

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

**Enrolled**  
**Committee Substitute**  
**for**  
**Senate Bill 213**

SENATOR TRUMP, *original sponsor*

[Passed March 7, 2020; to take effect July 1, 2020]

SB 213

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2020 MAR 25 P 3:52

FILED

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CLERK OF THE WEST VIRGINIA  
LEGISLATURE  
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1 AN ACT to amend and reenact §44D-1-103, §44D-1-105, and §44D-1-108 of the Code of West  
2 Virginia, 1931, as amended; to amend and reenact §44D-6-603 of said code; to amend  
3 and reenact §44D-7-703 of said code; to amend and reenact §44D-8-808 of said code;  
4 and to amend said code by adding thereto a new article, designated §44D-8A-801, §44D-  
5 8A-802, §44D-8A-803, §44D-8A-804, §44D-8A-805, §44D-8A-806, §44D-8A-807, §44D-  
6 8A-808, §44D-8A-809, §44D-8A-810, §44D-8A-811, §44D-8A-812, §44D-8A-813, §44D-  
7 8A-814, §44D-8A-815, §44D-8A-816, and §44D-8A-817, all relating to the administration  
8 of trusts; providing definitions; establishing default and mandatory rules; establishing  
9 when terms of a trust designating the principal place of administration are valid; permitting  
10 a trustee to follow a direction contrary to the terms of a trust instrument; enacting the West  
11 Virginia Uniform Directed Trust Act; specifying applicability; setting forth exclusions;  
12 establishing powers, duties and liabilities of a trust director; providing limitations on trust  
13 director power; establishing duties and liabilities of a directed trustee; establishing duty of  
14 trustees and trust directors to provide certain information to a trust director or trustee;  
15 providing limitations on duties of trustee's and trust directors; providing that the terms of a  
16 trust may relieve a cotrustee from duty and liability with respect to another cotrustee's  
17 exercise or nonexercise of a power; providing limitations on actions against a trust director;  
18 establishing defenses in actions against a trust director; establishing personal jurisdiction  
19 of West Virginia courts over a trust director; providing that certain statutory rules apply to  
20 a trust director; and providing an effective date.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

### **§44D-1-103. Definitions.**

1 In this chapter:

2 (a) "Action", with respect to an act of a trustee, includes a failure to act.

3 (b) "Ascertainable standard" means a standard relating to an individual's health,  
4 education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of  
5 the Internal Revenue Code.

6 (c) "Beneficiary" means a person that:

7 (1) Has a present or future beneficial interest in a trust, vested or contingent;

8 (2) In a capacity other than that of trustee, holds a power of appointment over trust  
9 property; or

10 (3) A charitable organization that is expressly designated in the terms of the trust  
11 instrument to receive distributions.

12 (d) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose  
13 described in §44D-4-405 of this code.

14 (e) "Conservator" means a person appointed by the court to administer the estate and  
15 financial affairs of a protected person.

16 (f) "Court" means a court of this state having proper jurisdiction under §44D-2-203 of this  
17 code, and venue under §44D-2-204 of this code.

18 (g) "Current beneficiary" means a beneficiary that, on the date the beneficiary's  
19 qualification is determined, is a distributee or permissible distributee of trust income or principal.

20 (h) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance  
21 relating to protection of the environment.

22 (i) "Grantor" means a person, including a testator, who creates, or contributes property to  
23 a trust. If more than one person creates or contributes property to a trust, each person is a grantor  
24 of the portion of the trust property attributable to that person's contribution except to the extent  
25 another person has the power to revoke or withdraw that portion.

26 (j) "Guardian" means a person appointed by the court who is responsible for the personal  
27 affairs of a protected person or a parent to make decisions regarding the support, care, education,  
28 health, and welfare of a minor. The term does not include a guardian ad litem.

29 (k) "Interested person" means heirs, devisees, children, spouses, creditors, beneficiaries  
30 and any others having a property right in or claim against a trust or the property in a trust. It also  
31 includes persons having priority for appointment as personal representative and other fiduciaries  
32 representing interested persons. The meaning as it relates to particular persons may vary from  
33 time to time and must be determined according to the particular purposes of, and matter involved,  
34 in any proceeding.

35 (l) "Interests of the beneficiaries" means the beneficial interests provided in the terms of  
36 the trust.

