

386B.13-010 Definitions for subchapter.

As used in this subchapter:

- (1) "Appointive property" means the property or property interest subject to a power of appointment;
- (2) "Ascertainable standard" means the same as in KRS 386B.1-010;
- (3) "Authorized fiduciary" means:
 - (a) A trustee or other fiduciary, other than a settlor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one (1) or more current beneficiaries;
 - (b) A special fiduciary appointed under KRS 386B.13-080; or
 - (c) A special needs fiduciary under KRS 386B.13-120;
- (4) "Beneficiary" means a person that:
 - (a) Has a present or future, vested or contingent, beneficial interest in a trust;
 - (b) Holds a power of appointment over trust property; or
 - (c) Is an identified charitable organization that will or may receive distributions under the terms of the trust;
- (5) "Charitable interest" means an interest in a trust which:
 - (a) Is held by an identified charitable organization and makes the organization a qualified beneficiary;
 - (b) Benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or
 - (c) Is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary;
- (6) "Charitable organization" means:
 - (a) A person, other than an individual, organized and operated exclusively for charitable purposes; or
 - (b) A government or governmental subdivision, agency, or instrumentality, to the extent it holds funds exclusively for a charitable purpose;
- (7) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose, or another purpose the achievement of which is beneficial to the community;
- (8) "Court" means a court in this Commonwealth having jurisdiction in matters relating to trusts under Subchapter 2 of this chapter;
- (9) "Current beneficiary":
 - (a) Means a beneficiary that on the date of the beneficiary's qualification is determined is a distributee or permissible distributee of trust income or principal; and
 - (b) Includes the holder of a presently exercisable general power of appointment but does not include a person that is a beneficiary only because the person

holds any other power of appointment;

- (10) "Decanting power" or "the decanting power" means the power of an authorized fiduciary under KRS 386B.12-010 to 386B.12-170 to distribute property of a first trust to one (1) or more second trusts or to modify the terms of the first trust;
- (11) "Expanded distributive discretion" means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard;
- (12) "First trust" means a trust over which an authorized fiduciary may exercise the decanting power;
- (13) "First-trust instrument" means the trust instrument for a first trust;
- (14) "General power of appointment" means a power of appointment exercisable in favor of a powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate;
- (15) "Jurisdiction" has the same meaning as in KRS 386B.1-010;
- (16) "Person" has the same meaning as in KRS 386B.1-010;
- (17) "Power of appointment":
 - (a) Means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property; and
 - (b) Does not include a power of attorney;
- (18) "Powerholder" means a person in which a donor creates a power of appointment;
- (19) "Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time and:
 - (a) Includes a power of appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:
 - 1. The occurrence of the specified event;
 - 2. The satisfaction of the ascertainable standard; or
 - 3. The passage of the specified time; and
 - (b) Does not include a power exercisable only at the powerholder's death;
- (20) "Qualified beneficiary" has the same meaning as in KRS 386B.1-010;
- (21) "Reasonably definite standard" means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. sec. 674(b)(5)(A), as amended, and any applicable regulations;
- (22) "Record" has the same meaning as in KRS 394.700;
- (23) "Second-trust instrument" means the trust instrument for a second trust;
- (24) "Settlor," except as otherwise provided in KRS 386B.13-240, has the same meaning as in KRS 386B.1-010;
- (25) "Sign" has the same meaning as in KRS 394.700;
- (26) "State" has the same meaning as in KRS 386B.1-010;
- (27) "Terms of the trust" has the same meaning as in KRS 386B.1-010; and
- (28) "Trust instrument" has the same meaning as in KRS 386B.1-010.

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