

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

SENATE BILL 2104

By: Howard

AS INTRODUCED

An Act relating to trusts; amending 60 O.S. 2021, Section 175.23, which relates to jurisdiction of district court; clarifying venue of certain actions; clarifying necessary parties to certain actions; directing applicability of certain provisions; amending 60 O.S. 2021, Section 175.717, which relates to exceptions to power of distribution; modifying certain exceptions; amending Section 39, Chapter 369, O.S.L. 2024 (60 O.S. Supp. 2025, Section 1402), which relates to nonjudicial settlement agreements; defining term; directing applicability of certain provisions; 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 definitions; providing for enforceability of certain provisions; providing exceptions; providing certain evidentiary standard; construing provisions; 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 requirements for delivery of trust property by certain trustee; establishing procedures for trustee to obtain a nonjudicial settlement of account; requiring certain notice; stating required contents of certain notice; establishing procedures for objection to certain settlement; providing for distribution of trust assets under certain circumstances; barring certain claims; directing applicability of certain provisions; amending Section 74, Chapter 254, O.S.L. 2025 (60 O.S. Supp. 2025, Section 1610.3), which relates to applicability; construing provisions; updating statutory references; providing for codification; and providing an effective date.

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

4 SECTION 1. AMENDATORY 60 O.S. 2021, Section 175.23, is
5 amended to read as follows:

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

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

19 C. Actions ~~hereunder~~ under this section may be brought by a
20 trustee, beneficiary, or any person affected by the administration
21 of the trust estate. If the action is predicated upon any act or
22 obligation of any beneficiary, the beneficiary shall be a necessary
23 party to the proceedings. The ~~only~~ necessary parties to such
24 actions shall ~~be those persons designated as beneficiaries by name~~
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1 ~~or class in the instrument creating the trust and who have a vested~~
2 ~~interest in the trust which is the subject of the action~~ include
3 qualified beneficiaries as defined in Section 1601.3 of this title,
4 those persons currently serving as trustees of the trust, and any
5 persons who may be actually receiving distributions from the trust
6 estate at the time the action is filed. ~~Contingent beneficiaries~~
7 ~~designated by name or class shall not be necessary parties.~~

8 D. The provisions of Article 3 of the Oklahoma Uniform Trust
9 Code relating to representation shall apply to all actions and
10 proceedings brought under the provisions of this act.

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

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

SECTION 2. AMENDATORY 60 O.S. 2021, Section 175.717, is

amended to read as follows:

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~~ 175.703 or ~~4~~ 175.704 of this ~~act~~ 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~~ this title, the Oklahoma Prudent Investor Act, Section 175.60 et seq. of ~~Title 60 of the Oklahoma Statutes~~ this title, the Oklahoma Principal and Income Act, Section 175.101 et seq. of ~~Title 60 of the Oklahoma Statutes~~ or this title, the Oklahoma Charitable Fiduciary Act, Section 301.1 et

1 seq. of ~~Title 60 of the Oklahoma Statutes~~ this title,
2 or the Oklahoma Uniform Trust Code, Section 1601.1 et
3 seq. of this title;

4 3. Decrease or indemnify against a trustee's liability or
5 exonerate a trustee from liability;

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

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

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

14 SECTION 3. AMENDATORY Section 39, Chapter 369, O.S.L.
15 2024 (60 O.S. Supp. 2025, Section 1402), is amended to read as
16 follows:

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

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

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

3 1. The interpretation or construction of the terms of the
4 trust;

5 2. The approval of a trustee's report or accounting;

6 3. Direction to a trustee to refrain from performing a
7 particular act or the grant to a trustee of any necessary or
8 desirable power;

9 4. The resignation or appointment of a trustee and the
10 determination of a trustee's compensation;

11 5. Transfer of a trust's principal place of administration;

12 6. Liability of a trustee for an action relating to the trust;

13 7. The extent or waiver of bond of a trustee;

14 8. The governing law of the trust;

15 9. The criteria for distribution to a beneficiary where the
16 trustee is given discretion;

17 10. The resignation, appointment, and establishment of the
18 powers and duties of trust protectors or trust advisors; and

19 11. The approval of an investment decision, delegation, policy,
20 plan, or program.

