

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

HOUSE BILL 4196

By: Schreiber

AS INTRODUCED

An Act relating to the Oklahoma Uniform Trust Code; providing that provisions in a will or trust that cause certain forfeiture or that voids a devise is enforceable in certain circumstances; declaring that forfeiture clauses generally will not be construed to prevent a beneficiary from seeking certain actions; amending 60 O.S. 2021, Section 175.23, which relates to jurisdiction of district court regarding trusts; modifying venue location; modifying necessary parties to certain actions; providing representation requirements; amending 60 O.S. 2021, Section 175.717, which relates to exceptions to power of distribution; updating statutory references; amending Section 39, Chapter 369, O.S.L. 2024 (60 O.S. Supp. 2025, Section 1402), which relates to binding nonjudicial settlement agreements; defining term; providing representation requirements; amending Section 3, Chapter 254, O.S.L. 2025 (60 O.S. Supp. 2025, Section 1601.3), which relates to Oklahoma Uniform Trust Code definitions; modifying definition; amending Section 46, Chapter 254, O.S.L. 2025 (60 O.S. Supp. 2025, Section 1607.7), which relates to delivery of property by former trustee; modifying timeframe to deliver trust property; amending Section 71, Chapter 254, O.S.L. 2025 (60 O.S. Supp. 2025, Section 1609.7), which relates to certification of trust; updating statutory reference; amending Section 74, Chapter 254, O.S.L. 2025 (60 O.S. Supp. 2025, Section 1610.3), which relates to the applicability of the Oklahoma Uniform Trust Code; providing duty owed to a qualified beneficiary in certain circumstances; providing for codification; and providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 1604.17 of Title 60, unless
4 there is created a duplication in numbering, reads as follows:

5 A. A provision in a will or trust that would cause a forfeiture
6 of or void a devise or provision in favor of a person for bringing a
7 court action, including contesting a will or trust, is enforceable
8 unless in a court action determining whether the forfeiture clause
9 should be enforced, the person who brought the action contrary to
10 the forfeiture clause establishes by a preponderance of the evidence
11 that:

12 1. Just cause existed for bringing the action; and

13 2. The action was brought and maintained in good faith.

14 B. Forfeiture clauses generally will not be construed to
15 prevent a beneficiary from seeking to compel a fiduciary to perform
16 the fiduciary's duties, seeking redress against a fiduciary for a
17 breach of the fiduciary's duties, or seeking a judicial construction
18 of a will or trust.

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1608.17 of Title 60, unless
21 there is created a duplication in numbering, reads as follows:

22 A. A trustee may elect to proceed under this section to obtain
23 a nonjudicial settlement of account when:

24 1. The trust terminates in whole or in part;

1 2. The trustee ceases or intends to cease to serve for any
2 reason; or

3 3. The trustee seeks discharge for an interim accounting period
4 when the trust is continuing.

5 B. Within a reasonable time after a trustee elects to proceed
6 under this section, the trustee shall give notice of a request for
7 nonjudicial account settlement in the manner and to the extent
8 required by subsections A, B, and C of Section 1601.9 to:

9 1. The qualified beneficiaries of the trust;

10 2. Any other beneficiary who has sent the trustee a written
11 request for notice; and

12 3. Any cotrustee, trust director, or similar fiduciary or
13 successor trustee.

14 C. The trustee may also provide notice to any other person who
15 the trustee reasonably believes may have an interest in the trust.

16 D. Whether notice is mandatory or permissive, the trustee may
17 give notice to a representative in accordance with Article 3 of this
18 code (relating to representation). The time period for the
19 presumption of the representative's acceptance of the representation
20 shall be deemed to run concurrently with the notice period provided
21 under this section.

