SENATE FLOOR VERSION
March 29, 2012

ENGROSSED HOUSE
BILL NO. 2257 By: Sherrer and McCullough of the House

and

Burrage of the Senate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-27-12 - DO PASS.