37 (m) "Internal Revenue Code" or "Internal Revenue Code of 1986" has the same meaning  
38 as when used in a comparable context in the laws of the United States then in effect relating to  
39 income, estate, generation-skipping transfer and other taxes including all amendments made to  
40 the laws of the United States and amendments which have been adopted and incorporated into  
41 West Virginia law by the West Virginia Legislature in §11-21-9 of this code.

42 (n) "Jurisdiction" with respect to a geographic area, includes a state or country.

43 (o) "Person" means an individual, corporation, business trust, estate, trust, partnership,  
44 limited liability company, association, joint venture, unincorporated nonprofit association,  
45 charitable organization, government, governmental subdivision, agency, or instrumentality, public  
46 corporation, or any other legal or commercial entity.

47 (p) "Power of withdrawal" means a presently exercisable general power of appointment  
48 other than a power:

49 (1) Exercisable by a trustee and limited by an ascertainable standard; or

50 (2) Exercisable by another person only upon consent of the trustee or a person holding an  
51 adverse interest.

52 (q) "Property" means anything that may be the subject of ownership, whether real or  
53 personal, legal or equitable or any interest therein.

54 (r) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's  
55 qualification is determined:

56 (1) Is a distributee or permissible distributee of trust income or principal;

57 (2) Would be a distributee or permissible distributee of trust income or principal if the  
58 interests of the distributees described in paragraph (1) of this subdivision terminated on that date  
59 without causing the trust to terminate; or

60 (3) Would be a distributee or permissible distributee of trust income or principal if the trust  
61 terminated on that date.

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

64 (t) "Spendthrift provision" means a term of a trust which restrains both voluntary and  
65 involuntary transfer of a beneficiary's interest.

66 (u) "State" means a state of the United States, the District of Columbia, Puerto Rico, the  
67 United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the  
68 United States. The term includes an Indian tribe or band recognized by federal law or formally  
69 acknowledged by a state.

70 (v) "Terms of a trust" means:

71 (1) Except as otherwise provided in subparagraph (2); and the manifestation of the  
72 grantor's intent regarding a trust's provisions as:

73 (A) Expressed in the trust instrument; or

74 (B) Established by other evidence that would be admissible in a judicial proceeding; or

75 (2) The trust's provisions as established, determined, or amended by:

76 (i) A trustee or trust director in accordance with applicable law;

77 (ii) A court order; or

78 (iii) A nonjudicial settlement agreement under §44D-1-111 of this code.

79 (w) "Trust instrument" means a writing, including a will, executed by the grantor that  
80 contains terms of the trust, including any amendments thereto.

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

82 (y) "Writing" or "written instrument" does not include an electronic record or electronic  
83 signature as provided in §39A-1-1 *et seq.* of this code.

**§44D-1-105. Default and mandatory rules.**

84 (a) Except as otherwise provided in the terms of the trust instrument, this chapter governs  
85 the duties and powers of a trustee, relations among trustees, and the rights and interests of a  
86 beneficiary.

87 (b) The terms of a trust prevail over any provision of this chapter except:

88 (1) The requirements for creating a trust;

89 (2) The duty of a trustee to act in good faith and in accordance with the terms and purposes  
90 of the trust but subject to the provisions of §44D-8A-901, §44D-8A-1101, and §44D-8A-1201 of  
91 this code;

92 (3) The requirement that a trust and its terms have a purpose that is lawful, not contrary  
93 to public policy, and possible to achieve;

94 (4) The power of the court to modify or terminate a trust under §44D-4-410 through §44D-  
95 4-416 of this code;

96 (5) The effect of a spendthrift provision and the rights of certain creditors and assignees  
97 to reach a trust as provided in §44D-5-501 *et seq.* of this code;

98 (6) The power of the court under §44D-7-702 of this code to require, dispense with, or  
99 modify or terminate a bond;

100 (7) The power of the court under §44D-7-708(b) of this code to adjust a trustee's  
101 compensation specified in the terms of the trust instrument which is unreasonably low or high;

102 (8) The effect of an exculpatory term under §44D-10-1008 of this code;

103 (9) The rights under §44D-10-1010 through §44D-10-1013 of this code of a person other  
104 than a trustee or beneficiary;

105 (10) Periods of limitation for commencing a judicial proceeding;

106 (11) The power of the court to take action and exercise jurisdiction as may be necessary  
107 in the interests of justice; and

108 (12) The subject-matter jurisdiction of the court and venue for commencing a proceeding  
109 as provided in §44D-2-203 and §44D-2-204 of this code.