22 E. The notice under subsection B or C of this section shall
23 provide:

24 1. The reason for providing notice under this section;

1 2. To the extent applicable, the proposed distribution of the
2 net assets of the trust, including the distributees and proportions
3 to be distributed;

4 3. To the extent applicable, an estimate of disbursements
5 anticipated to be made prior to distribution, including legal fees
6 and trustee fees, if any;

7 4. Trust account statements showing all transactions, the fair
8 market value of all assets and realized and unrealized gains and
9 losses on assets held in the account for thirty (30) months prior to
10 the date a trust terminates, the cessation of the trustee's service
11 or statement of intent to cease to serve, or the end of the interim
12 accounting period, or for the entire term of the trust if the term
13 of the trust is shorter than the 30-month period;

14 5. A statement that the trustee seeks settlement of the account
15 of the trust, including the period of time for which the trustee
16 seeks discharge of the account of the trust, and that clearly and
17 conspicuously states that claims against a trustee under Article 9
18 of this code (relating to liability of trustees and rights of
19 persons dealing with trustees) and Sections 175.23 and 175.57 of
20 this title, if applicable, will be forever barred if no objections
21 are received within the time period described in subsection G;

22 6. The name and mailing address of the trustee; and

23 7. The name and telephone number of a person who may be
24 contacted for additional information.

1 F. To the extent applicable, distributions from a terminating
2 trust, and any fees and expenses due or anticipated as of the date
3 that the settlement of account is requested, may be held by or on
4 behalf of the trustee until the settlement of account is approved or
5 deemed approved as provided by this section.

6 G. A person provided notice under subsections B or C of this
7 section may object to the settlement of account by giving written
8 notice to the trustee within sixty (60) days after the notice was
9 sent. If a person given notice under subsections B or C of this
10 section makes timely objections to the settlement of account, the
11 trustee or the person making the objections may:

12 1. Submit the written objection to the court and commence a
13 proceeding for its resolution; or

14 2. Resolve the objection by nonjudicial settlement agreement
15 under Section 1402 of this title (relating to nonjudicial settlement
16 agreements) or otherwise.

17 H. If no timely objections are raised under subsection G of
18 this section, or objections are resolved as provided by subsection G
19 of this section, the settlement of account shall be deemed approved
20 and any assets held in trust shall, within a reasonable time
21 thereafter, be distributed subject to payment of expenses as
22 provided in subsection F of this section or shall continue to be
23 administered in trust subject to payment of expenses.

1 I. The trustee may rely upon the written statement of a person
2 receiving notice that the person does not object.

3 J. 1. When a settlement of account is deemed approved under
4 this section for a terminated trust or with respect to the duties of
5 a trustee who ceased to serve or stated an intent to cease to serve,
6 each person who was sent notice as provided by subsections B or C of
7 this section is barred from bringing a claim against the trustee or
8 challenging the distribution of assets of the trust to the same
9 extent and with the same preclusive effect as if the court had
10 entered a final, unappealable order approving the trustee's final
11 account.

12 2. When a settlement of account for a trustee seeking final
13 settlement of an interim trust account is deemed approved under this
14 section, each person who was sent notice as provided by subsections
15 B or C of this section is barred from bringing a claim against the
16 trustee for the period of the interim trust account to the same
17 extent and with the same preclusive effect as if the court had
18 entered a final, unappealable order approving the trustee's interim
19 trust account.

20 K. The provisions of Article 3 of this code (relating to
21 representation) shall apply to an account settlement under this
22 section.

23 L. Nothing in this section shall preclude a trustee from
24 proceeding under Section 175.23 of this title.

SECTION 3. AMENDATORY 60 O.S. 2021, Section 175.23, is

amended to read as follows:

Section 175.23. A. The district court shall have original jurisdiction to construe the provisions of any trust instrument; to determine the law applicable thereto; the powers, duties, and liability of trustee; the existence or nonexistence of facts affecting the administration of the trust estate; to require accounting by trustees; to surcharge trustee; and in its discretion to supervise the administration of trusts; and all actions hereunder are declared to be proceedings in rem.

