 	<ul style="list-style-type: none"> - Court approval required if (i) new trust eliminates a provision granting another person the right to remove or replace the authorized, or (ii) new trust increases the commission of trustee in the appointed trust - Otherwise, court approval is not required, but a trustee may seek court approval on notice to all persons interested in the invaded trust
North Carolina (UDTA) N.C. Gen. Stat. §36C-8-816.1	<ul style="list-style-type: none"> - Applies to power over principal or income - If original trust subject to an ascertainable standard, new trust must include the same ascertainable standard 	Not addressed	In an instrument signed and acknowledged by the trustee and filed with records of the original trust	<ul style="list-style-type: none"> - Must give 60 days' notice to all "qualified beneficiaries" of the original trust - Consent not required by statute 	<ul style="list-style-type: none"> - Statute expressly provides court approval not required - Trustee or a beneficiary can bring a proceeding to approve or disapprove of proposed decanting

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State	Extent of Power to Decant	Jurisdictional Nexus	How Exercised	Notice and Consent	Court Approval
Ohio (Ohio Rev. Code Ann. §5808.18)	<ul style="list-style-type: none"> - Applies to power over principal or income - Statute distinguishes between trustees with an absolute or limited power - Cannot be used to decrease standard of care beyond or exonerate trustee for failure to exercise reasonable care, diligence, and prudence 	Inter vivos and testamentary trusts governed by Ohio law or having their principal place of administration in Ohio	In an instrument signed, dated and acknowledged by the trustee and filed with records of the first trust	<ul style="list-style-type: none"> - Must give 30 days' notice to all current beneficiaries of the first trust - Consent or court approval required to increase or change trustee compensation 	<ul style="list-style-type: none"> - Required if the first trust is a testamentary trust created under the will of an Ohio domiciliary - Court approval or consent required to increase or change method to determine trustee compensation
Rhode Island (R.I. Gen. Laws §18-4-31)	<ul style="list-style-type: none"> - Applies to power over principal - Absolute power to distribute principal no longer required 	Not addressed	In an instrument signed and acknowledged by the trustee and filed with records of the first trust	<ul style="list-style-type: none"> - Must give 60 days' notice to all "qualified beneficiaries" of the first trust - Consent not required by statute 	Statute does not require court approval
South Carolina (S.C. Code Ann. §7-816A)	<ul style="list-style-type: none"> - Applies to power over principal or income - If original trust subject to an ascertainable standard, new trust must include the same ascertainable standard 	Not addressed	In an instrument signed and acknowledged by the trustee and filed with records of the original trust	<ul style="list-style-type: none"> - Must give 90 days' notice to all "qualified beneficiaries" of the first trust - Consent not required by statute 	<ul style="list-style-type: none"> - Statute expressly provides court approval not required unless trust instrument of first trust prohibits decanting or required court approval - A trustee or beneficiary of the original trust may petition the court to approve or disapprove the decanting
South Dakota (S.D. Codified Laws §55-2-15 to -21)	<ul style="list-style-type: none"> - Applies to power over principal or income - Trustee has affirmative duty to determine that decanting is necessary or desirable 	Testamentary and inter vivos trusts administered under South Dakota law	In an instrument signed and acknowledged by the trustee and filed with records of the first trust	<ul style="list-style-type: none"> - May give 20 days' notice to "qualified beneficiaries" of the first trust - Consent not required by statute 	Statute does not require court approval
Tennessee (Tenn. Code Ann. §35-15-1816(b)(27))	Applies to power over principal or income	Testamentary and inter vivos trusts administered in Tennessee	In an instrument signed and acknowledged by the trustee and filed with records of the trust	Notice and consent not required by statute	Statute does not require court approval

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State	Extent of Power to Decant	Jurisdictional Nexus	How Exercised	Notice and Consent	Court Approval
Texas (Tex. Prop. Code Ann. §112.071)	<ul style="list-style-type: none"> - Applies to power over principal and income - Full or unlimited discretion not required, but statute distinguishes if authorized trustee has full or limited discretion - Cannot be used to decrease standard of care beyond or exonerate trustee for failure to exercise diligence, and prudence or eliminate a provision granting another person the right to remove or replace the authorized trustee exercising the power - Authorized trustee must exercise power in good faith 	Not addressed	In an instrument signed and acknowledged by the trustee and filed with records of the first trust and second trust	30 days' notice to all current and presumptive remainder beneficiaries of the first trust (including the AG, if there is a charitable beneficiary) is required to proceed without consent of the settlor or the beneficiaries	<ul style="list-style-type: none"> - Court approval is required if (i) a beneficiary to whom notice is required objects, or (ii) the decanting is being done solely to change trustee compensation - Trustee may otherwise seek court approval
Virginia (UDTA) Va. Code Ann. §§64.2-779.1 to 64.2-779.25	<ul style="list-style-type: none"> - Applies to power over principal and income - If the first trust has a standard, the second trust, in the aggregate, must grant each beneficiary of the first trust beneficial interests that are substantially similar to the beneficial interests of the beneficiary in the first trust. 	Trusts administered in Virginia or governed by Virginia law	In a record signed by an authorized fiduciary, identifying the first trust and the second trust(s), and stating the property being distributed and the property that will remain with the first trust.	<ul style="list-style-type: none"> - An authorized fiduciary must provide 60 days' notice to the settlor, each "qualified beneficiary", each holder of a presently exercisable power of appointment, each person that currently has power to replace the authorized fiduciary, each other fiduciary of the first trust, each fiduciary of the second trust, and the Attorney General for charitable beneficiaries; unless all parties entitled to notice waive the notice period in a signed record. - Consent not required by statute except when decanting would result in an increase in compensation or, or a modification of the power to remove or replace, an authorized fiduciary. 	<ul style="list-style-type: none"> - Court approval not required by statute except when consent is required but not obtained. - An authorized fiduciary, a person entitled to notice, a beneficiary or the Attorney General may seek court approval.