**§44D-1-108. Principal place of administration.**

1 (a) Without precluding other means for establishing a sufficient connection with the  
2 designated jurisdiction, terms of a trust designating the principal place of administration are valid  
3 and controlling if:

4 (1) A trustee's principal place of business is located in, or a trustee is a resident of the  
5 designated jurisdiction;

6 (2) A trust director's principal place of business is located in, or a trust director is a resident  
7 of the designated jurisdiction; or

8 (3) All or part of the administration occurs in the designated jurisdiction.

9 (b) Without precluding the right of the court to order, approve, or disapprove a transfer,  
10 the trustee may transfer the trust's principal place of administration to another state or to a  
11 jurisdiction outside of the United States that is appropriate to the trust's purposes, its  
12 administration, and the interests of the beneficiaries.

13 (c) When the proposed transfer of a trust's principal place of administration is to another  
14 state or to a jurisdiction outside of the United States, the trustee shall notify the current  
15 beneficiaries of a proposed transfer of a trust's principal place of administration not less than 60  
16 days before initiating the transfer. A corporate trustee that maintains a place of business in West  
17 Virginia where one or more trust officers are available on a regular basis for personal contact with  
18 trust customers and beneficiaries has not transferred its principal place of administration merely

19 because all or a significant portion of the administration of the trust is performed outside West  
20 Virginia. The notice of proposed transfer must include:

21 (1) The name of the jurisdiction to which the principal place of administration is to be  
22 transferred;

23 (2) The address and telephone number at the new location at which the trustee can be  
24 contacted;

25 (3) An explanation of the reasons for the proposed transfer;

26 (4) The date on which the proposed transfer is anticipated to occur; and

27 (5) The date, not less than 60 days after the giving of the notice, by which the current  
28 beneficiary must notify the trustee of an objection to the proposed transfer.

29 (d) The authority of a trustee under this section to transfer a trust's principal place of  
30 administration to another state or to a jurisdiction outside the United States terminates if a current  
31 beneficiary notifies the trustee of an objection to the proposed transfer on or before the date  
32 specified in the notice.

33 (e) In connection with a transfer of the trust's principal place of administration, the trustee  
34 may transfer some or all of the trust property to a successor trustee designated in the terms of  
35 the trust instrument or appointed pursuant to §44D-7-704 of this code.

## **ARTICLE 6. REVOCABLE TRUSTS.**

### **§44D-6-603. Grantor's powers; powers of withdrawal.**

1 (a) While a trust is revocable and the grantor has capacity to revoke the trust, rights of the  
2 beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to,  
3 the grantor.

4 (b) During the period the power may be exercised, the holder of a power of withdrawal has  
5 the rights of a grantor of a revocable trust under this section to the extent of the property subject  
6 to the power.

7 (c) When a trust is revocable, the trustee may follow a direction of the grantor that is  
8 contrary to the terms of the trust instrument.

**ARTICLE 7. OFFICE OF THE TRUSTEE.**

**§44D-7-703. Cotrustees.**

1 (a) Unless otherwise provided in the terms of the trust instrument, cotrustees who are  
2 unable to reach a unanimous decision may act by majority decision. Unless otherwise provided  
3 by the trust instrument, when a dispute arises among trustees as to the exercise or nonexercise  
4 of any of their powers and there is no agreement by a majority of them, the court in its discretion  
5 upon a petition filed by any of the trustees, the grantor, if living, a qualified beneficiary, or any  
6 interested person, may direct the exercise or nonexercise of the power as it considers necessary  
7 for the best interest of the trust.

8 (b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust,  
9 unless otherwise provided in the terms of the trust instrument.

10 (c) Subject to the provisions of §44D-8A-801 *et seq.* of this code, a cotrustee must  
11 participate in the performance of a trustee's function unless the cotrustee is unavailable to perform  
12 the function because of absence, illness, disqualification under other law, or other temporary  
13 incapacity or the cotrustee has properly delegated the performance of the function to another  
14 trustee.

15 (d) If a cotrustee is unavailable to perform duties because of absence, illness,  
16 disqualification under other law, or other temporary incapacity, and prompt action is necessary to  
17 achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee  
18 or a majority of the remaining cotrustees may act for the trust.

19 (e) A trustee may delegate to a cotrustee the performance of a function other than a  
20 function that the terms of the trust expressly require to be performed by the trustees jointly. Unless  
21 a delegation was irrevocable, a trustee may revoke a delegation of a function previously made.

22 (f) Except as otherwise provided in subsection (g) of this section, a trustee who does not  
23 join in an action of another trustee is not liable for the action.

