

## CONNECTICUT UNIFORM TRUST CODE

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
1	101	Sections 1 to 85, inclusive, of this act may be cited as the "Connecticut Uniform Trust Code".	Not applicable	Not applicable		Not applicable.
2	102	Sections 1 to 85, inclusive, of this act apply to express trusts, whether testamentary or inter vivos and whether charitable or noncharitable, and trusts created pursuant to a statute, judgment or decree that requires the trust to be administered in the manner of an express trust.	Not applicable	Not applicable		Not applicable.
3	103	For the purposes of sections 1 to 85, inclusive, of this act: (1) "Action", with respect to an act of a trustee, includes a failure to act.	We compared all Section 3 definitions to existing law, tailoring them to CT law. For example, in subparagraph (6), we deleted references to a "parent" or "spouse" because those were included for states which have adopted the Uniform Probate Code, or UPC. We also revised subparagraphs (4) and (6) so that CUTC definitions of Guardian and Conservator would be useable in CT. The terms Conservator and Guardian are defined at 45a-644(Conservator) and 45a-604(Guardian). Comments on definitions are made only where there is a substantial change from existing law or a new concept is being introduced.			
3	103	(2) "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.				
3	103	(3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in subsection (a) of section 25 of this act.				
3	103	(4) "Conservator" means a person appointed by the court to administer the estate of a minor or adult individual and includes a guardian of the estate of a minor.				
3	103	(5) "District" means, for purposes of venue, the district of the court having or accepting jurisdiction over the proceeding.				
3	103	(6) "Environmental law" means a federal, state or local law, rule, regulation or ordinance relating to protection of the environment.				

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3	103	(7) "Guardian" means a person appointed by the court to make decisions regarding the support, care, education, health and welfare of a minor or adult individual and includes a conservator of the person of an adult, but does not include a guardian ad litem.				
3	103	(8) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.				The phrase "interests of the beneficiaries" is used with some frequency in the Uniform Trust Code. The definition clarifies that the interests are as provided in the terms of the trust and <b>not</b> as determined by the beneficiaries.
3	103	(9) "Inter vivos trust" means any trust that is not a testamentary trust.				
3	103	(10) "Jurisdiction", with respect to a geographic area, includes a state or country.				
3	103	(11) "Permissible distributee" means a beneficiary who is currently entitled to or eligible to receive a distribution from a trust.				
3	103	(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, court, government, governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity.				
3	103	(13) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.				
3	103	(14) "Property" means anything that may be the subject of ownership, whether real or personal and whether legal or equitable, or any interest therein.				

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3	103	(15) "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 subparagraph (A) of this subdivision terminated on such date; or (C) would be a distributee or permissible distributee of trust income or principal if the trust terminated on such date.	Present law does not limit the class of beneficiaries to whom the trustee must give financial and other information or notices. Under existing Conn. law, in order to achieve finality in any proceeding involving a trust it is necessary to join ALL beneficiaries no matter how remote their interests. In Court proceedings this is frequently accomplished by appointment of a Guardian ad litem. Guardians ad litem are generally not available in non-judicial proceedings and, as a result, achieving finality is frequently a problem.	By this definition, the CUTC limits the number of beneficiaries to whom the trustees must provide financial and administrative information, respond to inquiries, etc.		Due to the difficulty of identifying beneficiaries whose interests are remote and contingent, and because such beneficiaries are not likely to have much interest in the day-to-day affairs of the trust, the Uniform Trust Code uses the concept of "qualified beneficiary" to limit the class of beneficiaries to whom certain notices must be given or consents received. The qualified beneficiaries consist of the beneficiaries currently eligible to receive a distribution from the trust together with those who might be termed the first-line remaindermen. These are the beneficiaries who would become eligible to receive distributions were the event triggering the termination of a beneficiary's interest or of the trust itself to occur on the date in question. Such a terminating event will typically be the death or deaths of the beneficiaries currently eligible to receive the income.
3	103	(16) "Revocable", as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.				
3	103	(17) "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 such person's contribution, except to the extent another person has the power to revoke or withdraw such portion.				
3	103	(18) "Spendthrift provision" means a term of a trust that restrains both voluntary and involuntary transfer of a beneficiary's interest.	See comments in Sections 39 and 40			
3	103	(19) "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, and includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.				

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3	103	(20) "Terms of a trust" or "terms of the 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.		Settlor's intent controls		This provision is intended to preserve existing Connecticut Law that the Settlor's intent controls the construction and administration of a trust.
3	103	(21) "Testamentary trust" means a trust created under a will or any other trust created, authorized or approved by order of a probate court.				This definition is unique to the Connecticut UTC and was needed because of Connecticut's supervised probate system
3	103	(22) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.				
3	103	(23) "Trustee" includes an original, additional and successor trustee and a co-trustee.				This provision is intended to make it clear that successor trustees and additional trustees are included for all purposes in the reference to Trustee. While most well drafted trusts contain such a statement, this provision eliminates any ambiguity in documents that are silent.
4(a)	104	Subject to subsection (b) of this section, for the purposes of sections 1 to 85, inclusive, of this act, a person has knowledge of a fact if the person (1) has actual knowledge of it, (2) has received a notice or notification of it, or (3) from all the facts and circumstances known to the person at the time in question, has reason to know it.	New	Helpful to banks, because will not impute knowledge of ALL employees to corp. fiduciary.		Helpful to corp. fiduciaries