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State	Extent of Power to Decant	Jurisdictional Nexus	How Exercised	Notice and Consent	Court Approval
Washington (UDTA) (Wash. Rev. Code Ann. §§11.107.010 to 11.107.080)	<ul style="list-style-type: none"> - Applies to power over principal - If the first trust has a standard, the second trusts, in the aggregate, must grant each beneficiary of the first trust beneficial interests that are substantially similar to the beneficial interests of the beneficiary in the first trust. 	Trusts administered in Washington or governed by Washington law	In a record signed by the trustee	<ul style="list-style-type: none"> - A trustee must provide 60 days' notice to the settlor, each "qualified beneficiary", each holder of a presently exercisable power of appointment and each person that currently has power to replace the trustee, unless all parties entitled to notice waive the notice period in a signed record. The Attorney General must receive notice when the first trust contains a charitable interest. - Consent not required by statute except when decanting would result in an increase in compensation of, or a modification of the power to remove or replace, a trustee. 	<ul style="list-style-type: none"> - Court approval not required by statute except when consent is required but not obtained. - The trustee of the first trust, a qualified beneficiary, a holder of a presently exercisable power of appointment over any part of the first trust, or a person that currently has the right to remove or replace the trustee may seek court approval.
Wisconsin (Wis. Stat. Ann. §701.0418)	<ul style="list-style-type: none"> - Applies to power over principal - If the first trust contains a specific or ascertainable standard, the standard in the second trust cannot be broader - Trustee must exercise power in good faith 	Not addressed	In a written instrument signed and acknowledged by the trustee and filed with records of the first trust and second trust	<ul style="list-style-type: none"> - Must give 30 days' notice to the "qualified beneficiaries", trust protector, any "directing parties", and the settlor (if living) - Consent not required by statute 	<ul style="list-style-type: none"> - Court approval is required if the trustee receives an objection to the decanting during the notice period - Trustee may otherwise seek court approval
Wyoming (Wyo. Stat. Ann. §4-10-816(a)(xxviii))	<ul style="list-style-type: none"> - Applies to power over principal or income - Applies whether or not power is subject to an ascertainable standard 	Not addressed	Not addressed	Notice and consent not required by statute	Statute does not require court approval

Notes:

* This chart does not address states who have recognized the ability to decant in case law. See, e.g., *Morse v. Kraft*, 992 N.E.2d 1021 (Mass. 2013).

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Statutes Permitting the Merger, Combination, or Consolidation of Trusts [LAST UPDATED 9/20/19]

State	Standard for Merging Trusts	Court Approval Required	Notice Required
Alabama (UTC) [Ala. Code §19-3B-417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Arizona (UTC) [Ariz. Rev. Stat. Ann. §14-10417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries, unless the terms of the trust instrument provide otherwise
Arkansas (UTC) [Ark. Code Ann. §28-75-417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No, the statute expressly provides court approval is not required	To qualified beneficiaries
California [Cal. Prob. Code §15411]	Terms of trusts must be substantially similar and the court must find good cause and that the combination does not defeat or substantially impair trust purposes or interests of beneficiaries	Yes, upon petition of a trustee or beneficiary	Statute is silent
Colorado [Colo. Rev. Stat. §15-5-417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No, but a trustee or beneficiary may commence a proceeding to approve or disapprove a combination pursuant to §15-16-410	To qualified beneficiaries
Connecticut [H.B. 07104 §38 Leg. Reg. Sess. (Conn. 2019)] [effective January 1, 2020]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	For testamentary trusts only	To qualified beneficiaries
Delaware * [12 Del. C. §3325(29)]	Merger cannot result in a material change in the beneficial interests of the trust beneficiaries; trustee expressly empowered to declare a new trust solely for purposes of doing the merger	No	Statute is silent
District of Columbia (UTC) [D.C. Code Ann. §19-1304.17]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Florida (UTC) [Fla. Stat. §736.0417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Georgia [Ga. Code Ann. §53-12-61]	Without court approval, if permitted by trust instrument. With court approval if consolidation would be helpful to the administration of the trusts	No, if permitted by trust instrument.	Statute is silent

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State	Standard for Merging Trusts	Court Approval Required	Notice Required
Idaho Idaho Code §15-7-402(2)	Consolidation must not be inconsistent with the intent of the settlor, must facilitate the administration of the trust, and must be in the best interests of the beneficiaries and would not impair their interests	No, but any interested person may petition a court for an order approving a consolidation	Yes, and the trustee may proceed only after receiving consent from all interested persons and other trustees
Illinois [H.B. 1471 §417, 101st Gen. Ass. (Ill. 2019)] <i>(effective January 1, 2020)</i>	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Indiana Ind. Code §30-4-3-3(27)(A)	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Iowa Iowa Code §633A.2207	Without court approval, the terms of the trusts must have substantially similar beneficial interests. With court approval, the combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No, unless the terms of the trusts are not substantially similar and in such case court approval is required upon petition of a trustee or beneficiary	Statute is silent
Kansas (UTC) [Kan. Stat. Ann. §58a-417]	Terms of the trusts must be substantially similar and the combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Kentucky (UTC) [Ky. Rev. Stat. §386B.4-170]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Louisiana [La. Rev. Stat. Ann. §9:2030]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To beneficiaries with a current interest in the trusts
Maine (UTC) [Me. Rev. Stat. Ann. tit 18-B, §417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Maryland (UTC) [Md. Code Ann. Est. & Trusts §14.5-415]	Consolidation cannot defeat or materially impair accomplishment of trust purposes or interests of the beneficiaries	Yes, upon petition of a trustee, beneficiary, personal representative or other party in interest	Statute is silent

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State	Standard for Merging Trusts	Court Approval Required	Notice Required
Massachusetts (UTC) Mass. Gen. Laws, ch. 203E, §417	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Michigan (UTC) Mich. Comp. Laws §700.7417	Trusts must have substantially identical provisions and consolidation cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries and holders of powers of appointment
Minnesota (UTC) Minn. Stat. §501C.0417	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Mississippi (UTC) Miss. Code Ann. §91-8-417	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes, and the interests of each beneficiary must be substantially the same	No	To qualified beneficiaries
Missouri (UTC) Mo. Rev. Stat. §456.4-417	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes, and the interests of each beneficiary must be substantially the same	No	To qualified beneficiaries
Montana (UTC) Mont. Code Ann. §72-38-417	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Nebraska (UTC) Neb. Rev. Stat. §30-3843	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
New Hampshire (UTC) N.H. Rev. Stat. Ann. §564-B:4-417	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
New Jersey N.J. Rev. Stat. Ann. §3B:31-34	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	Statute is silent
New Mexico (UTC) N.M. Stat. Ann. §46A-4-417	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
New York N.Y. EPTL §11-1.1(b)(18)	Must be trusts created under the same instrument	No	Statute is silent
North Carolina (UTC) N.C. Gen. Stat. §36C-4-417	Terms of the trusts must be substantially similar and beneficiaries of the trusts must be identical	No	Statute commentary suggests no notice required