24 (g) Subject to the provisions of §44D-8A-801 *et seq.* of this code, each trustee shall  
25 exercise reasonable care to:

26 (1) Prevent a cotrustee from committing a serious breach of trust; and

27 (2) Compel a cotrustee to redress a serious breach of trust.

28 (h) A dissenting trustee who joins in an action at the direction of the majority of the trustees  
29 and who notifies any cotrustee of the dissent at or before the time of the action is not liable for the  
30 action unless the action is a serious breach of trust.

## **ARTICLE 8. DUTIES AND POWERS OF TRUSTEE.**

### **§44D-8-808. Powers to direct.**

1 The terms of a trust instrument which confer upon a person other than the grantor of a  
2 revocable trust power to direct certain actions of the trustee are governed by the provisions of the  
3 West Virginia Uniform Directed Trust Act contained in §44D-8A-801 *et seq.* of this code.

## **ARTICLE 8A. WEST VIRGINIA UNIFORM DIRECTED TRUST ACT.**

### **§44D-8A-801. Short title.**

1 This article may be cited as the West Virginia Uniform Directed Trust Act.

### **§44D-8A-802. Definitions.**

1 In addition to the definitions contained in §44D-1-103 of this code, as used in this article:

2 (1) "Breach of trust" means a violation by a trust director or trustee of a duty imposed on  
3 that director or trustee by the terms of the trust, this article, or law of this state, other than this  
4 article pertaining to trusts.

5 (2) "Directed trust" means a trust for which the terms of the trust grant a power of direction.

6 (3) "Directed trustee" means a trustee that is subject to a trust director's power of direction.

7 (4) "Power of direction" means a power over a trust granted to a person by the terms of  
8 the trust to the extent the power is exercisable while the person is not serving as a trustee. The  
9 term includes a power over the investment, management, or distribution of trust property or other  
10 matters of trust administration. The term excludes the powers described in §44D-8A-501(b) of this  
11 code.

12 (5) "Trust director" means a person that is granted a power of direction by the terms of a  
13 trust to the extent the power is exercisable while the person is not serving as a trustee. The person  
14 is a trust director whether or not the terms of the trust refer to the person as a trust director and  
15 whether or not the person is a beneficiary or grantor of the trust.

16 (6) "Knowingly" means known by the trustee based on the contents of the direction and  
17 any information provided by the trust director to the trustee.

18 (7) "Willful misconduct" means intentional malicious conduct or conduct intentionally  
19 designed to defraud or seek an unconscionable advantage and which is not mere negligence,  
20 gross negligence, or recklessness.

**§44D-8A-803. Application; principal place of administration.**

1 The provisions of the West Virginia Uniform Directed Trust Act apply to a trust, whenever  
2 created, that has its principal place of administration in this state, subject to the following rules:

3 (a) If the trust was created before the effective date of this article, this article applies only  
4 to a decision or action occurring on or after the effective date of this article.

5 (b) If the principal place of administration of the trust is changed to this state on or after  
6 the effective date of this article, this article applies only to a decision or action occurring on or  
7 after the date of the change.

**§44D-8A-804. Common law and principles of equity.**

1 The common law and principles of equity supplement this article, except to the extent  
2 modified by this article or law of this state other than this article.

**§44D-8A-805. Exclusions.**

1 (a) In this section, "power of appointment" means a power that enables a person acting in  
2 a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of  
3 appointment over trust property.

4 (b) This article does not apply to a:

5 (1) Power of appointment;

6 (2) Power to appoint or remove a trustee or trust director;

7 (3) Power of a grantor over a trust to the extent the grantor has a power to revoke the  
8 trust;

9 (4) Power of a beneficiary over a trust to the extent the exercise or nonexercise of the  
10 power affects the beneficial interest of:

11 (A) The beneficiary; or

12 (B) Another beneficiary represented by the beneficiary under §44D-3-301, §44D-3-302,  
13 §44D-3-303, §44D-3-304, and §44D-3-305 of this code with respect to the exercise or  
14 nonexercise of the power; or

15 (5) Power over a trust if:

16 (A) The terms of the trust provide that the power is held in a nonfiduciary capacity; and

17 (B) The power must be held in a nonfiduciary capacity to achieve the grantor's tax  
18 objectives under the United States Internal Revenue Code of 1986 and regulations issued  
19 thereunder.