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4(b)	104	An organization that conducts activities through employees has notice or knowledge of a fact involving a trust only from the time the information was received by an employee having responsibility to act for the trust, or from the time the information would have been brought to the employee's attention if the organization had exercised reasonable diligence. An organization exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the employee having responsibility to act for the trust and there is reasonable compliance with the routines. Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the individual's regular duties or the individual knows a matter involving the trust would be materially affected by the information.	New	Will help protect corporate and other professional fiduciaries who have numerous employees.		
5(a)	105	Except as otherwise provided in the terms of the trust, sections 1 to 85, inclusive, of this act govern the duties and powers of a trustee, relations among trustees and the rights and interests of a beneficiary.	New			The CUTC is generally a default law, and its provisions apply when the Trust Instrument is silent.
5(b)	105	The terms of a trust prevail over any provision of sections 1 to 85, inclusive, of this act except:  (1) The requirements for creating a trust;	No statutes codify these rules, although most would be determined to be mandatory by a court.	Clarity. The CUTC makes it clear that various fiduciary duties <u>can</u> be waived in the Trust Instrument.		Only subparagraphs (8) and (10) could arguably be considered "new" law by restricting a settlor's ability to limit information going to certain beneficiaries. <u>It should be noted that under Connecticut law and the laws of most states, it is unclear whether trust provisions restricting access to information by beneficiaries are enforceable.</u> For example, Connecticut case law makes it clear that a provision in a trust authorizing the current income beneficiaries to give releases to the Trustee that are binding on the remaindermen, is NOT enforceable.
5(b)	105	(2) the duty of a trustee to act in good faith and in accordance with the purposes of the trust;	Existing law			

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5(b)	105	(3) the requirement of section 24 of this act that a trust have a purpose that is lawful, not contrary to public policy and possible to achieve;	Existing law			
5(b)	105	(4) the power of the court to modify or terminate a trust pursuant to sections 30 to 36, inclusive, of this act;	No existing law			Sections 30-36 create new law in Connecticut.
5(b)	105	(5) the effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in sections 38 to 44, inclusive, of this act;	No existing law			Sections 38-44 create new law in Connecticut.
5(b)	105	(6) the power of the court under section 50 of this act to require, dispense with, modify or terminate a bond;	Existing law			
5(b)	105	(7) the power of the court under subsection (b) of section 56 of this act to adjust a trustee's compensation specified in the terms of the trust that is unreasonably low or high;	Existing law			
5(b)	105	(8) with respect to the qualified beneficiaries of a revocable trust that has become irrevocable who have attained twenty-one years of age, the duty under subdivision (3) of subsection (b) of section 66 of this act to notify them of the existence of the trust, of the identity of the trustee, and of their right, unless waived or modified by the terms of the trust, to request trustee's reports;	New, however, notice is certainly imbedded in the common law	Public policy of giving certain beneficiaries' notice of the existence of a trust so they can enforce their rights.		The only requirements that cannot be waived by the Trust Instrument are the duty to notify the Qualified Beneficiaries of the existence of a Revocable Trust that has become irrevocable and the name of the Trustee.
5(b)	105	(9) with respect to the qualified beneficiaries of a testamentary trust or an inter vivos trust created pursuant to a court approved settlement who have attained twenty-one years of age, the duties under subsections (a) and (b) of section 66 of this act;	Existing law			

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5(b)	105	(10) the duty under subdivision (2) of subsection (a) of section 66 of this act to respond to the request of a qualified beneficiary of an irrevocable trust for information reasonably related to the administration of a trust;	Under current law the Trustee has a duty to respond to ALL beneficiaries.	Limits the class of beneficiaries to whom the Trustee has a duty to respond.		The duty to respond within the framework of the terms of the trust is the most fundamental fiduciary duty and should never be waivable.
5(b)	105	(11) the effect of an exculpatory term under section 77 of this act;	Existing law			
5(b)	105	(12) the rights under sections 79 to 82, inclusive, of this act, of a person other than a trustee or beneficiary;	Existing law			
5(b)	105	(13) periods of limitation for commencing a judicial proceeding;	Existing law			
5(b)	105	(14) the power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice;	Existing law			
5(b)	105	(15) the subject matter jurisdiction of the court and venue for commencing a proceeding as provided in sections 14 and 15 of this act; or	Existing law			
5(b)	105	(16) the provisions of sections 1 to 85, inclusive, of this act specifically dealing with the supervision of testamentary trusts by the court.	Existing law			
6	106	The common law of trusts and principles of equity supplement sections 1 to 85, inclusive, of this act, except to the extent modified by sections 1 to 85, inclusive, of this act or another statute of this state.	Most of our current law of trusts is common law and not statutory law.			

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7(a)	107	<p>The meaning and effect of the terms of an inter vivos trust are determined by:</p> <p>(1) The law of the jurisdiction designated in the terms of the trust, unless the designation of such jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter at issue; or</p> <p>(2) in the absence of a controlling designation in the terms of the trust, the law of the jurisdiction having the most significant relationship to the matter at issue.</p>	To the extent this would not be held to be existing law, this clarifies it.	Clarity: Clearly allows the trust to specify governing law, in advance.		
7(b)	107	The meaning and effect of the terms of a testamentary trust are determined by the law of this state.	Existing Law			
8(a)	108	<p>Without precluding other means for establishing a sufficient connection with the designated jurisdiction, terms of a trust designating the principal place of administration are valid and controlling if:</p> <p>(1) A trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction; or</p> <p>(2) all or part of the administration occurs in the designated jurisdiction.</p>	<p>No clear law.</p> <p>Repeals C.G.S. Section 45a-477 which is considered unworkable and applies to testamentary trusts.</p> <p>C.G.S. Section 12-701(a)(4) defines a trust that is resident for income tax purposes.</p>	<p>Clarity and ease of transfer of place of administration, where it would be appropriate.</p> <p>Provides a straightforward procedure for moving a trust's administration.</p> <p>Should prevent unfounded beneficiary attempts to block legitimate moves.</p>		
8(b)	108	A trustee is under a continuing duty to administer the trust at a place appropriate to its purposes, its administration and the interests of the beneficiaries.	No Statute	Clarity		This is a statement of existing fiduciary duties.