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State	Standard for Merging Trusts	Court Approval Required	Notice Required
North Dakota (UTC) [N.D. Cent. Code §59-12-17]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Ohio (UTC) [Ohio Rev. Code Ann. §5804.17]	Combination cannot impair rights of a beneficiary or materially adversely affect on achievement of trust purposes	No	To qualified beneficiaries
Oregon (UTC) [Or. Rev. Stat. §130.230]	Trustee must consider individual rights of beneficiaries, exercise due care and prudent judgment and consider the terms of the trust instrument and applicable law. The combination must not materially impair the rights of a beneficiary or adversely affect achievement of the trustor's intent	No	To qualified beneficiaries
Pennsylvania (UTC) [20 Pa. Cons. Stat. §7740.8]	Without court approval, trusts must have identical provisions, tax attributes and trustees. With court approval, combined trusts must have substantially similar provisions.	Yes, unless combined trusts have identical provisions, tax attributes, and trustees	As the court directs in the case of a court approved combination
Rhode Island [R.I. Gen Laws §18-4-25]	Trusts must have a common creator or common beneficiaries and consolidation must not be contrary to the creator's intent, must be in the best interests of the beneficiaries, and must not materially impair the interests of the beneficiaries	Yes, upon petition by a trustee, beneficiary, or party in interest	All interested parties must be notified of a court hearing
South Carolina (UTC) [S.C. Code Ann. §62-7-417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
South Dakota [S.D. Codified Laws §55-3-29]	Combination cannot impair rights of a beneficiary or substantially affect accomplishment of trust purposes	No, but upon petition by a trustee or beneficiary, a court may affirm or prevent a proposed combination	Statute is silent
Tennessee (UTC) [Tenn. Code Ann. §35-15-417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes, if the trusts have different trustees, the trustees may negotiate the terms of the surviving trust.	No	To qualified beneficiaries
Texas [Tex. Prop. Code Ann. §112.057(c)]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To all beneficiaries entitled to receive distributions from either trust
Utah (UTC) [Utah Code Ann. §75-7-417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Vermont (UTC) [Vt. Stat. Ann. tit. 14A, §417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Statutes Permitting the Merger, Combination, or Consolidation of Trusts [LAST UPDATED 9/20/19]

State	Standard for Merging Trusts	Court Approval Required	Notice Required
Virginia (UTC) [Va. Code Ann. §64.2-735]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Washington [Wash. Rev. Code Ann. §11.198.080]	Dispositive provisions of the trusts must be substantially similar, and the consolidation must not be inconsistent with the intent of the trustor and facilitate administration of the trust, and must not materially impair beneficial interests	No, but a trustee or beneficiary may petition a court for an order approving a consolidation	Yes, trustee may proceed only after receiving consent from beneficiaries and other trustees
West Virginia (UTC) [W. Va. Code §44D-4-417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries
Wisconsin (UTC) [Wisc. Stat. §701.0417]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To the trust protector, any directing party, and qualified beneficiaries
Wyoming (UTC) [Wyo. Stat. Ann. §4-10-418]	Combination cannot impair rights of a beneficiary or adversely affect achievement of trust purposes	No	To qualified beneficiaries

Notes:

* Effective August 1, 2015, Delaware revised its trust merger statute and is the only state that expressly permits the trustee to create a new trust for purposes of effecting the trust merger.

THE ADVANTAGES OF DELAWARE TRUST LAW

Summary of State Statutes That Generally* Permit Modification By Consent of Parties to Noncharitable Irrevocable Trusts [LAST UPDATED 9/20/19]

State	Court Order Required	Required Consents	Material Purpose Limitation	Other Statutory Restrictions
Alabama (UTC) [Ala. Code §19-3B-411]	Yes	All beneficiaries	Yes	
		Settlor and all beneficiaries	No	
Arizona (UTC) [Ariz. Rev. Stat. Ann. §14-10411]	Yes	All beneficiaries	Yes	
		Settlor and all beneficiaries	No	
Arkansas (UTC) [Ark. Code. Ann. §28-73-411]	Yes	All beneficiaries	Yes	
		Settlor and all beneficiaries	No	
California [Cal. Prob. Code §15404]	No, but parties may seek an order	Settlor and all beneficiaries	Statute is silent	
		Settlor and all beneficiaries, unless court is satisfied that the trust could have been modified if all the beneficiaries consented and the interests of a non-consenting beneficiary will be adequately protected.	Yes	
Connecticut [H.B. 07104 §31, 2019 Leg., Reg. Sess. (Conn. 2019)] [effective January 1, 2020]	Yes	All beneficiaries	Yes	Section that permits modifications that are inconsistent with a material purpose only applies to trusts that were created or became irrevocable on or after January 1, 2020
		Settlor, trustee and all beneficiaries	No	
Delaware [12 Del. C. §3342]	No, but any interested person may seek an order	Trustor, all then serving fiduciaries, and all beneficiaries	No	
		Settlor and all beneficiaries	No	
		All beneficiaries	Yes	
Florida (UTC) [Fla. Stat. §§736.0412; 736.04113]	No	All qualified beneficiaries	Statute is silent	Applies to trusts created (or that became irrevocable) on or after January 1, 2011; applies only after death of the settlor
		Upon application of a trustee or a qualified beneficiary	Yes	Court modification based on one of three statutorily prescribed justifications [see Fla. Stat. §736.04113(1)(a)]

THE ADVANTAGES OF DELAWARE TRUST LAW

Summary of State Statutes That Generally* Permit Modification By Consent of Parties to Noncharitable Irrevocable Trusts (LAST UPDATED 9/20/19)

State	Court Order Required	Required Consents	Material Purpose Limitation	Other Statutory Restrictions
Georgia [Ga. Code Ann. §53-12-61]	No, if permitted by trust instrument			
	Yes	During settlor's lifetime, settlor and all beneficiaries.	No	
	Yes	After settlor's death, all beneficiaries.	Yes	
Illinois [H.B. 1471, §411, 101st Gen. Ass. (Ill. 2019)] <i>(effective January 1, 2020)</i>	Yes	All beneficiaries	Yes	
	No	Settlor and all beneficiaries	Statute is silent	
Iowa [Iowa Code §633A.2202]	No	Settlor and all qualified beneficiaries	No	Applies only to trusts created (or that became irrevocable) on or after January 1, 2005
	Yes	All qualified beneficiaries	Yes	
	No	Settlor and all beneficiaries	No	
Kentucky (UTC) [Ky. Rev. Stat. §386B-4-110]	Yes	All beneficiaries	Yes	
	No	Settlor and all beneficiaries	No	
Maine (UTC) [Me. Rev. Stat. Ann. Tit. 18-B, §411]	Yes	Settlor and all beneficiaries	No	
	Yes	All beneficiaries	Yes	
Maryland (UTC) [Md. Code Ann. Est. & Trusts §14-5-410]	Yes	Trustee and all beneficiaries	Yes	
	Yes	Settlor and all beneficiaries	No	
Massachusetts (UTC) [Mass. Gen. Laws, Ch. 203E, §411]	Yes	Settlor and all beneficiaries	No	
	Yes	All beneficiaries	Yes	