20 (c) Unless the terms of a trust provide otherwise, a power granted to a person to designate  
21 a recipient of an ownership interest in or power of appointment over trust property which is  
22 exercisable while the person is not serving as a trustee is a power of appointment and not a power  
23 of direction.

**§44D-8A-806. Powers of trust director.**

1 (a) Subject to §44D-8A-807 of this code, the terms of a trust may grant a power of direction  
2 to a trust director.

3 (b) Unless the terms of a trust provide otherwise:

4 (1) A trust director may exercise any further power appropriate to the exercise or  
5 nonexercise of a power of direction granted to the director under subsection (a) of this section;  
6 and

7 (2) Trust directors with joint powers must act by majority decision.

**§44D-8A-807. Limitations on trust director.**

1 A trust director is subject to the same rules as a trustee in a like position and under similar  
2 circumstances in the exercise or nonexercise of a power of direction or further power under §44D-  
3 8A-806(b)(1) of this code regarding:

4 (1) A payback provision in the terms of a trust necessary to comply with the reimbursement  
5 requirements of Medicaid law in Section 1917 of the Social Security Act, 42 U.S.C. Section  
6 1396p(d)(4)(A) and regulations issued thereunder; and

7 (2) A charitable interest in the trust, including notice regarding the interest to the Attorney  
8 General of the State of West Virginia.

**§44D-8A-808. Duty and liability of trust director.**

1 (a) Subject to subsection (b) of this section, with respect to a power of direction or further  
2 power under §44D-8A-806(b)(1) of this code:

3 (1) A trust director has the same fiduciary duty and liability in the exercise or nonexercise  
4 of the power:

5 (A) If the power is held individually, as a sole trustee in a like position and under similar  
6 circumstances; or

7 (B) If the power is held jointly with a trustee or another trust director, as a cotrustee in a  
8 like position and under similar circumstances; and

9 (2) The terms of the trust may vary the director's duty or liability to the same extent the  
10 terms of the trust could vary the duty or liability of a trustee in a like position and under similar  
11 circumstances.

12 (b) Unless the terms of a trust provide otherwise, if a trust director is licensed, certified, or  
13 otherwise authorized or permitted by law other than in §44D-8A-801 *et seq.* of this code to  
14 provide health care in the ordinary course of the director's business or practice of a profession,  
15 to the extent the director acts in that capacity, the director has no duty or liability under this article.

16 (c) The terms of a trust may impose a duty or liability on a trust director in addition to the  
17 duties and liabilities under this section.

**§44D-8A-809. Duty and liability of directed trustee.**

1 (a) Subject to subsection (b) of this section, a directed trustee shall take reasonable action  
2 to comply with a trust director's exercise or nonexercise of a power of direction or further power  
3 under §44D-8A-806(b)(1) of this code, and the trustee is not liable for the action.

4 (b) A directed trustee must not comply with a trust director's exercise or nonexercise of a  
5 power of direction or further power under §44D-8A-806(b)(1) of this code to the extent that the  
6 directed trustee is thereby directed knowingly to violate the laws or regulations of any jurisdiction  
7 applicable to the trust. The directed trustee may reasonably rely upon the advice of legal counsel  
8 to determine what actions would be consistent with or contrary to applicable law. Reasonable  
9 expenses incurred by the directed trustee in good faith for legal advice concerning an instruction  
10 from a trust director or a petition to the court for instructions shall be proper expenses of the trust.

11 (c) An exercise of a power of direction under which a trust director may release a trustee  
12 or another trust director from liability for breach of trust is not effective if:

13 (1) The breach involved the trustee's or other director's willful misconduct;

14 (2) The release was induced by improper conduct of the trustee or other director in  
15 procuring the release; or

16 (3) At the time of the release, the director did not know the material facts relating to the  
17 breach.

18 (d) A directed trustee that has reasonable doubt about its duty under this section may  
19 petition the court for instructions.

20 (e) The terms of a trust may impose a duty or liability on a directed trustee in addition to  
21 the duties and liabilities under this section.

**§44D-8A-810. Duty to provide information to trust director or trustee.**

1 (a) Subject to §44D-8A-811 of this code, a trustee shall provide information to a trust  
2 director to the extent the information is reasonably related both to:

- 3 (1) The powers or duties of the trustee; and
- 4 (2) The powers or duties of the director.

5 (b) Subject to §44A-8A-811 of this code, a trust director shall provide information to a  
6 trustee or another trust director to the extent the information is reasonably related both to:

- 7 (1) The powers or duties of the director; and
- 8 (2) The powers or duties of the trustee or other director.