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8(c)	108	<p>The principal place of administration of a testamentary trust shall be</p> <p>(1) in the case of a trust created under a will, in the district in which the settlor's estate was or is being administered,</p> <p>(2) in the case of any other trust created, authorized or approved by order of the Probate Court, in the district in which the court creating the trust is located, or</p> <p>(3) in the case of a trust transferred to this state subject to the continuing supervision of the court, the district in which the trustee's principal place of business is located, where the trustee resides or where all or part of the administration occurs.</p>	<p>Sections (1) and (2) are existing Connecticut Law. Section (3) clarifies existing law.</p>			
8(d)	108	<p>Without precluding the right of the court to order, approve or disapprove a transfer, the trustee of an inter vivos trust, and the trustee of a testamentary trust with court approval, in furtherance of the duty prescribed by subsection (b) of this section, may transfer the trust's principal place of administration to another state or to a jurisdiction outside of the United States.</p>	<p>New</p>	<p>Provides procedure for transferring trust assets out of the State of Connecticut, in appropriate circumstances.</p>		<p>Provides a procedure for transferring both inter vivos and testamentary trusts out of the State of Connecticut. Under current law there is no procedure for changing the situs of a testamentary trust.</p>

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8(e)	108	<p>The trustee of an inter vivos trust shall notify the qualified beneficiaries of a transfer of a trust's principal place of administration not less than sixty days before initiating the transfer. The notice of the transfer must include:</p> <p>(1) The name of the jurisdiction to which the principal place of administration is to be transferred;</p> <p>(2) the address and telephone number at the new location at which the trustee can be contacted;</p> <p>(3) an explanation of the reasons for the transfer; and</p> <p>(4) the date on which the transfer is anticipated to occur.</p>	New			Procedure for moving a trust. The Connecticut Act does not contain the provision of the UTC permitting the qualified beneficiaries to block a move by simple written objection.
8(f)	108	In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed pursuant to section 52 of this act.	New	Provides procedure for transferring trust assets out of the State of Connecticut, in appropriate circumstances.	Two parallel trusts in two jurisdictions.	In connection with a transfer of the principal place of administration, the trustee may transfer some or all of the trust property to a new trustee located outside of the State. The appointment of a new trustee may also be essential if the current trustee is ineligible to administer the trust in the new place. Subsection (f) clarifies that the appointment of the new trustee must comply with the provisions on appointment of successor trustees as provided in the terms of the trust or under Section 52. Absent an order of succession in the terms of the trust, Section 52(c) provides for an appointment if approved by all of the qualified beneficiaries or by the court.
9(a)	109	<p>Notice to a person under sections 1 to 85, inclusive, of this act, or the sending of a document to a person under sections 1 to 85, inclusive, of this act, must be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice or for sending a document include first-class mail, personal delivery, delivery to the person's last-known place of residence or place of business, or a properly directed electronic message, if the person has consented in advance to receive notice by electronic message.</p>	New	Clarity		This is intended to provide clarity and certainty for the Trustee when giving notices or information to beneficiaries. Subsection (a) clarifies that notices under the Uniform Trust Code may be given by any method likely to result in its receipt by the person to be notified. The specific methods listed in the subsection are illustrative, not exhaustive.

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9(b)	109	Notice otherwise required under sections 1 to 85, inclusive, of this act, or a document otherwise required to be sent pursuant to sections 1 to 85, inclusive, of this act need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee.	New			Subsection (b) relieves a trustee of responsibility for what would otherwise be an impossible task, the giving of notice to a person whose identity or location is unknown and not reasonably ascertainable by the trustee. The section does not define when a notice is deemed to have been sent or delivered or person deemed to be unknown or not reasonably ascertainable, the drafters preferring to leave this issue to Connecticut's rules of civil procedure.
9(c)	109	Notice under sections 1 to 85, inclusive, of this act or the sending of a document under sections 1 to 85, inclusive, of this act may be waived by the person to be notified or to be sent the document.	Existing Law			
9(d)	109	Notice of a judicial proceeding must be given as provided in any applicable court rules.	Existing Law			
10(a)	110	A charitable organization expressly mandated to receive distributions under the terms of a charitable trust or a person appointed to enforce a trust created for the care of an animal or another noncharitable purpose as provided in section 28 or 29 of this act has the rights of a qualified beneficiary under sections 1 to 85, inclusive, of this act.	This is probably existing law as to Charitable Trusts.			
10(b)	110	The Attorney General has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this state.	C.G.S. Section 3-125 requires that the Attorney General be a party to most charitable trust litigation and oversee charitable trusts in general.			
11(a)	111	For the purposes of this section, "interested persons" means persons whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the court.	New	Validates non-judicial settlements, which will lower costs when they can be used in appropriate cases.		Section 11 authorizes the making of such agreements by giving them the same effect as if approved by the court. To achieve such certainty, however, subsection (c) requires that the nonjudicial settlement must contain terms and conditions that a court could properly approve. Nonjudicial settlements are not always cost-effective and useful.

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11(b)	111	Except as otherwise provided in subsections (c) and (e) of this section, interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving an inter vivos trust.	New	See above		
11(c)	111	A nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under sections 1 to 85, inclusive, of this act or other applicable law.	New	See above		<u>The purpose of this provision is to preserve the Settlor's intent</u> by prohibiting any non-judicial settlement that would violate a material purpose of the Settlor.
11(d)	111	Matters that may be resolved by a nonjudicial settlement agreement include:  (1) The interpretation or construction of the terms of the trust;  (2) the approval of a trustee's report or accounting;  (3) direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;  (4) the resignation or appointment of a trustee and the determination of a trustee's compensation;  (5) transfer of a trust's principal place of administration; and  (6) liability of a trustee for an action relating to the trust.	New	See above		Subsection (d) is a nonexclusive list of matters to which a nonjudicial settlement may pertain.
11(e)	111	A nonjudicial settlement agreement may not modify or terminate an irrevocable trust. Such modification or termination may only be accomplished under the provisions of sections 21 to 37, inclusive, of this act.	New			The Connecticut drafters added this subsection to require court approval for trust modifications or terminations.

