

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 HOUSE BILL 2257

 By: Sherrer

7 AS INTRODUCED

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.

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.

1 B. "Trustor" means the maker, creator, donor, settlor, grantor,
2 of a trust and the testator or testatrix of a will containing trust
3 provisions.

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

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

18 E. "Affiliate" means any person directly or indirectly
19 controlling or controlled by another person, or any person under
20 direct or indirect common control with another person. It includes,
21 but is not limited to, any person with whom a trustee has an express
22 or implied agreement regarding the purchase of trust investments by
23 each from the other, directly or indirectly, except a broker or

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1 stock exchange. It does not include a bank, trust company or
2 affiliate of a bank or trust company which is providing services to
3 an investment company or trust as investment ~~adviser~~ advisor,
4 sponsor, distributor, custodian, transfer agent, administrator,
5 registrar or otherwise.

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

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

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

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

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

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

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

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

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

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3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/14/2012 - DO
4 PASS.