THE ADVANTAGES OF DELAWARE TRUST LAW

Summary of State Statutes That Generally* Permit Modification By Consent of Parties to Noncharitable Irrevocable Trusts [LAST UPDATED 9/20/19]

State	Court Order Required	Required Consents	Material Purpose Limitation	Other Statutory Restrictions
Michigan (UTC) [Mich. Comp. Laws §700.7411]	No	Qualified trust beneficiaries and a trust protector with a power to modify or grant, veto, or withhold approval of a modification	No	Applies only to trusts created (or becoming irrevocable) on or after April 1, 2010
	Yes	Trustee and all qualified trust beneficiaries	Yes	
Minnesota (UTC) [Minn Stat. §501C.0411]	No	Settlor and all beneficiaries	No	
	Yes	All beneficiaries	Yes	
Mississippi (UTC) [Miss. Code Ann. §91-8-411]	No	Consent of qualified beneficiaries (settlor also must not object)	No	Requires 60 days' notice to the settlor
	Yes	All beneficiaries	Yes	
Missouri (UTC) [Mo. Rev. Stat. §456.4A-411]	No	Settlor and all beneficiaries	No	
Montana (UTC) [Mont. Code Ann. §72-38-411]	No	Settlor and all beneficiaries and the consent of the AG if a charitable trust	No	Applies to trusts created (or that became irrevocable) on or after October 1, 1989
	Yes	All beneficiaries	Yes	
Nebraska (UTC) [Neb. Rev. Stat. §30-3837]	Yes	Settlor and all beneficiaries	No	
		All beneficiaries	Yes	
New Hampshire (UTC) [N.H. Rev. Stat. Ann. §564-B:4-411]	Yes	All beneficiaries	Yes	
		All beneficiaries	Yes	

THE ADVANTAGES OF DELAWARE TRUST LAW

Summary of State Statutes That Generally* Permit Modification By Consent of Parties to Noncharitable Irrevocable Trusts [LAST UPDATED 9/20/19]

State	Court Order Required	Required Consents	Material Purpose Limitation	Other Statutory Restrictions
New Jersey [N.J. Rev. Stat. Ann. §3B:31-27]	No	Trustee and all beneficiaries	Yes	
	Yes	Court order required if not all beneficiaries consent	Yes	
New Mexico (UTC) [N.M. Stat. Ann. §46A-4-411]	No	Settlor and all beneficiaries	No	If a party brings a petition and the settlor and all beneficiaries consented, the court shall enter approving order
	Yes	All beneficiaries	Yes	
New York [N.Y. EPTL §7-1.9]	No	Creator of the trust amends upon the consent of 'all persons beneficially interested'	Statute is silent	
	Yes	All beneficiaries	Yes	
North Carolina (UTC) [N.C. Gen. Stat. §36C-4-411]	No	Settlor and all beneficiaries	No	
	Yes	All beneficiaries	Yes	
North Dakota (UTC) [N.D. Cent. Code §59-12-11]	Yes	All beneficiaries	Yes	
	Yes	Settlor and all beneficiaries	No	If a party brings a petition and the settlor and all beneficiaries consented, the court shall enter approving order
Ohio (UTC) [Ohio Rev. Code Ann. §5804.11]	Yes	All beneficiaries	Yes	Cannot be used to remove or replace a trustee
	Yes	Settlor and all beneficiaries that are not remote interest beneficiaries (AG must consent if a charitable trust)	No	
Oregon (UTC) [Or. Rev. Stat. §130.200]	Yes	All beneficiaries who are not remote interest beneficiaries (AG must consent if a charitable trust)	Yes	

THE ADVANTAGES OF DELAWARE TRUST LAW

Summary of State Statutes That Generally* Permit Modification By Consent of Parties to Noncharitable Irrevocable Trusts (LAST UPDATED 9/20/19)

State	Court Order Required	Required Consents	Material Purpose Limitation	Other Statutory Restrictions
Pennsylvania (UTC) [20 Pa. Cons. Stat. §7740.1]	No	Settlor and all beneficiaries	No	
	Yes	All beneficiaries	Yes	Spendthrift provision is presumed to be a material purpose
South Carolina (UTC) [S.C. Code Ann. §62-7-411]	Yes	Settlor and all beneficiaries	No	
		All beneficiaries	Yes	
South Dakota [S.D. Codified Laws §55-3-24]	No	All beneficiaries	Yes	
	No	Trustor and all beneficiaries	No	
Tennessee (UTC) [Tenn. Code Ann. §35-15-411]	No	Trustee modifies upon the consent of all qualified beneficiaries during settlor's lifetime	No	Trustee must give 60 days' notice to settlor (during his or her lifetime) in which the settlor can object to the modification
	Yes	All qualified beneficiaries	Yes	
Utah (UTC) [Utah Code Ann. §75-7-411]	No	Settlor and all beneficiaries	No	
	Yes	All beneficiaries	Yes	
Vermont (UTC) [Vt. Stat. Ann. tit. 14A, §411]	No	Settlor and all beneficiaries	No	If a party brings a petition and the settlor and all beneficiaries consented, the court shall enter approving order
	Yes	All beneficiaries	Yes	
Virginia (UTC) [Va. Code Ann. §64.2-729]	Yes	Settlor and all beneficiaries	No	
		All beneficiaries	Yes	

THE ADVANTAGES OF DELAWARE TRUST LAW

Summary of State Statutes That Generally* Permit Modification By Consent of Parties to Noncharitable Irrevocable Trusts [LAST UPDATED 9/20/19]

State	Court Order Required	Required Consents	Material Purpose Limitation	Other Statutory Restrictions
West Virginia (UTC) [W. Va. Code §44D-4-411]	Yes	Settlor and all beneficiaries	No	If settlor and all beneficiaries consent, the court shall enter an approving order
		All beneficiaries	Yes	Spending provision is presumed to be a material purpose
Wisconsin (UTC) [Wis. Stat. §701.0411]	No	Settlor and all beneficiaries	No	Parties may seek court approval
	Yes	All beneficiaries	Yes	
Wyoming (UTC) [Wyo. Stat. Ann. §4-10-412]	No	Trust protector may modify if the terms of the trust authorize	Silent	
	Yes	Settlor and all beneficiaries	No	If a party brings a petition and the settlor and all beneficiaries consented, the court shall enter an approving order
	Yes	All beneficiaries	Yes	

Notes:

* This chart discusses statutes that allow parties to a trust (sometimes only with court approval) to generally modify the terms of an irrevocable trust. Most of these statutes are a version of UTC Section 411 adopted by a particular state. This chart does not cover statutes that permit trust modification based on a change of circumstances (e.g. UTC Section 412), cy pres (e.g. UTC 413), or in other specific circumstances and does not incorporate those states that have an NUSA statute that expressly allows an NUSA to modify a trust.