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11(f)	111	Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in sections 16 to 20, inclusive, of this act was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.	New			
12(a)	201	A testamentary trust is subject to continuing judicial supervision. For this purpose, a testamentary trust shall include any trust created under the laws of another jurisdiction, the principal place of administration of which is transferred to this state and expressly made subject to the continuing supervision of the court by the transferring court or document of transfer.	Existing law			
12(b)	201	The court may intervene in the administration of an inter vivos trust to the extent its jurisdiction is invoked by an interested person or as provided by law.	Partially existing law and partially an expansion of existing law (C.G.S. Section 45a-98).	Facilitates access to probate court and expands remedies available to deal with problem trusts.	Beneficiary may be inclined to seek court intervention.	Under current Connecticut Law in most situations the only way for the trustee or beneficiaries of an inter vivos trust to obtain access to the Court is through an accounting proceeding under C.G.S. Section 45a-175. This creates the unnecessary expense of preparing a formal accounting in order to obtain Court jurisdiction. This subsection clarifies and simplifies procedures for gaining access to the Court where advice is needed in connection with an administrative matter.
12(c)	201	An inter vivos trust is not subject to continuing judicial supervision.	Not expressly stated anywhere in our present statutes, which creates problems.	Clarity		
12(d)	201	A judicial proceeding involving a trust may relate to any matter involving the trust's administration, including, but not limited to, a proceeding to:	Expands probate court jurisdiction.	See comments to 12(b).		Retains existing Superior Court jurisdiction, so no change to access to that court at all.
12(d)	201	(1) Request instructions or declare rights;	New	See comments to 12(b)		
12(d)	201	(2) approve a nonjudicial settlement;	New	See comments to 12(b)		
12(d)	201	(3) interpret or construe the terms of a trust;	Existing	See comments to 12(b)		

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12(d)	201	(4) determine the validity of a trust or of any of its terms;	Existing	See comments to 12(b)		
12(d)	201	(5) approve a trustee's report or accounting or compel a trustee to report or account;	Existing	See comments to 12(b)		
12(d)	201	(6) direct a trustee to refrain from performing a particular act or grant to a trustee any necessary or desirable power;	New	See comments to 12(b)		
12(d)	201	(7) review the actions of a trustee, including the exercise of a discretionary power;	Limited to accountings	See comments to 12(b)		
12(d)	201	(8) accept the resignation of a trustee;		See comments to 12(b)		
12(d)	201	(9) appoint or remove a trustee;	Limited	See comments to 12(b)		
12(d)	201	(10) determine a trustee's compensation;	Existing	See comments to 12(b)		
12(d)	201	(11) transfer a trust's principal place of administration or a trust's property to another jurisdiction;	Very limited now	See comments to 12(b)		
12(d)	201	(12) determine the liability of a trustee for an action relating to the trust and compel redress of a breach of trust by any available remedy;	Broad remedies; Limited to superior court	See comments to 12(b)		
12(d)	201	(13) modify or terminate a trust;	Very limited	See comments to 12(b)		
12(d)	201	(14) combine trusts or divide a trust;	Somewhat limited	See comments to 12(b)		
12(d)	201	(15) determine liability of a trust for debts of a beneficiary and living settlor; or	Limited to superior court	See comments to 12(b)		
12(d)	201	(16) determine liability of a trust for debts, expenses of administration and statutory allowances chargeable against the estate of a deceased settlor.	Limited to inter vivos trusts	See comments to 12(b)		

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13(a)	202	By accepting the trusteeship of a trust having its principal place of administration in this state, or by moving the principal place of administration to this state, the trustee submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust.	Substantially the same as existing law.			
13(b)	202	With respect to their interests in the trust, the beneficiaries of a trust having its principal place of administration in this state are subject to the jurisdiction of the courts of this state regarding any matter involving the trust. By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust.	New			The jurisdictional counterpart for § 48(c).
13(c)	202	This section does not preclude other methods of obtaining jurisdiction over a trustee, beneficiary or other person receiving property from the trust.	Existing Law			
14(a)	203	The Probate Court has exclusive jurisdiction of proceedings in this state brought by a trustee or beneficiary concerning the administration of a testamentary trust.	Existing law			Added to conform UTC to Connecticut's supervised probate system.
14(b)	203	The Probate Court and the Superior Court have concurrent jurisdiction of other proceedings involving a trust.	Substantially the same as existing law.			
15(a)	204	Venue for a judicial proceeding in the Superior Court involving a trust shall be as provided in chapter 890 of the general statutes.	Existing law			

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15(b)	204	Except as otherwise provided in subsection (c) of this section, venue for a judicial proceeding in a court of probate involving: (1) An inter vivos trust is, in the following order of priority: (A) In the district of this state in which the trust's principal place of administration is or will be located, (B) in the district of this state where any trustee resides or has a principal place of business, or (C) in the district of this state where the settlor's estate was or is being administered; or (2) a testamentary trust is in the district of this state in which the trust's principal place of administration is located.	Creates new order of venue over procedures <b>in Probate Court</b> involving trusts.	Clarity - venue is often unclear in existing proceedings.		
15(c)	204	If a trust has no trustee, venue for a judicial proceeding in a court of probate for the appointment of a trustee is: (1) In the case of an inter vivos trust, in the following order of priority: (A) In a district of this state in which a beneficiary resides, (B) in a district of this state in which any trust property is located, or (C) in the district of this state in which the trust's principal place of administration is located; or (2) in the case of a testamentary trust, in the district of this state in which the trust's principal place of administration is located.	Under C.G.S. Section 45a-474 venue in inter vivos trust vacancy proceedings is in "the court of probate of the district within which the estate is situated." This is a meaningless reference that needs to be clarified.	Clarifies existing law.		
15(d)	204	A judicial proceeding other than one described in subsection (b) or (c) of this section must be commenced in accordance with the rules of venue applicable to civil actions.	Existing law			
16(a)	301	Notice to a person who may represent and bind another person under sections 16 to 20, inclusive, of this act has the same effect as if notice were given directly to the other person.	Existing law; 45a-487f(a)			Connecticut virtual representation statute, C.G.S. 45a-487a-f was modeled after Article 3 of UTC.

