

386B.1-010 Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

- (1) "Action" with respect to an act of a trustee, includes a failure to act;
- (2) "Ascertainable standard" means a standard relating to an individual's health, education, support, or maintenance within the meaning of 26 U.S.C. sec. 2041(b)(1)(A) or 26 U.S.C. sec. 2514(c)(1), as amended;
- (3) "Beneficiary" means a person that:
 - (a) Has a present or future beneficial interest in a trust, vested or contingent; or
 - (b) In a capacity other than that of trustee, holds a power of appointment over trust property;
- (4) "Charitable trust" means a trust, or part of a trust, established for a charitable purpose as described in KRS 386B.4-050(1);
- (5) "Conservator" means a person appointed by the court to administer the estate of a minor or adult individual;
- (6) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment;
- (7) "Guardian" means a person appointed by the court, a parent, or a spouse to make decisions regarding the support, care, education, health, and welfare of a minor or adult individual. The term shall not include a guardian ad litem;
- (8) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust;
- (9) "Jurisdiction," with respect to a geographic area, includes a state or country;
- (10) "Person" means any individual or entity as defined in KRS 446.010;
- (11) "Power of withdrawal" means a presently exercisable general power of appointment other than a power:
 - (a) Exercisable by a trustee and limited by an ascertainable standard; or
 - (b) Exercisable by another person only on the consent of the trustee or a person holding an adverse interest;
- (12) "Property" means anything that may be the subject of ownership, whether legal or equitable, or any interest therein;
- (13) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:
 - (a) Is a distributee or permissible distributee of trust income or principal;
 - (b) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in paragraph (a) of this subsection ended on that date without causing the trust to end; or
 - (c) Would be a distributee or permissible distributee of trust income or principal if the trust ended on that date;
- (14) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest;

- (15) "Settlor" means a person, including a testator, who creates or contributes property to a trust. If more than one (1) person creates or contributes property to a trust, each person is a settlor of the part of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that part;
- (16) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer of a beneficiary's interest;
- (17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state;
- (18) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding;
- (19) (a) "Trust" means an express trust established by a trust instrument, including a will, whereby a trustee has the duty to administer a trust asset for the benefit of a named or otherwise described income or principal beneficiary, or both. This definition includes oral trusts.
(b) "Trust" does not include a resulting or constructive trust, a business trust which provides for certificates to be issued to the beneficiary, an investment trust, a voting trust, a security instrument, a trust established by the judgment of a court, a liquidation trust, or a trust for the primary purpose of paying dividends, interests, interest coupons, salaries, wages, pensions or profits, or employee benefits of any kind, an instrument in which a person is nominee or escrowee for another, a trust established in deposits in any financial institution, or other trust the nature of which does not admit of general trust administration;
- (20) "Trust instrument" means an instrument signed by the settlor that contains terms of the trust, including any amendments thereto; and
- (21) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

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