21 D. Any qualified beneficiary or trustee may request the court
22 to approve a nonjudicial settlement agreement, to determine whether
23 the representation was adequate, and to determine whether the
24

1 agreement contains terms and conditions the court could have
2 properly approved.

3 E. For purposes of this section, "qualified beneficiary" shall
4 have the meaning set forth in Section 1601.3 of this title.

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

8 SECTION 4. AMENDATORY Section 3, Chapter 254, O.S.L.
9 2025 (60 O.S. Supp. 2025, Section 1601.3), is amended to read as
10 follows:

11 Section 1601.3. As used in this act:

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

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

19 3. "Beneficiary" means a person who:

20 a. has a present or future beneficial interest in a
21 trust, vested or contingent, or

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

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

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

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

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

13 8. "Interests of the beneficiaries" means the beneficial
14 interests provided in the terms of the trust;

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

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

22 11. "Power of withdrawal" means a presently exercisable general
23 power of appointment other than a power:
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- 1 a. exercisable by a trustee and limited by an
2 ascertainable standard, or
3 b. exercisable by another person only upon consent of the
4 trustee or a person holding an adverse interest;

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

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

- 10 a. is a distributee or permissible distributee of a
11 ~~present interest in the trust income or principal, or~~
12 ~~has a vested remainder in the trust,~~
13 b. would be a distributee or permissible distributee of
14 trust income or principal if the interests of the
15 distributee described in subparagraph a of this
16 paragraph terminated on such date,
17 c. would be a distributee or permissible distributee of
18 trust income or principal if the trust terminated on
19 such date,
20 d. is a charitable organization expressly entitled to
21 receive benefits under the terms of a charitable
22 trust, or

1 ~~e.~~ e. is the Attorney General of this state with respect to
2 a charitable trust having its principal place of
3 administration in this state;

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

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

13 16. "Spendthrift provision" means a term of a trust which
14 restrains both voluntary and involuntary transfer of a beneficiary's
15 interest;

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

21 18. "Terms of a trust" means:

22 a. except as otherwise provided in subparagraph b of this
23 paragraph, the manifestation of the settlor's intent
24 regarding a trust's provisions as:

- (1) expressed in the trust instrument, or
 - (2) established by other evidence that would be 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~~ cotrustee.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1604.17 of Title 60, unless there is created a duplication in numbering, reads as follows:

A. A provision in a will or trust that would cause a forfeiture of or void a devise or provision in favor of a person for bringing a court action contesting a will or trust, shall be enforceable unless in a court action determining whether the forfeiture clause should be enforced, the person who brought the action contrary to the

1 forfeiture clause establishes by a preponderance of the evidence
2 that:

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

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

5 B. Forfeiture clauses generally shall not be construed to
6 prevent a beneficiary from seeking to compel a fiduciary to perform
7 the fiduciary's duties, seeking redress against a fiduciary for a
8 breach of the fiduciary's duties, or seeking a judicial construction
9 of a will or trust.

10 SECTION 6. AMENDATORY Section 46, Chapter 254, O.S.L.
11 2025 (60 O.S. Supp. 2025, Section 1607.7), is amended to read as
12 follows:

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

18 B. A trustee who has resigned or been removed shall ~~proceed~~
19 ~~expeditiously to~~ within a reasonable time deliver the trust property
20 within the trustee's possession to the ~~co-trustee~~ cotrustee,
21 successor trustee, or other person entitled to ~~it~~ the property,
22 subject to the right of the trustee to retain a reasonable reserve
23 for the payment of debts, expenses, and taxes. The provisions of

1 this subsection shall be in addition to and are not in derogation of
2 the rights of a removed or resigning trustee under the common law.

3 SECTION 7. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1608.17 of Title 60, unless
5 there is created a duplication in numbering, reads as follows:

6 A. A trustee may elect to proceed under this section to obtain
7 a nonjudicial settlement of account when the:

8 1. Trust terminates in whole or in part;

9 2. Trustee ceases or intends to cease to serve for any reason;

10 or

11 3. Trustee seeks discharge for an interim accounting period
12 when the trust is continuing.