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16(b)	301	The consent of a person who may represent and bind another person under sections 16 to 20, inclusive, of this act is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.	45a-487f(b)			
16(c)	301	Except as otherwise provided in sections 31 and 46 of this act, a person who under sections 16 to 20, inclusive, of this act may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.	New			This provision was initially omitted in the standalone law because the sections to which it refers are part of the CUTC and have not been enacted.
16(d)	301	Notwithstanding any provision of the general statutes, sections 16 to 20, inclusive, of this act shall apply to all judicial proceedings and all nonjudicial settlements, agreements or acts under sections 1 to 85, inclusive, of this act and under any other provisions of the general statutes pertaining to trust matters.	45a-487f(c)			
16(e)	301	For the purposes of this section, "represent" shall not be construed to permit a person who has not been admitted as an attorney pursuant to section 51-80 of the general statutes to serve as legal counsel for any other person in any matter arising under sections 1 to 85, inclusive, of this act.	45a-487a(2)			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
17	302	To the extent there is no conflict of interest between the holder of a power of appointment and the persons represented with respect to the particular question or dispute: (1) The sole holder or all coholders of any power of appointment, whether or not presently exercisable, shall represent the potential appointees; and (2) the sole holder or all coholders of a power of revocation or a general power of appointment, including one in the form of a power of amendment, shall also represent the takers in default of the exercise thereof.	Existing law 45a-487b			
18	303	To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:  (1) A conservator may represent and bind the estate that the conservator controls;  (2) a guardian may represent and bind the ward if a conservator of the ward's estate has not been appointed;  (3) an agent having authority to do so may represent and bind the principal;  (4) a trustee may represent and bind the beneficiaries of the trust;  (5) an executor or administrator of a decedent's estate may represent and bind persons interested in the estate; and  (6) if a conservator or guardian has not been appointed, a parent may represent and bind the parent's minor or unborn child.	Existing law 45a-487c			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
19	304	Unless otherwise represented, a minor, an incapacitated or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another person having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person being represented.	Existing law 45a-487d			
20(a)	305	If the court determines that an interest is not represented under sections 16 to 20, inclusive, of this act, or that the otherwise available representation might be inadequate, the court may appoint a guardian ad litem to receive notice, give consent, and otherwise represent, bind and act on behalf of a minor, an incapacitated or unborn individual, or a person whose identity or location is unknown. A guardian ad litem may be appointed to represent several persons or interests.	Existing law 45a-487e(a)			
20(b)	305	A guardian ad litem may act on behalf of the individual represented with respect to any matter arising under sections 1 to 85, inclusive, of this act, whether or not a judicial proceeding concerning the trust is pending.	Existing law 45a-487e(b)			
20(c)	305	In making decisions in any matter, a guardian ad litem may consider general benefit accruing to the living members of the individual's family.	Existing law 45a-487e(c)			
21	401	A trust may be created by: (1) Transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death; (2) declaration by the owner of property that the owner holds identifiable property as trustee; or (3) exercise of a power of appointment in favor of a trustee.	Existing law (common law, not statutory)	Clarity and ease in locating rule because codified.		

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
22(a)	402	A trust is created only if: (1) The settlor has capacity to create a trust; (2) the settlor indicates an intention to create the trust; (3) the trust has a definite beneficiary or is (A) a charitable trust, (B) a trust for the care of an animal, as provided in section 28 of this act, or (C) a trust for a noncharitable purpose, as provided in section 29 of this act; and (4) the trustee has duties to perform.	Same - common law, except as to animal trusts which are presently not enforceable ones.	Clarity		
22(b)	402	A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.	New	Clarity		
22(c)	402	A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.	New	Allows greater flexibility.	Gives trustee broad powers.	Subsection (c) allows a settlor to empower the trustee to select the beneficiaries even if the class from whom the selection may be made cannot be ascertained. Such a provision would fail under traditional doctrine because it is an imperative power with no designated beneficiary capable of enforcement. Such a provision is valid, however, under both this Code and the Restatement, if there is at least one person who can meet the description. If the trustee does not exercise the power within a reasonable time, the power fails and the property will pass by resulting trust.
23	403	An inter vivos trust is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation: (1) The settlor was domiciled, had a place of abode or was a national; (2) a trustee was domiciled or had a place of business; or (3) any trust property was located.	Existing law is narrower	Expands and adds flexibility to existing law		Uniformity among the states in this area will resolve serious problem with the validity of documents that now exist.
24	404	A trust may be created only to the extent its purposes are lawful, not contrary to public policy and possible to achieve.	Existing common law			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
25(a)	405	A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to the community.	Existing law			
25(b)	405	If the terms of a charitable trust do not indicate a particular charitable purpose or beneficiary, the court may select one or more charitable purposes or beneficiaries. The selection must be consistent with the settlor's intention to the extent it can be ascertained.	Broader than 45a-515, which allows a trustee to select charities when so directed.	Helpful because it effectuates charitable intent.		
25(c)	405	The settlor of a charitable trust, among others, may maintain a proceeding to enforce the trust.	Reverses existing Connecticut case law; See <u>Carl J. Herzog Foundation Inc. v. University of Bridgeport</u> , 699 A.2d 995 (1997).	Permits the Settlor to bring an action to enforce the trust that he or she created; greater settlor rights may encourage charitable giving.	Meddling by settlors	Contrary to Restatement (Second) of Trusts §391 (1959), subsection (c) grants a settlor standing to maintain an action to enforce a charitable trust. The grant of standing to the settlor does not negate the right of the state attorney general or persons with special interests to enforce either the trust or their interests.
26	406	A trust is void to the extent its creation was induced by fraud, duress or undue influence.	Existing law			
27	407	Except as required by a statute other than sections 1 to 85, inclusive, of this act, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and its terms may be established only by clear and convincing evidence.	Existing law			
28(a)	408	A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal.	New. Such trusts are currently not valid in Connecticut.	Permits the creation of trusts for the care of animals.		Restricted to reasonable amounts of corpus; see Section 28(c).