B. The venue of such actions shall be ~~in the county where the trustees or any cotrustee resides~~ as provided in Section 1602.3 of this title. Upon obtaining jurisdiction the same shall not be divested by the removal of the trustee from the county where the action is commenced.

C. Actions hereunder may be brought by a trustee, beneficiary, or any person affected by the administration of the trust estate. If the action is predicated upon any act or obligation of any beneficiary, the beneficiary shall be a necessary party to the proceedings. The ~~only~~ necessary parties to such actions shall be ~~those persons designated as beneficiaries by name or class in the instrument creating the trust and who have a vested interest in the trust which is the subject of the action~~ include qualified beneficiaries, as defined in Section 1601.3 of this title, those

1 persons currently serving as trustees of the trust, and any persons
2 who may be actually receiving distributions from the trust estate at
3 the time the action is filed. ~~Contingent beneficiaries designated~~
4 ~~by name or class shall not be necessary parties.~~

5 D. The provisions of Article 3 of the Oklahoma Uniform Trust
6 Code (relating to representation) shall apply to all actions and
7 proceedings brought under provisions of this section.

8 E. The provisions of the statutes governing civil procedure,
9 commencement of action, process, process by publication, appointment
10 of guardians ad litem, supersedeas and appeal, shall govern all
11 actions and proceedings brought under provisions of this act.

12 ~~E.~~ F. A court of competent jurisdiction may, for cause shown
13 and upon notice to the ~~beneficiaries~~ necessary parties identified in
14 subsection C of this section, relieve a trustee from any or all of
15 the duties and restrictions which would otherwise be placed upon the
16 trustee by this act, or wholly or partly excuse a trustee who has
17 acted honestly and reasonably from liability for violations of the
18 provisions of this act provided that any such action or request for
19 action shall proceed under the provisions of Title 12 of the
20 Oklahoma Statutes, which relate to governing temporary restraining
21 orders and temporary injunctions.

22 SECTION 4. AMENDATORY 60 O.S. 2021, Section 175.717, is
23 amended to read as follows:

24 Section 175.717.

EXCEPTIONS TO POWER OF DISTRIBUTION

An authorized trustee shall not exercise a power to distribute principal of a trust under ~~Section 3 or 4 of this act~~ Sections 175.703 and 175.704 of this title to:

1. Reduce, limit or modify a beneficiary's current, vested right to:

- a. receive a mandatory distribution of income or principal,
- b. receive a mandatory annuity or unitrust interest,
- c. withdraw a percentage of the value of the trust, or
- d. withdraw a specified dollar amount from the trust;

2. Materially limit a trustee's fiduciary duty:

- a. under the terms of the trust, or
- b. in a manner that would be prohibited by the Oklahoma Trust Act, Section 175.1 et seq. of Title 60 of the Oklahoma Statutes, the Oklahoma Prudent Investor Act, Section 175.60 et seq. of Title 60 of the Oklahoma Statutes, the Oklahoma Principal and Income Act, Section 175.101 et seq. of Title 60 of the Oklahoma Statutes ~~or~~, the Oklahoma Charitable Fiduciary Act, Section 301.1 et seq. of Title 60 of the Oklahoma Statutes, or the Oklahoma Uniform Trust Code, Section 1601.1 et seq. of Title 60 of the Oklahoma Statutes;

1 3. Decrease or indemnify against a trustee's liability or
2 exonerate a trustee from liability;

3 4. Add a provision exonerating a trustee for failure to
4 exercise reasonable care, diligence and prudence;

5 5. Eliminate a provision granting another person the right to
6 remove or replace the authorized trustee exercising the distribution
7 power under ~~Section 3 or 4 of this act~~ Sections 175.703 and 175.704
8 of this title; or

9 6. Reduce, limit or modify in the second trust a perpetuities
10 provision included in the first trust, unless expressly permitted by
11 the terms of the first trust.