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Nonjudicial Settlement Agreement (NJSA) Statutes (LAST UPDATED 9/20/19)

State	Allows NJSA Wrapper*	Express Power to Modify w/NJSA**	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
Alabama (UTC) [Ala. Code §19-3B-111]	Yes	No	Interested persons (UTC definition)** §19-3B-111(a)	Bad faith and reckless indifference §19-3B-1008	Yes (silent on consideration) §19-3B-1009	§19-3B-111(d)(7) Partial or final settlements
Arizona (UTC) [Ariz. Rev. Stat. Ann. §14-10111]	Yes	No	Interested persons (provides a list) §14-1201(28), 14-10111(a)	Bad faith and reckless indifference (applies only to irrevocable trusts created on or after January 1, 2009) §14-11008	Yes (silent on consideration) §14-11009	§14-10111(E) Unless the interested person, pursuant to subsection D of this section, asks the court to rule without regard to this subsection, the court may either approve the agreement or decline to approve the agreement, but may not disapprove or deny the effectiveness of the agreement. If the court does not approve the agreement pursuant to this subsection, the failure to approve is not any prejudice against the effectiveness of the agreement and is not a final judgment or judicial precedent with respect to the agreement or subsequent agreements pursuant to the section.
Arkansas (UTC) [Ark. Code Ann. §28-73-111]	Yes	No	Interested persons (UTC definition) §28-73-111(a)	Bad faith and reckless indifference §28-73-1008	Yes (silent on consideration) §28-73-1009	
Colorado [Colo. Rev. Stat. §15-5-111]	Yes	No	Interested persons §15-5-103(10)	Bad faith and reckless indifference §15-5-1008	Yes (silent on consideration) §15-5-1009	
Connecticut [H.B. 07104 §31, 2019 Leg., Reg. Sess. (Conn. 2019)] (Conn. 2019)] <i>(effective January 1, 2020)</i>	Yes	No - Modifications are expressly prohibited	Interested persons (UTC definition) [H.B. 07104 §11, 2019 Leg., Reg. Sess. (Conn. 2019)] <i>(effective January 1, 2020)</i>	Bad faith and reckless indifference [H.B. 07104 §73, 2019 Leg., Reg. Sess. (Conn. 2019)] <i>(effective January 1, 2020)</i>	Yes (silent on consideration) [H.B. 07104 §67, 2019 Leg., Reg. Sess. (Conn. 2019)] <i>(effective January 1, 2020)</i>	

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Nonjudicial Settlement Agreement (NJSA) Statutes (LAST UPDATED 9/20/19)

State	Allows NJSA Wrapper*	Express Power to Modify w/ NJSA**	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
Delaware [12 Del. C. §3338]	Yes	No	Interested persons (amended in 2015 to provide an express list) [§3338(a)]	Willful misconduct [§§3301(g); 3303(b)]	Yes (valid without consideration) [§3588]	12 Del. C. §3338(a)(1-4) specific list of interested parties: (1) Trustees and other fiduciaries; (2) Trust beneficiaries, who will generally be those with a present interest in the trust and those whose interest in the trust would vest, without regard to the exercise or nonexercise of any power of appointment, if the present interests in the trust terminated on the date of the nonjudicial settlement agreement; (3) The trustor of the trust, if living; and (4) All other persons having an interest in the trust according to the express terms of the governing instrument (such as, but not limited to, holders of powers and persons having other rights, held in a nonfiduciary capacity, relating to trust property).
District of Columbia (UTC) [D.C. Code Ann. §19-1301.11]	Yes	No	Interested persons (UTC definition) [§19-1301.11(a)]	Bad faith and reckless indifference [§19-1310.08]	Yes (silent on consideration) [§19-1310.09]	

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Nonjudicial Settlement Agreement (NJSA) Statutes (LAST UPDATED 9/20/19)

State	Allows NJSA Wrapper*	Express Power to Modify w/ NJSA**	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
Florida (UTC) [Fla. Stat. §736.0111]	Yes	Yes (but cannot be used to modify in any "impermissible manner") [§736.0111(3)]	Interested persons (persons whose interest would be affected by the NJSA) [§736.0111(a)]	Bad faith and reckless indifference (applies to trusts created on or after July 1, 2007) [§736.1011]	Yes (silent on consideration) [§736.1012]	[§736.0111(3)] A nonjudicial settlement agreement among the trustee and trust beneficiaries is valid only to the extent the terms and conditions could be properly approved by the court. A nonjudicial settlement may not be used to produce a result not authorized by other provisions of this code, including, but not limited to, terminating or modifying a trust in an impermissible manner.
Georgia [Ga. Code Ann. §53-12-9]	Maybe	Not when settlor's consent would be required in order to achieve a binding settlement if such settlement were to be approved by court	Interested persons (UTC definition) [§53-12-9(a)]	Bad faith and reckless indifference [§53-12-303]		May permit modifications when a settlor consents or when a settlor's consent would not be required in order to achieve a binding settlement if such settlement were to be approved by the court [§53-12-9(c)(2)]
Idaho [Idaho Code §15-8-302; 103(1)] (called a "binding agreement")	Maybe	No	"Parties" (lists necessary parties) [§15-8-103(3)]	No apparent limitation [§15-7-301; 302]	No	No statute following general NJSA framework
Illinois [H.B. 1471, 101st Gen. Ass. (Ill. 2019)] (effective January 1, 2020)	Yes	Yes, provisions pertaining to administration	Interested persons (UTC definition) [H.B. 1471, 101st Gen. Ass. (Ill. 2019)] (effective January 1, 2020)	Bad faith and reckless indifference [H.B. 1471, 101st Gen. Ass. (Ill. 2019)] (effective January 1, 2020)	Yes (valid without consideration) [H.B. 1471, 101st Gen. Ass. (Ill. 2019)] (effective January 1, 2020)	

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Nonjudicial Settlement Agreement (NJSA) Statutes (LAST UPDATED 9/20/19)