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
28(b)	408	A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court. A person having an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed.	New	See above		
28(c)	408	Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.	New	See above		

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
29	409	<p>Except as provided by section 28 of this act or by another statute, the following rules apply:</p> <p>(1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. The trust may not be enforced for more than ninety years.</p> <p>(2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court.</p> <p>(3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.</p>	New	Permits the creation of noncharitable Honorary Trusts without ascertainable beneficiaries. These trusts may be enforced for 90 years.		
30(a)	410	In addition to the methods of termination prescribed by sections 31 to 34, inclusive, of this act, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy or impossible to achieve.	New	Expanded flexibility in dealing with changed circumstances or events not contemplated by settlor.		Existing law is very limited; <u>Adams v. Link</u> . See comment to Section 31(a).

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
30(b)	410	A proceeding to approve or disapprove a proposed modification or termination under sections 31 to 36, inclusive, of this act, or trust combination or division under section 37 of this act, may be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a proposed modification or termination under section 31 of this act may be commenced by the settlor. The settlor of a charitable trust may maintain a proceeding to modify the trust under section 33 of this act.	New			See comment to 31(a) below.
31(a)	411	A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed.	New	Expanded flexibility for dealing with changed circumstances or events not contemplated by the settlor.	Minimal; settlor must agree.	Connecticut has limited case law which permits modification and termination. <u>See Adams v. Link</u> , 145 Conn. 634, 145 A.2d 753 (1958), which allows judicial termination only where all parties consent, all trust purposes have been fulfilled and the trust does not prohibit termination. CUTC Sections 30-37 would overrule this case and greatly expand Connecticut law in this area. These sections allow for irrevocable trust modification and termination for a variety of reasons. Court approval is required in all cases except when the settlor is alive and consents. The Court's ability to approve modifications or terminations cannot be waived in the trust. (CUTC Section 5(b)(4)). Once the trust is terminated, it can be distributed as agreed upon by the parties consenting to the termination.
31(b)	411	A noncharitable irrevocable trust may be terminated or modified upon consent of all of the beneficiaries if the court concludes that the termination or modification is not inconsistent with a material purpose of the trust and the probable intent of the settlor.	New	Preserves the Connecticut rule that the Settlor's intent controls. But expanded flexibility for dealing with changed circumstances or events not contemplated by the settlor.	Minimal; Must be approved by Court	<b>IMPORTANT NOTE:</b> The Connecticut drafters modified this provision to provide that modification or termination <b>requires the court to determine that such action will not violate a material purpose of the trust or the Settlor's intent.</b>

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
31(c)	411	For the purposes of this section, a spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust. In determining whether a spendthrift provision is a material purpose of a trust for purposes of modification or termination of the trust, the court shall consider the settlor's intent and the facts and circumstances surrounding the creation of the trust.	New	Flexibility	Drafter needs to specify when spendthrift protection is material purpose.	This is intended to prevent a "boiler plate" provision from automatically blocking a modification or termination.
31(d)	411	Upon termination of a trust under subsection (a) or (b) of this section, the trustee shall distribute the trust property as agreed by the parties consenting to the termination of the trust.	New		There may be tax consequences.	
31(e)	411	If not all of the beneficiaries consent to a proposed modification or termination of the trust under subsection (a) or (b) of this section, the modification or termination may be approved by the court if the court is satisfied that: (1) If all of the beneficiaries had consented, the trust could have been modified or terminated under this section; and (2) the interests of a beneficiary who does not consent will be adequately protected.	New	Provides mechanism for dealing with unreasonable hold-out.	A beneficiary may not agree.	Permits a modification or termination where not all of the beneficiaries consent but the Court is satisfied that the interests of the non-consenting beneficiaries are protected.
32(a)	412	The court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification must be made in accordance with the settlor's probable intention.	New	Provides a means to deal with unanticipated circumstances where the Court determines that any such modification or termination will further the purposes of the trust and are consistent with the settlor's probable intent.	Minimal because modification must further settlor's intent.	