12 SECTION 5. AMENDATORY Section 39, Chapter 369, O.S.L.
13 2024 (60 O.S. Supp. 2025, Section 1402), is amended to read as
14 follows:

15 Section 1402. A. Except as otherwise provided in subsection B
16 of this section, the trustee and the qualified beneficiaries may
17 enter into a binding nonjudicial settlement agreement with respect
18 to any matter involving a trust.

19 B. A nonjudicial settlement agreement is valid only to the
20 extent it does not violate a material purpose of the trust and
21 includes terms and conditions that could be properly approved by the
22 court under this act or other applicable law.

23 C. Matters that may be resolved by a nonjudicial settlement
24 agreement include, but are not limited to:

- 1 1. The interpretation or construction of the terms of the
- 2 trust;
- 3 2. The approval of a trustee's report or accounting;
- 4 3. Direction to a trustee to refrain from performing a
- 5 particular act or the grant to a trustee of any necessary or
- 6 desirable power;
- 7 4. The resignation or appointment of a trustee and the
- 8 determination of a trustee's compensation;
- 9 5. Transfer of a trust's principal place of administration;
- 10 6. Liability of a trustee for an action relating to the trust;
- 11 7. The extent or waiver of bond of a trustee;
- 12 8. The governing law of the trust;
- 13 9. The criteria for distribution to a beneficiary where the
- 14 trustee is given discretion;
- 15 10. The resignation, appointment, and establishment of the
- 16 powers and duties of trust protectors or trust advisors; and
- 17 11. The approval of an investment decision, delegation, policy,
- 18 plan, or program.

19 D. Any qualified beneficiary or trustee may request the court
20 to approve a nonjudicial settlement agreement, to determine whether
21 the representation was adequate, and to determine whether the
22 agreement contains terms and conditions the court could have
23 properly approved.

1 E. The term "qualified beneficiary" shall have the same meaning
2 as defined in Section 1601.3 of this title.

3 F. The provisions of Article 3 of the Oklahoma Uniform Trust
4 Code (relating to representation) shall apply to nonjudicial
5 settlement agreements under this section.

6 SECTION 6. AMENDATORY Section 3, Chapter 254, O.S.L.
7 2025 (60 O.S. Supp. 2025, Section 1601.3), is amended to read as
8 follows:

9 Section 1601.3. As used in this act:

10 1. "Action", with respect to an act of a trustee, includes a
11 failure to act;

12 2. "Ascertainable standard" means a standard relating to an
13 individual's health, education, support, or maintenance within the
14 meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the Internal
15 Revenue Code of 1986, as in effect on ~~the effective date~~ November 1,
16 2025, of this act, or as later amended;

17 3. "Beneficiary" means a person who:

18 a. has a present or future beneficial interest in a
19 trust, vested or contingent, or

20 b. in a capacity other than that of trustee, holds a
21 power of appointment over trust property;

22 4. "Charitable trust" means a trust, or portion of a trust,
23 created for a charitable purpose described in subsection A of
24 Section ~~24~~ 1604.5 of this ~~act~~ title;

1 5. "Environmental law" means a federal, state, or local law,
2 rule, regulation, or ordinance relating to the protection of the
3 environment;

4 6. "Guardian of the property" means a person appointed by the
5 court to administer the estate of a minor or adult individual;

6 7. "Guardian of the person" means a person appointed by the
7 court to make decisions regarding the support, care, education,
8 health, and welfare of a minor or adult individual. The term does
9 not include a guardian ad litem;

10 8. "Interests of the beneficiaries" means the beneficial
11 interests provided in the terms of the trust;

12 9. "Jurisdiction", with respect to a geographic area, includes
13 a state or country;

14 10. "Person" means an individual, corporation, business trust,
15 estate, trust, partnership, limited liability company, association,
16 joint venture, government, governmental subdivision, agency, or
17 instrumentality, public corporation, or any other legal or
18 commercial entity;

19 11. "Power of withdrawal" means a presently exercisable general
20 power of appointment other than a power:

21 a. exercisable by a trustee and limited by an
22 ascertainable standard, or

23 b. exercisable by another person only upon consent of the
24 trustee or a person holding an adverse interest;

1 12. "Property" means anything that may be the subject of
2 ownership, whether real or personal, legal or equitable, or any
3 interest therein;

4 13. "Qualified beneficiary" means a beneficiary who, on the
5 date the beneficiary's qualification is determined:

6 a. is a distributee or permissible distributee of a
7 ~~present interest in the trust income or principal, or~~
8 ~~has a vested remainder in the trust,~~

9 b. would be a distributee or permissible distributee of
10 trust income or principal if the interests of the
11 distributees described in subparagraph a of this
12 paragraph terminated on that date,

13 c. would be a distributee or permissible distributee of
14 trust income or principal if the trust terminated on
15 that date,

16 d. is a charitable organization expressly entitled to
17 receive benefits under the terms of a charitable
18 trust, or

19 ~~e.~~

20 e. is the Attorney General of this state with respect to
21 a charitable trust having its principal place of
22 administration in this state;

1 14. "Revocable", as applied to a trust, means revocable by the
2 settlor without the consent of the trustee or a person holding an
3 adverse interest;

4 15. "Settlor" means a person, including a testator, who
5 creates, or contributes property to, a trust. If more than one
6 person creates or contributes property to a trust, each person is a
7 settlor of the portion of the trust property attributable to that
8 person's contribution except to the extent another person has the
9 power to revoke or withdraw that portion;

10 16. "Spendthrift provision" means a term of a trust which
11 restrains both voluntary and involuntary transfer of a beneficiary's
12 interest;

13 17. "State" means a state of the United States, the District of
14 Columbia, Puerto Rico, the United States Virgin Islands, or any
15 territory or insular possession subject to the jurisdiction of the
16 United States. The term includes an Indian tribe or band recognized
17 by federal law or formally acknowledged by a state;

18 18. "Terms of a trust" means:

19 a. except as otherwise provided in subparagraph b of this
20 paragraph, the manifestation of the settlor's intent
21 regarding a trust's provisions as:

22 (1) expressed in the trust instrument, or

23 (2) established by other evidence that would be
24 admissible in a judicial proceeding, or

b. the trust's provisions, as established, determined, or amended by:

(1) a trustee or other person in accordance with applicable law,

(2) a court order, or

(3) a nonjudicial settlement agreement under Section 1402 of ~~Title 60 of the Oklahoma Statutes~~ this title;

19. "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto; and

20. "Trustee" includes an original, additional, and successor trustee, and a co-trustee.

SECTION 7. AMENDATORY Section 46, Chapter 254, O.S.L. 2025 (60 O.S. Supp. 2025, Section 1607.7), is amended to read as follows:

Section 1607.7. A. Unless a co-trustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.

B. A trustee who has resigned or been removed shall ~~proceed~~ expeditiously to, within a reasonable time, deliver the trust property within the trustee's possession to the co-trustee,

1 successor trustee, or other person entitled to it, subject to the
2 right of the trustee to retain a reasonable reserve for the payment
3 of debts, expenses, and taxes. The provisions of the subsection are
4 in addition to and are not in derogation of the rights of a removed
5 or resigning trustee under common law.

6 SECTION 8. AMENDATORY Section 71, Chapter 254, O.S.L.
7 2025 (60 O.S. Supp. 2025, Section 1609.7), is amended to read as
8 follows:

9 Section 1609.7. A. Instead of furnishing a copy of the trust
10 instrument to a person other than a beneficiary, and in lieu of or
11 in addition to a memorandum of trust under subsection A of ~~Section~~
12 ~~175.6~~ Section 175.6a of Title 60 of the Oklahoma Statutes, the
13 trustee may furnish to the person a certification of trust
14 containing the following information:

15 1. That the trust exists and the date the trust instrument was
16 executed;

17 2. The identity of the settlor;

18 3. The identity and address of the currently acting trustee;

19 4. The powers of the trustee;

20 5. The revocability or irrevocability of the trust and the
21 identity of any person holding a power to revoke the trust;

22 6. The authority of co-trustees to sign or otherwise
23 authenticate and whether all or less than all are required in order
24 to exercise powers of the trustee;

1 7. The trust's taxpayer identification number; and

2 8. The manner of taking title to trust property.

