

NEBRASKA LEGISLATURE

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Nebraska Revised Statute 30-3803

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30-3803.

(UTC 103) Definitions.

(UTC 103) In the Nebraska Uniform Trust Code:

- (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 section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, as defined in section [49-801.01](#).
- (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 portion of a trust, created for a charitable purpose described in subsection (a) of section [30-3831](#).
- (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 who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely 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 an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(11) "Power of withdrawal" means a presently exercisable general power of appointment other than a power: (A) which is exercisable by a trustee and limited by an ascertainable standard; or (B) which is exercisable by another person only upon consent of the trustee or a person holding an adverse interest.

(12) "Property" means anything that may be the subject of ownership, whether real or personal, 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 subdivision (A) of this subdivision terminated on that date without causing the trust to terminate; or

(C) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(14) "Regulated financial-service institution" means a state-chartered or federally chartered financial institution in which the monetary deposits are insured by the Federal Deposit Insurance Corporation.

(15) "Revocable", as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(16) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(17) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer of a beneficiary's interest.

(18) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.



(19) "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.

(20) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

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(21) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

Source

-  Laws 2003, LB 130, § 3;
-  Laws 2005, LB 533, § 36.

Annotations







Where a trust agreement provided limited testamentary power to appoint trust property to or for the benefit of joint descendants, the power of appointment was neither a general power of appointment nor a power of withdrawal. In re Conservatorship of Abbott, 295 Neb. 510, 890 N.W.2d 469 (2017).

When the parties do not claim that the terms are unclear or contrary to the settlor's actual intent pursuant to subsection (19) of this section, the interpretation of a trust's terms is a question of law. In re Trust Created by Hansen, 274 Neb. 199, 739 N.W.2d 170 (2007).

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