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
32(b)	412	The court may modify the administrative terms of a trust if continuation of the trust on its existing terms would be impracticable or wasteful or impair the trust's administration.	New			Connecticut presently does not recognize a court's ability to apply equitable deviation to terminate or modify the administrative terms of a charitable trust. CUTC Section 32 would codify this doctrine, a beneficial change.
32(c)	412	Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.	New			
33(a)	413	Except as otherwise provided in subsection (b) of this section, if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve or wasteful: (1) The trust does not fail, in whole or in part; (2) the trust property does not revert to the settlor or the settlor's successors in interest; and (3) the court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, in a manner consistent with the settlor's charitable purposes.	Expands doctrine of cy pres, or approximation, by presuming the settlor had charitable intent.  C.G.S. Section 45a-515 is contrary. Thus, this reverses our current default rule.	Beneficial change; permits modification of obsolete administrative provisions.		Subsection (a) codifies the court's inherent authority to apply cy pres. The power may be applied to modify an administrative or dispositive term. The court may order the trust terminated and distributed to other charitable entities. Partial termination may also be ordered if the trust property is more than sufficient to satisfy the trust's current purposes. Subsection (a), which is similar to Restatement (Third) of Trusts §67 (Tentative Draft No. 3, 2001), modifies the doctrine of cy pres by presuming that the settlor had a general charitable intent when a particular charitable purpose becomes impossible or impracticable to achieve. Traditional doctrine did not supply that presumption, leaving it to the courts to determine whether the settlor had a general charitable intent. If such an intent is found, the trust property is applied to other charitable purposes. If not, the charitable trust fails. See Restatement (Second) of Trusts §399 (1959). In the great majority of cases the settlor would prefer that the property be used for other charitable purposes. Courts are usually able to find a general charitable purpose to which to apply the property, no matter how vaguely such purpose may have been expressed by the settlor. Under subsection (a), if the particular purpose for which the trust was created becomes impracticable, unlawful, impossible to achieve, or wasteful, the trust does not fail. The court instead must either modify the terms of the trust or distribute the property of the trust in a manner consistent with the settlor's charitable purposes.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
33(b)	413	A provision in the terms of a charitable trust that would result in distribution of the trust property to a noncharitable beneficiary prevails over the power of the court under subsection (a) of this section to apply cy pres to modify or terminate the trust only if, when the provision takes effect: (1) The trust property is to revert to the settlor and the settlor is still living; or (2) fewer than twenty-one years have elapsed since the date of the trust's creation.	New			The settlor, with one exception, may mandate that the trust property pass to a noncharitable beneficiary upon failure of a particular charitable purpose. Responding to concerns about the clogging of title and other administrative problems caused by remote default provisions upon failure of a charitable purpose, subsection (b) invalidates a gift over to a noncharitable beneficiary upon failure of a particular charitable purpose unless the trust property is to revert to a living settlor or fewer than 21 years have elapsed since the trust's creation. Subsection (b) will not apply to a charitable lead trust, under which a charity receives payments for a term certain with a remainder to a noncharity. In the case of a charitable lead trust, the settlor's particular charitable purpose does not fail upon completion of the specified trust term and distribution of the remainder to the noncharity. Upon completion of the specified trust term, the settlor's particular charitable purpose has instead been fulfilled.
34(a)	414	After notice to the qualified beneficiaries, the trustee of an inter vivos noncharitable trust, or the trustee of a testamentary noncharitable trust who obtains court approval, may terminate the trust if the total value of the trust property is less than <u>fifty thousand dollars</u> <sup>1</sup> and the trustee concludes that the termination is not inconsistent with the probable intent of the settlor and the value or character of the trust property is insufficient or inappropriate to justify the cost of administration.	Partially existing law			C.G.S. § 45a-484, as amended by Public Act 03-183, provides a limited power of termination for small trusts (as increased to \$100,000 under Public Act 03-183). CUTC Section 53 would replace it, as it is broader. Unlike the UTC, CUTC Section 34 does <u>not</u> apply to charitable trusts, so it will <u>not</u> replace C.G.S. § 45a-520.
34(b)	414	The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value or character of the trust property is insufficient or inappropriate to justify the cost of administration.	New			
34(c)	414	Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.	New			