3 B. A certification of trust under this section may be signed or
4 otherwise authenticated by any trustee.

5 C. A certification of trust under this section must state that
6 the trust has not been revoked, modified, or amended in any manner
7 that would cause the representations contained in the certification
8 of trust to be incorrect.

9 D. A certification of trust under this section need not contain
10 the dispositive terms of a trust.

11 E. A recipient of a certification of trust under this section
12 may require the trustee to furnish copies of those excerpts from the
13 original trust instrument and later amendments which designate the
14 trustee and confer upon the trustee the power to act in the pending
15 transaction.

16 F. A person who acts in reliance upon a certification of trust
17 under this section without knowledge that the representations
18 contained therein are incorrect is not liable to any person for so
19 acting and may assume without inquiry the existence of the facts
20 contained in the certification. Knowledge of the terms of the trust
21 may not be inferred solely from the fact that a copy of all or part
22 of the trust instrument is held by the person relying upon the
23 certification.

1 G. A person who in good faith enters into a transaction in
2 reliance upon a certification of trust under this section may
3 enforce the transaction against the trust property as if the
4 representations contained in the certification were correct.

5 H. A person making a demand for the trust instrument in
6 addition to a certification of trust under this section, or excerpts
7 of the trust instrument, is liable for damages if the court
8 determines that the person did not act in good faith in demanding
9 the trust instrument.

10 I. This section does not limit the right of a person to obtain
11 a copy of the trust instrument in a judicial proceeding concerning
12 the trust.

13 ~~ARTICLE 10~~

14 ~~MISCELLANEOUS PROVISIONS~~

15 SECTION 9. AMENDATORY Section 74, Chapter 254, O.S.L.
16 2025 (60 O.S. Supp. 2025, Section 1610.3), is amended to read as
17 follows:

18 Section 1610.3. A. Except as otherwise provided in this act,
19 on the effective date of this act:

20 1. This act applies to all trusts created before, on, or after
21 its effective date;

22 2. This act applies to all judicial proceedings concerning
23 trusts commenced on or after its effective date;

24

1 3. This act applies to judicial proceedings concerning trusts
2 commenced before its effective date unless the court finds that
3 application of a particular provision of this act would
4 substantially interfere with the effective conduct of the judicial
5 proceedings or prejudice the rights of the parties, in which case
6 the particular provision of this act does not apply and the
7 superseded law applies;

8 4. Any rule of construction or presumption provided in this act
9 applies to trust instruments executed before the effective date of
10 this act unless there is a clear indication of a contrary intent in
11 the terms of the trust; and

12 5. An ~~act enacted~~ action done before the effective date of this
13 act is not affected by this act.

14 B. 1. If a right is acquired, extinguished, or barred upon the
15 expiration of a prescribed period that has commenced to run under
16 any other statute before the effective date of this act, that
17 statute continues to apply to the right even if it has been repealed
18 or superseded.

19 2. For avoidance of doubt, if a duty owed to a beneficiary is
20 dependent upon the definition of the term "qualified beneficiary",
21 such duty would not apply to actions or inactions prior to the
22 effective date of the enactment of such definition. This
23 subparagraph is not intended to modify the law as it exists prior to
24 such effective date.

1 C. The applicable provisions of the Oklahoma Trust Act shall
2 continue to apply, unless such provision is inconsistent with an
3 express provision of this act and, further, except as expressly
4 provided in this act.

5 SECTION 10. This act shall become effective November 1, 2026.

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