13 B. Within a reasonable time after a trustee elects to proceed
14 under this section, the trustee shall give notice of a request for
15 nonjudicial account settlement in the manner and to the extent
16 required by subsections A, B, and C of Section 1601.9 of Title 60 of
17 the Oklahoma Statutes to:

18 1. The qualified beneficiaries of the trust;

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

21 3. Any cotrustee, trust director, or similar fiduciary or
22 successor trustee.

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

1 D. Whether notice is mandatory or permissive, the trustee may
2 give notice to a representative in accordance with Article 3 of the
3 Oklahoma Uniform Trust Code relating to representation. The time
4 period for the presumption of the representative's acceptance of the
5 representation shall be deemed to run concurrently with the notice
6 period provided under this section.

7 E. The notice under subsection B or C of this section shall
8 provide:

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

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

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

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

23 5. A statement that the trustee seeks settlement of the account
24 of the trust, including the period of time for which the trustee

1 seeks discharge of the account of the trust, and that clearly and
2 conspicuously states that claims against a trustee under Article 9
3 of the Oklahoma Uniform Trust Code relating to liability of trustees
4 and rights of persons dealing with trustees and Sections 175.23 and
5 175.57 of Title 60 of the Oklahoma Statutes, if applicable, will be
6 forever barred if no objections are received within the time period
7 described in subsection G of this section;

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

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

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

16 G. A person provided notice under subsection B or C of this
17 section may object to the settlement of account by giving written
18 notice to the trustee within sixty (60) days after the notice was
19 sent. If a person given notice under subsection B or C of this
20 section makes timely objections to the settlement of account, the
21 trustee or the person making the objections may:

22 1. Submit the written objection to the court and commence a
23 proceeding for its resolution; or
24

1 2. Resolve the objection by nonjudicial settlement agreement
2 under Section 1402 of Title 60 of the Oklahoma Statutes or by other
3 statutory authority.

4 H. If no timely objections are raised under subsection G of
5 this section, or objections are resolved as provided by subsection G
6 of this section, the settlement of account shall be deemed approved
7 and any assets held in trust shall, within a reasonable time
8 thereafter, be distributed subject to payment of expenses as
9 provided in subsection F of this section or shall continue to be
10 administered in trust subject to payment of expenses.

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

13 J. 1. When a settlement of account is deemed approved under
14 this section for a terminated trust or with respect to the duties of
15 a trustee who ceased to serve or stated an intent to cease to serve,
16 each person who was sent notice as provided by subsection B or C of
17 this section is barred from bringing a claim against the trustee or
18 challenging the distribution of assets of the trust to the same
19 extent and with the same preclusive effect as if the court had
20 entered a final, unappealable order approving the trustee's final
21 account.

22 2. When a settlement of account for a trustee seeking final
23 settlement of an interim trust account is deemed approved under this
24 section, each person who was sent notice as provided by subsection B
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1 or C of this section is barred from bringing a claim against the
2 trustee for the period of the interim trust account to the same
3 extent and with the same preclusive effect as if the court had
4 entered a final, unappealable order approving the trustee's interim
5 trust account.

6 K. The provisions of Article 3 of the Oklahoma Uniform Trust
7 Code relating to representation shall apply to an account settlement
8 under this section.

9 L. Nothing in this section shall preclude a trustee from
10 proceeding under Section 175.23 of Title 60 of the Oklahoma
11 Statutes.

12 SECTION 8. AMENDATORY Section 74, Chapter 254, O.S.L.
13 2025 (60 O.S. Supp. 2025, Section 1610.3), is amended to read as
14 follows:

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

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

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

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

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

8 5. An act ~~enacted~~ done before the effective date of this act is
9 not affected by this act.

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

15 2. For avoidance of doubt, if a duty owed to a beneficiary is
16 dependent upon the definition of "qualified beneficiary", such duty
17 shall not apply to actions or inactions prior to the effective date
18 of the enactment of such definition. This paragraph shall not be
19 construed to modify the law existing prior to the effective date of
20 such definition.

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

SECTION 9. This act shall become effective November 1, 2026.

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