State	Allows NJSA Wrapper*	Express Power to Modify w/ NJSA**	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
Iowa (Iowa Code §633A.6308)	Yes	No (expressly precludes modification with an NJSA) §633A.6308.2	Interested persons (UTC definition) §633A.6308.1	Intentional breach, gross negligence, bad faith, reckless indifference, and profit derived from a breach §633A.4505	Yes (silent on consideration) §633A.4505	§633A.6308.2 expressly precludes modification with an NJSA
Kansas (UTC) (Kan. Stat. Ann. §58a-111)	No	No (includes finite list of matters that an NJSA can be used for) §58a-111(d)	Interested persons (UTC definition) §58a-111(a)	Bad faith and reckless indifference §58a-1008	Yes (silent on consideration) §58a-1009	§58a-111(d) Matters that may be resolved by NJSA do not include the interpretation or construction of the terms of the trust; direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power
Kentucky (UTC) (Ky. Rev. Stat. Ann. 386B.1-090)	Yes	No	Interested persons (UTC definition) §386B.1-090(t)	Bad faith and reckless indifference §386B.10-080	Yes (silent on consideration) §386B.10-090	386B.1-090(6) The District Court shall have exclusive jurisdiction over matters under this section.
Maine (UTC) (Me. Stat. Ann. tit 18-B, §111)	Yes	No	Interested persons (UTC definition) §111(t)	Bad faith and reckless indifference §1008	Yes (silent on consideration) §1109	
Maryland (Md. Code Ann. Est. & Trust §14.5-111)	Yes	No	Interested persons (UTC definition) §14.5-111(A)	Bad faith and reckless indifference §14.5-906	Yes (silent on consideration) §14.5-907	
Massachusetts (UTC) (Mass. Gen. Laws. ch. 203E, §111)	Yes	No	Interested persons (UTC definition) §111(a)	Bad faith and reckless indifference §1008	Yes (silent on consideration) §1109	
Michigan (UTC) (Mich. Comp. Laws §700.7111)	Yes	No (expressly prohibits modification) §700.7111(2)	Interested persons (UTC definition) §700.7111(5)	Bad faith and reckless indifference §700.7908	Yes (silent on consideration) §700.7909	§700.7111(2) A nonjudicial settlement agreement shall not be used to accomplish the termination or modification of the trust.

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Nonjudicial Settlement Agreement (NJSA) Statutes (LAST UPDATED 9/20/19)

State	Allows NJSA Wrapper*	Express Power to Modify w/ NJSA**	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
Minnesota (UTC) (Minn Stat. §501C.0111)	Yes	No	Interested persons (UTC definition) §501C.0111(a)	Bad faith and reckless indifference §501C.1008	Yes (silent on consideration) §501C.1009	
Mississippi (UTC) (Miss. Code Ann. §91-8-111)	Yes	No	Trustee and qualified beneficiaries §91-8-111(a)	Bad faith and reckless indifference §91-8-1008	Yes (silent on consideration) §91-8-1009	§91-8-111(c)(7-9). Additional permitted matters; the extent or waiver of bond of a trustee; and the criteria for distribution to a beneficiary where the trustee is given discretion.
Missouri (UTC) (Mo. Rev. Stat. §456.1-111)	Yes	Yes but only for the same reasons a court could modify §456.1-4111.6)	Interested persons (UTC definition) §456.1-111.1	Bad faith and reckless indifference §456.10-1008	Yes (silent on consideration) §456.10-1009	§456.1-111(6). A nonjudicial settlement agreement may not be used to terminate or modify a trust for the reasons that a court could terminate or modify a trust
Montana (UTC) (Mont. Code Ann. §72-38-111)	Yes	No	Interested persons (UTC definition) §72-38-111(4)	Bad faith and reckless indifference §72-38-1008	Yes (silent on consideration) §72-38-1009	
Nebraska (UTC) (Neb. Rev. Stat. §30-3811)	Yes	No	Interested persons (UTC definition) §50-3811(a)	Bad faith and reckless indifference §50-3897	Yes (silent on consideration) §50-3898	
New Hampshire (UTC) (N.H. Rev. Stat. Ann. §564-B:1-111)	Yes	Yes §564-B:1-111(d)(7)	Interested persons (UTC definition, but excludes settlor and includes trustees, persons with the power to enforce a trust, and if the trust is charitable the director of charitable trusts) §564-B:1-111(a)	Bad faith and reckless indifference §564-B:10-1008	Yes (silent on consideration) §564-B:10-1009	§564-B:1-111(d)(7) additional provision for the termination or modification of a trust
New Jersey (N.J. Rev. Stat. Ann. §3B:31-11)	Yes	No	Interested persons (UTC definition) §3B:31-11	Bad faith and reckless indifference §3B:31-77	Yes (silent on consideration) §3B:31-78	§3B:31-11(f) additional prohibition for the termination or modification of a trust

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Nonjudicial Settlement Agreement (NJSA) Statutes (LAST UPDATED 9/20/19)

State	Allows NJSA Wrapper ⁶	Express Power to Modify w/ NJSA ⁶	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
New Mexico (UTC) N.M. Stat. Ann. §46A-1-111)	Yes	No	Interested persons (UTC definition) §46A-1-111(a)	Bad faith and reckless indifference §46A-1-1008	Yes (silent on consideration) §46A-1-1009	
North Carolina (UTC) N.C. Gen. Stat. §36C-1-111)	Yes	No	Interested persons (UTC definition) §36C-1-111(a)	Bad faith and reckless indifference §36C-1-1008	Yes (silent on consideration) §36C-1-1009	§36C-1-111(d) Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in Article 3 of this Chapter was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.
North Dakota (UTC) N.D. Cent. Code §59-09-11)	Yes	No	Interested persons (UTC definition plus trustee) §59-09-11.1	Bad faith and reckless indifference §59-18-08	Yes (silent on consideration) §59-18-09	§59-09-11(4) Matters that may be resolved by an NJSA include the extent or waiver of bond of a trustee, and the criteria for distribution to a beneficiary where the trustee is given discretion
Ohio (UTC) Ohio Rev. Code Ann. §5801.10 (called an "agreement")	Yes	Yes (if it does not violate a material purpose) §5801.10(C)(4)	Parties (may include the settlor, beneficiaries, trustee, creditors, and Attorney General) §5801.10(B)	Bad faith and reckless indifference §5810.08	Yes (silent on consideration) §5810.09	§5801.10(C)(4) modification if it does not violate a material purpose No statute following general NJSA framework
Oregon (UTC) Or. Rev. Stat. §130.045)	Yes	Yes §130.045(5)(i)	Interested persons (defined to include a living settlor, trustee, qualified beneficiaries, and Attorney General if a charitable trust) §130.045(i)	Bad faith and reckless indifference §130.835	Yes (silent on consideration) §130.840	§130.045(5)(i) Express Power to Modify Substantially more robust definitional framework

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Nonjudicial Settlement Agreement (NJSA) Statutes (LAST UPDATED 9/20/19)