9 (c) A trustee that acts in reliance upon information provided by a trust director is not liable  
10 for a breach of trust to the extent the breach resulted from the reliance, unless by so acting the  
11 trustee engages in willful misconduct.

12 (d) A trust director that acts in reliance upon information provided by a trustee or another  
13 trust director is not liable for a breach of trust to the extent the breach resulted from the reliance,  
14 unless by so acting the trust director engages in willful misconduct.

**§44D-8A-811. No duty to monitor, inform, or advise.**

1 (a) Unless the terms of a trust provide otherwise:

2 (1) A trustee does not have a duty to:

3 (A) Monitor a trust director; or

4 (B) Inform or give advice to a grantor, beneficiary, trustee, or trust director concerning an  
5 instance in which the trustee might have acted differently than the director; and

6 (2) By taking an action described in §44D-8A-811(a)(1) of this code, a trustee does not  
7 assume the duty excluded by §44D-8A-811(a)(1) of this code.

8 (b) Unless the terms of a trust provide otherwise:

9 (1) A trust director does not have a duty to:

10 (A) Monitor a trustee or another trust director; or

11 (B) Inform or give advice to a grantor, beneficiary, trustee, or another trust director  
12 concerning an instance in which the director might have acted differently than a trustee or another  
13 trust director; and

14 (2) By taking an action described in §44D-8A-811(b)(1) of this code, a trust director does  
15 not assume the duty excluded by §44D-8A-811(b)(1) of this code.

**§44D-8A-812. Application to cotrustee.**

1 The terms of a trust may relieve a cotrustee from duty and liability with respect to another  
2 cotrustee’s exercise or nonexercise of a power of the other cotrustee to the same extent that in a  
3 directed trust a directed trustee is relieved from duty and liability with respect to a trust director’s  
4 power of direction under §44D-8A-809, §44D-8A-810, and §44D-8A-811 of this code.

**§44D-8A-813. Limitation of action against trust director.**

1 (a) An action against a trust director for breach of trust must be commenced within the  
2 same limitation period as provided in §44D-10-1005 of this code for an action for breach of trust  
3 against a trustee in a like position and under similar circumstances.

4 (b) A report or accounting has the same effect on the limitation period for an action against  
5 a trust director for breach of trust that the report or accounting would have under §44D-10-1005  
6 of this code in an action for breach of trust against a trustee in a like position and under similar  
7 circumstances.

**§44D-8A-814. Defenses in action against trust director.**

1 In an action against a trust director for breach of trust, the director may assert the same  
2 defenses a trustee in a like position and under similar circumstances could assert in an action for  
3 breach of trust against the trustee.

**§44D-8A-815. Jurisdiction over trust director.**

1 (a) By accepting appointment as a trust director of a trust subject to this article, the director  
2 submits to personal jurisdiction of the courts of this state regarding any matter related to a power  
3 or duty of the director.

4 (b) §44D-8A-815 of this code does not preclude other methods of obtaining jurisdiction  
5 over a trust director.

**§44D-8A-816. Office of trust director.**

1 Unless the terms of a trust provide otherwise, the rules applicable to a trustee apply to a  
2 trust director regarding the following matters:

- 3 (1) Acceptance under §44D-7-701 of this code;
- 4 (2) Giving of bond to secure performance under §44D-7-702 of this code;
- 5 (3) Reasonable compensation under §44D-7-708 of this code;
- 6 (4) Resignation under §44D-7-705 of this code;
- 7 (5) Removal under §44D-7-706 of this code; and
- 8 (6) Vacancy and appointment of successor under §44D-7-704 of this code.

**§44D-8A-817. Effective date.**

1 This article takes effect on July 1, 2020.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Nat R. Payne*  
.....  
Chairman, Senate Committee

*Noel Caputo*  
.....  
Chairman, House Committee

Originated in the Senate.

To take effect July 1, 2020.

*Debra*  
.....  
Clerk of the Senate

*Steve Harris*  
.....  
Clerk of the House of Delegates

*Mitch B. Cantrick*  
.....  
President of the Senate

*Lee Henshaw*  
.....  
Speaker of the House of Delegates

OFFICE, WEST VIRGINIA  
SECRETARY OF STATE

2020 MAR 25 P 3:52

FILED

The within *is* ..... *approved* this the *25<sup>th</sup>* .....  
Day of *March* ..... 2020.

*James E. Cantor*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2020

Time 9:32am