

1 ENGROSSED HOUSE
2 BILL NO. 2257

By: Sherrer and McCullough of
the House

3 and

4 Burrage of the Senate

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8 An Act relating to property; amending 60 O.S. 2011,
9 Section 175.3, which relates to the Oklahoma Trust
10 Act; adding definition for trustee advisor; and
11 providing an effective date.

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13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 60 O.S. 2011, Section 175.3, is
15 amended to read as follows:

16 Section 175.3 As used in this act unless the context or subject
17 matter otherwise requires:

18 A. "Person" means an individual, a corporation, a partnership,
19 an association, a joint stock company, a business trust, an
20 unincorporated organization, or two or more persons having a joint
21 or common interest.

22 B. "Trustor" means the maker, creator, donor, settlor, grantor,
23 of a trust and the testator or testatrix of a will containing trust
24 provisions.

1 C. "Trustee" includes trustees, a corporate trustee and the
2 judicially ordered successor of the corporate trustee in the event
3 of assumption by a financial institution of fiduciary accounts for
4 all trusts of the corporate trustee in existence on the date of the
5 assumption, including testamentary trusts which come into existence
6 after the date of assumption, as well as a natural person and a
7 successor or substitute trustee. Provided, a successor in interest
8 shall include a judicially ordered successor in the event of an
9 assumption by a financial institution of fiduciary accounts for all
10 trusts in existence on the date of the assumption, together with
11 those testamentary trusts which come into existence after the date
12 of assumption.

13 D. "Relative" means a spouse, ancestor, descendant, brother, or
14 sister, by blood or adoption.

15 E. "Affiliate" means any person directly or indirectly
16 controlling or controlled by another person, or any person under
17 direct or indirect common control with another person. It includes,
18 but is not limited to, any person with whom a trustee has an express
19 or implied agreement regarding the purchase of trust investments by
20 each from the other, directly or indirectly, except a broker or
21 stock exchange. It does not include a bank, trust company or
22 affiliate of a bank or trust company which is providing services to
23 an investment company or trust as investment ~~adviser~~ advisor,

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1 sponsor, distributor, custodian, transfer agent, administrator,
2 registrar or otherwise.

3 F. "Trust" means an express trust only, and does not include so
4 called "business trusts".

5 G. "Principal" means any real or personal property which has
6 been so set aside or limited by the owner thereof, or a person
7 thereto, legally empowered that it and any substitutions for it are
8 eventually to be conveyed, delivered, or paid to a person, while the
9 return therefrom, or use thereof, or any part of such return or use
10 is in the meantime to be taken or received by or held for
11 accumulation for the same or another person.

12 H. "Income" means the return derived from principal.

13 I. "Tenant" means the person to whom income is presently or
14 currently payable, or for whom it is accumulated or who is entitled
15 to the beneficial use of the principal presently and for a time
16 prior to its distribution.

17 J. "Remainderman" means the person ultimately entitled to the
18 principal, whether named or designated by the terms of the
19 transaction by which the principal was established or determined by
20 operation of law.

21 K. "Beneficiary" means any person entitled to receive from a
22 trust any benefit of whatsoever kind or character.

23 L. "Trustee's compensation," as used in this act, means the
24 normal, recurring fee of the trustee for services in the management

1 and administration of the trust estate, irrespective of the manner
2 of computation of such fee. "Trustee's commission," as used in this
3 act, means the fee of the trustee for services rendered, other than
4 in the normal management and administration of the trust estate, and
5 includes extraordinary services, remuneration of the trustee for
6 acceptance, distribution, termination, and all other fees of similar
7 nature, as distinguished from regularly recurring compensation for
8 management and supervision of the trust estate by the trustee.

9 M. "Trustee advisor" means a person appointed by the terms of
10 the trust instrument to act as an advisor to the trustee with regard
11 to all or some of the matters relating to the property of the trust.
12 Unless otherwise provided by the terms of the trust instrument, if a
13 trustee advisor is appointed, the property and management of the
14 trust and the exercise of all powers and discretionary acts
15 exercisable by the trustee remain vested in the trustee as fully and
16 effectively as if an advisor were not appointed, the trustee is not
17 required to follow the advice of the trustee advisor, and the
18 trustee advisor is not liable as or considered to be a trustee of
19 the trust or a fiduciary when acting as an advisor to the trust.

20 SECTION 2. This act shall become effective November 1, 2012.
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