State	Allows NJSA Wrapper*	Express Power to Modify w/ NJSA**	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
Pennsylvania (UTC) [20 Pa. Cons. Stat. §7710.1]	Yes	Yes §7710.1(d)(11)	All beneficiaries and trustees §7710.1(b)	Bad faith and reckless indifference §7788	Yes (silent on consideration) §7789	§7710.1(a) No explicit definition of "interested person"; §7710.1(d)(7-13) Additional permitted matters; the grant to a trustee of any necessary or desirable power; the exercise or nonexercise of any power by a trustee; questions relating to the property or an interest in trust; an action or proposed action by or against a trust or trustee; the modification or termination of a trust; an investment decision, policy, plan or program of a trustee; any other matter concerning the administration of a trust.
South Carolina (UTC) [S.C. Code Ann. §62-7-111]	Yes	No	Interested persons (UTC definition) §62-7-111(a)	Bad faith and reckless indifference §62-7-1008	Yes (silent on consideration) §62-7-1009	§62-7-111 No limitation on NJSA validity; may not resolve interpretation or construction of a trust by an NJSA
South Dakota (UTC)	Yes	Yes [§55-1B-6(1)]	Parties (may include the settlor, trust advisor, or trust protector) [§55-2-13]		Yes (silent on consideration) [§55-3-45]	§2-12: Additional permitted matters; the determination of a fiduciary or representative's compensation; partial or final settlement agreements regarding a trust or its administration

THE ADVANTAGES OF DELAWARE TRUST LAW

Overview of State Nonjudicial Settlement Agreement (NJSA) Statutes (LAST UPDATED 9/20/19)

State	Allows NJSA Wrapper ⁶	Express Power to Modify w/ NJSA ^{6a}	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
Tennessee (UTC) [Tenn. Code Ann. §35-15-111]	Yes	No	Qualified beneficiaries §35-15-111; 35-15-103(13)(a); 35-15-110	Bad faith and reckless indifference §35-15-1008	Yes (silent on consideration) §35-15-1009	§35-15-111 No explicit definition of "interested person." Additional matters that may be resolved by NJSA; the extent or waiver of bond of a trustee; the governing law of the trust; and the criteria for distribution to a beneficiary where the trustee is given discretion.
Utah (UTC) [Utah Code Ann. §75-7-110]	Yes	No	Interested persons (UTC definition) §75-7-110(1)	Bad faith and reckless indifference §75-7-1008	Yes (silent on consideration) §75-7-1009	
Vermont (UTC) [Vt. Stat. Ann. tit. 14A, §111]	Yes	No	Interested persons (UTC definition) §111(a)	Bad faith and reckless indifference §1008	Yes (silent on consideration) §1009	
Virginia (UTC) [Va. Code Ann. §64.2-709]	Yes	No	Interested persons (UTC definition) §64.2-709.A	Bad faith and reckless indifference §64.2-799	Yes (silent on consideration) §64.2-800	
Washington [Wash. Rev. Code Ann. §11.96A.030(2)] [§11.96A.030(5)] (called a "binding agreement")	Maybe	No	Parties (list of defined parties) §11.96A.030(5)	Result of an abuse of a fiduciary relationship between trustor and trustee §11.98.107	Yes (silent on consideration) §11.98.108	Substantially different definitional framework

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State	Allows NJSA Wrapper*	Express Power to Modify w/ NJSA**	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
West Virginia (UTC) (W. Va. Code §44D-1-111)	Yes	Yes §44D-1-111(b)(12)	Interested persons (UTC definition) §44D-1-111(a)	Bad faith and reckless indifference §44D-10-1008	Yes (silent on consideration) §44D-10-1009	§44D-1-111(b)(7-13) Additional matters that may be resolved by NJSA; Questions relating to the property or an interest in property held as part of a trust; an investment decision, policy, plan or program of the trustee; the grant to a trustee of any necessary or desirable power; the exercise or nonexercise of any power by a trustee; an action or proposed action by or against a trust or trustee; the modification or termination of a trust; and any other matter concerning the administration of a trust.
Wisconsin (UTC) (Wis. Stat. Ann. §701.011)	Yes	No	Interested persons (UTC definition) §701.011(d)	Bad faith and reckless indifference §701.1008	Yes §701.1009	§701.011(5)(g-l) Additional matters that may be resolved by NJSA; the liability or release from liability of a trustee for an action relating to the trust; the criteria for distribution to a beneficiary where the trustee is given discretion; the resolution of disputes arising out of the administration or distribution of the trust; an investment action; the appointment of and powers granted to a directing party or a trust protector; direction to a directing party or to a trust protector to perform or refrain from performing a particular act or the grant of a power to a directing party or trust protector.

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State	Allows NJSA Wrapper*	Express Power to Modify w/ NJSA**	Required Parties	Statutory Limit on Trustee Exculpation	Statute Validating Trustee Releases	Departures from UTC
Wyoming (UTC)	Yes	No	Interested persons (defined to include settlor if living, trustee, and trust protector) §44D-10-111(a)	Bad faith and reckless indifference §4-10-1008	Yes (silent on consideration) §4-10-1009	§4-10-111(d)(vii) Additional matters that may be resolved by NJSA: an election to treat the trust as a qualified spendthrift trust under article 5 of this act and modification of the trust to comply with W.S. 4-10-510

Notes:

* An "NJSA wrapper" is a tool whereby interested parties use a NJSA to appoint a trustee, grant a trustee a power, direct another trustee not to exercise that power, and address the liability and compensation of the trustees.

** Some NJSA statutes expressly provide that the NJSA may be used to modify the terms of an irrevocable trust.

*** A notation that a state uses the "UTC definition" of interested person means that the state has a statute modeled after the UTC that defines interested persons to be those persons whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the court.

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Overview of State Directed Trust Statutes* [LAST UPDATED 9/20/19]

State	Scope of Statute	Variety of Statute	Standard of Liability
Alabama Ala. Code §19-3B-808(b)	Any Power	UTC §808****	Liability for deciding when to follow directions
Alaska Alaska Stat. §13.32.072(c)	Any Power	Enabling***	No Liability
Arizona Ariz. Rev. Stat. Ann. §14-10808(B)	Investment Decisions Only	Enabling	Bad Faith/Reckless Indifference
Arkansas Ark. Code §28-73-103(19) (UDTA)	Any Power – adopted UDTA	Enabling	Willful Misconduct
California			
Colorado Col. Rev. Stat. §15-5-101 (UDTA)	Any Power – adopted UDTA	Enabling	Willful Misconduct
Connecticut H.B. 07104 §§81-98, 2019 Leg., Reg. Sess. (Conn. 2019) [effective January 1, 2020] (UDTA)	Any Power	Enabling	Willful Misconduct
Delaware 12 Del. C. §3313	Investment, Distribution, or Any Other Decisions	Enabling	Willful Misconduct
District of Columbia D.C. Code Ann. §19-1308.08(b)	Any Power	UTC §808	Liability for deciding when to follow directions
Florida Fla. Stat. §736.0703(g)	Where Directing Person is Cotrustee	Enabling	Willful Misconduct of Directing Trustee of Which Directed Trustee has Knowledge
Georgia Ga. Code Ann. §53-12-500 et seq. (UDTA)	Any Power – adopted UDTA	Enabling	Willful Misconduct
Hawaii			

