

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2257

By: Sherrer

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6 AS INTRODUCED

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

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

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

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

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

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

23 C. "Trustee" includes trustees, a corporate trustee and the  
24 judicially ordered successor of the corporate trustee in the event

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

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

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

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

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

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

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

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

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

21 L. "Trustee's compensation," as used in this act, means the  
22 normal, recurring fee of the trustee for services in the management  
23 and administration of the trust estate, irrespective of the manner  
24 of computation of such fee. "Trustee's commission," as used in this

1 act, means the fee of the trustee for services rendered, other than  
2 in the normal management and administration of the trust estate, and  
3 includes extraordinary services, remuneration of the trustee for  
4 acceptance, distribution, termination, and all other fees of similar  
5 nature, as distinguished from regularly recurring compensation for  
6 management and supervision of the trust estate by the trustee.

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

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

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