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State	Scope of Statute	Variety of Statute	Standard of Liability
Idaho Idaho Code §15-7-501(2), (5)	Investment Decisions or Discretionary Distributions	Enabling	No Liability
Illinois 760 Ill. Comp. Stat. §5/16.3(f)(1)	Investment Trust Advisor; Distribution Trust Advisor	Off The Rack**	Willful Misconduct
Indiana Ind. Code §30-4-1-2 (UDTA)	Any Power – adopted UDTA	Enabling	Willful Misconduct
Iowa Iowa Code Ann. §633 A.4207(2)	Any Power	Restatement (second) §185 of Trusts	Liability for deciding when to follow directions
Kansas Kan. Stat. Ann. §58a-808(b)	Any Power	UTC §808	Liability for deciding when to follow directions
Kentucky Ky. Rev. Stat. Ann. §286.3-275	Applies to Corporate Trustees; Investment Decisions; Authorized Directions Only	Off The Rack	No Liability
Louisiana			
Maine Me. Rev. Stat. Ann. Tit. 18-B §103 (UDTA)	Any Power – adopted UDTA	Enabling	Willful Misconduct
Maryland Md. Code Ann. Est. & Trusts §14.5-808	Any Power	UTC §808	Liability for deciding when to follow directions
Massachusetts Mass. Gen. Laws. ch. 203E, §808(b)	Any Power	UTC §808	Liability for deciding when to follow directions
Michigan Mich. Comp. Laws §700.7703a (UDTA)	Any Power – adopted UDTA	Enabling	Willful Misconduct
Minnesota Minn. Stat. A. §501C.0808	Investment Trust Advisor; Distribution Trust Advisor	Off the Rack	Willful Misconduct
Mississippi Miss. Code Ann. §91-8-808	Any Power	UTC §808	Liability for deciding when to follow directions

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State	Scope of Statute	Variety of Statute	Standard of Liability
Missouri Mo. Stat. Ann. §456.8-808(B)	Investment, Distribution, or Any Other Decisions	Enabling	Bad Faith/Reckless Indifference
Montana Mont. Code Ann. §72-38-808	Any Power	UTC §808	Liability for deciding when to follow directions
Nebraska Neb. Rev. Stat. §30-3805 (UDTA)	Any Power – adopted UDTA	Enabling	Willful Misconduct
Nevada Nev. Rev. Stat. §163.5549	Investment Trust Advisor; Distribution Trust Advisor	Enabling	No Liability
New Hampshire N.H. Rev. Stat. Ann. §564-B:8-808(b)	Investment, Distribution, or Any Other Decisions	Enabling	No Liability
New Jersey N.J. Rev. Stat. Ann. §3B:31-62	Investment Decisions	Off-The-Rack	Willful Misconduct and Gross Negligence
New Mexico N.M. Stat. Ann. §46-14-1 et seq. (UDTA)	Any Power – adopted UDTA	Enabling	Willful Misconduct
New York			
North Carolina N.C. Gen. Stat. §§36C-7-703(g1), 32-7Z(d)(2)(a), 36C-8A-4(a)	Investment, Distribution, or Any Other Decisions	Enabling	Intentional Misconduct
North Dakota N.D. Cent. Code §§59-16.2-01-08	Investment Trust Advisor; Distribution Advisor	Off the Rack	Willful Misconduct
Ohio Ohio Rev. Code Ann. §§5808.08(B), 5815.25(B)	Investment, Distribution, or any Other Decisions	Off The Rack	No Liability

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Overview of State Directed Trust Statutes* [LAST UPDATED 9/20/19]

State	Scope of Statute	Variety of Statute	Standard of Liability
Oklahoma Okla. Stat. Ann. Tit. 60, §175.19	Investment Decisions Only	Enabling	Except to the Extent Negligent in Carrying Out the Execution of the Directed Investment or Other Directed Action
Oregon Or. Rev. Stat. §130.685(2)	Any Power	UTC §808	Liability for deciding when to follow directions
Pennsylvania 20 Pa. Cons. Stat. §7778(b)	Any Power	UTC §808	Liability for deciding when to follow directions
Rhode Island			
South Carolina S.C. Code Ann. §62-7-808(b)	Any Power	UTC §808	Liability for deciding when to follow directions
South Dakota S.D. Codified Laws Ann. §§55-1B-2(1), 55-1B-5	Investment Trust Advisor; Distribution Trust Advisor	Off The Rack	No Liability
Tennessee Tenn. Code Ann. §§35-15-808(b), (e), 35-3-122	Advisory or Investment Committee, or Any Other Person	Off The Rack	No Liability
Texas Tex. Prop. Code Ann. §114.0031	Investment, Distribution, or Any Other Decisions	Enabling	Willful Misconduct
Utah Utah Code Ann. §75-12-101 (UDTA)	Any Power – adopted UDTA	Enabling	Willful Misconduct
Vermont Vt. Stat. Ann. tit. 14A, §808(b) (UTC 808)	Any Power	UTC §808	Liability for deciding when to follow directions
Virginia Va. Code Ann. §64.2-770(E)	Where Statute Expressly Incorporated into Trust by Reference	Enabling	Willful Misconduct/Gross Negligence
Washington Wash. Rev. Code Ann. §11.98A.010 through 900	Investment, Distribution, or Any Other Decisions	Enabling	No Liability for Relying on Direction

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Overview of State Directed Trust Statutes* [LAST UPDATED 9/20/19]

State	Scope of Statute	Variety of Statute	Standard of Liability
West Virginia W. Va. Code §44D-8-808(b) (UTC 808)	Any Power	UTC §808	Liability for deciding when to follow directions
Wisconsin Wisc. Stat. §701.0808	Investment, Distribution, or Any Other Decisions	Off The Rack	Willful Misconduct
Wyoming Wyo. Stat. Ann. §§4-10-712 through 4-10-718	Investment, Distribution Decisions, or Any Other Matter	Enabling	No Liability

Notes:

* This chart summarizes directed trust statutes, which allow someone other than the trustee to possess responsibilities and liabilities traditionally associated with the trustee function.

** The term "off-the-rack", refers to a statute that provides a detailed statutory rubric that outlines the specific role and responsibilities of the direction adviser – usually an investment adviser and/or distribution adviser – and sometimes require adherence to statutory language to fall within the protections of the statute.

*** The term "enabling", refers to a statute that provides for an open-architecture design, which relies heavily on the drafting of the governing instrument and could provide greater flexibility while remaining under the protection of the statute (such as permitting direction for functions beyond investments, distributions or a defined set of trust protector responsibilities).

**** UTC §808 refers to a statute that is substantially similar to Uniform Trust Code Section 808.