<sup>1</sup> Draft predates P.A. 03-183, this should be changed to \$100,000.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
34(d)	414	This section does not apply to an easement for conservation or preservation.	New			
35	415	The court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if it is proven by clear and convincing evidence that both the settlor's intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.	Probably existing common law in Connecticut, however, there is no statute on point.	Codifies existing laws.		Reformation of inter vivos instruments to correct a mistake of law or fact is a long-established remedy. Restatement (Third) of Property: Donative Transfers §12.1 (Tentative Draft No. 1, approved 1995), which this section copies, clarifies that this doctrine also applies to wills.  This section applies whether the mistake is one of expression or one of inducement. A mistake of expression occurs when the terms of the trust misstate the settlor's intention, fail to include a term that was intended to be included, or include a term that was not intended to be excluded. A mistake in the inducement occurs when the terms of the trust accurately reflect what the settlor intended to be included or excluded but this intention was based on a mistake of fact or law. See Restatement (Third) of Property: Donative Transfers §12.1 cmt. i (Tentative Draft No. 1, approved 1995). Mistakes of expression are frequently caused by scribes' errors while mistakes of inducement often trace to errors of the settlor.
36	416	To achieve the settlor's tax objectives, the court may modify the terms of a trust in a manner that is not contrary to the settlor's probable intention. The court may provide that the modification has retroactive effect.	Consistent with and broadens existing statutes. See C.G.S. Sections 45a-485 and 45a-519.	New statutes authorizing tax-law driven modifications no longer required.		Existing laws was adopted in piecemeal fashion.
37	417	After notice to the qualified beneficiaries, a trustee may combine two or more trusts into a single trust or divide a trust into two or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust.	Consistent with and broadens existing statutes; See C.G.S. Section 45a-488.			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
38	501	To the extent a beneficiary's interest is not protected by a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or by other means. The court may limit the award to such relief as is appropriate under the circumstances.	Consistent with existent common law.			
39(a)	502	A spendthrift provision is valid only if it restrains both voluntary and involuntary transfer of a beneficiary's interest.	New. Repeals C.G.S. Section 52-321, except for subsection (e).	Broader settlor's ability to create a spendthrift protection for beneficiaries and thereby further protects beneficiaries.		Current Connecticut law does not recognize spendthrift provisions except to the extent a trust is a support trust or a discretionary trust (see C.G.S. Section 52-321). Under this section, a settlor has the power to restrain the transfer of a beneficiary's interest, regardless of whether the beneficiary has an interest in income, in principal, or in both. Unless one of the exceptions under this article applies, a creditor of the beneficiary is prohibited from attaching a protected interest and may only attempt to collect directly from the beneficiary after payment is made. This section is similar to Restatement (Third) of Trusts §58 (Tentative Draft No. 2, approved 1999), and Restatement (Second) of Trusts §§152-153 (1959).
39(b)	502	A term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust", or words of similar import, is sufficient to restrain both voluntary and involuntary transfer of the beneficiary's interest.	New			
39(c)	502	A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in sections 38 to 44, inclusive, of this act, a creditor or assignee of the beneficiary may not reach the interest or distribution by the trustee before its receipt by the beneficiary.	New	Substantially increases protection from creditors		
40(a)	503	For the purposes of this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
40(b)	503	Even if a trust contains a spendthrift provision, a beneficiary's child, spouse or former spouse who has a judgment or court order against the beneficiary for support or maintenance, or a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust, may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary.	New	Broadens rights of children and/or spouses with respect to court ordered support only (not for property settlement).		As a matter of public policy, this section creates an exception to the spendthrift protection for court ordered support for the child, spouse or former spouse of a beneficiary. The exception in subsection (b) for judgments or orders to support a beneficiary's child or current or former spouse is in accord with Restatement (Third) of Trusts §59(a) (Tentative Draft No. 2, approved 1999), Restatement (Second) of Trusts §157(a) (1959), and numerous state statutes. It is also consistent with federal bankruptcy law, which exempts such support orders from discharge. The effect of this exception is to permit the claimant for unpaid support to attach present or future distributions that would otherwise be made to the beneficiary.
40(c)	503	A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.	Common law	Maintains existing law	None	
41(a)	504	For the purposes of this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.	New			
41(b)	504	Except as otherwise provided in subsection (c) of this section, whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if: (1) The discretion is expressed in the form of a standard of distribution; or (2) the trustee has abused the discretion.	New	Substantially increases protection from creditors		This section addresses the ability of a beneficiary's creditor to reach the beneficiary's discretionary trust interest, whether or not the exercise of the trustee's discretion is subject to a standard. This section, similar to the Restatement, eliminates the distinction between discretionary and support trusts, unifying the rules for all trusts fitting within either of the former categories. See Restatement (Third) of Trusts §60 Reporter's Notes to cmt. a (Tentative Draft No. 2, approved 1999). Subsection (b), which establishes the general rule, forbids a creditor from compelling a distribution from the trust, even if the trustee has failed to comply with the standard of distribution or has abused a discretion. Under subsection (d), the power to force a distribution due to an abuse of discretion or failure to comply with a standard belongs solely to the beneficiary.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
41(c)	504	To the extent a trustee has not complied with a standard of distribution or has abused a discretion: (1) A distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child, spouse or former spouse; and (2) the court shall direct the trustee to pay to the child, spouse or former spouse such amount as is equitable under the circumstances, but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.	New	Public policy exception; may protect trustee by providing a mechanism for applying standards of discretion in difficult circumstances.		Subsection (c) creates an exception for support claims of a child, spouse, or former spouse who has a judgment or order against a beneficiary for support or maintenance. While a creditor of a beneficiary generally may not assert that a trustee has abused a discretion or failed to comply with a standard of distribution, such a claim may be asserted by the beneficiary's child, spouse, or former spouse enforcing a judgment or court order against the beneficiary for unpaid support or maintenance. The court must direct the trustee to pay the child, spouse or former spouse such amount as is equitable under the circumstances but not in excess of the amount the trustee was otherwise required to distribute to or for the benefit of the beneficiary.
41(d)	504	This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.	Existing common law			
42(a)	505	Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:  (1) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.	Existing Connecticut law, <u>Greenwich Trust v. Tyson</u> , 129 Conn. 211 (1942).	Clarity		Subsection (a)(1) states what is now a well accepted conclusion, that a revocable trust is subject to the claims of the settlor's creditors while the settlor is living.
42(a)	505	(2) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to such settlor's contribution.	Existing Connecticut Law			Subsection (a)(2), which is based on Restatement (Third) of Trusts §58(2) and cmt. e (Tentative Draft No. 2, approved 1999), and Restatement (Second) of Trusts §156 (1959), follows traditional doctrine in providing that a settlor who is also a beneficiary may not use the trust as a shield against the settlor's creditors. The drafters of the Uniform Trust Code concluded that traditional doctrine reflects sound policy. Consequently, the drafters rejected the approach taken in States like Alaska and Delaware, both of which allow a settlor to retain a beneficial interest immune from creditor claims.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
42(a)	505	(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, except as otherwise provided in section 45a-472 of the general statutes, the property of a trust that was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and the family allowance to a surviving spouse and children under section 45a-320 of the general statutes, to the extent the settlor's probate estate is inadequate to satisfy such claims, costs, expenses and allowance.	No law on point. Does NOT overrule <u>Cherniack v. Home National Bank &amp; Trust</u> , 151 Conn. 367 (1964).	Clarity and protection to a trustee who pays the settlor's claims/debts; limits trustee liability		This has been a subject of some confusion in Connecticut for many years, and the CUTC now resolves that confusion. Subsection (a)(3) recognizes that a revocable trust is usually employed as a will substitute. As such, the trust assets, following the death of the settlor, should be subject to the settlor's debts and other charges, except to the extent they are protected by C.G.S. Section 45a-472. However, in accordance with traditional doctrine, the assets of the settlor's probate estate must normally first be exhausted before the assets of the revocable trust can be reached.  See Restatement (Third) of Trusts §25(2) cmt. e (Tentative Draft No. 2, approved 1999).
42(b)	505	With respect to claims, expenses and taxes in connection with the settlement of a trust that was revocable at the settlor's death, the following rules apply:  (1) Any claim of a creditor that would be barred against the fiduciary of a decedent's estate, the estate of the decedent or any creditor or beneficiary of the decedent's estate, shall be barred against the trustee, the trust property and the creditors and beneficiaries of the trust.	Existing law for probate estates	Protects Trustees of Revocable Trusts by providing clear claims process and protection of statutes of limitation		Subsection (b) incorporates the statutes of limitation applicable to probate estates into the claims provisions that apply to Revocable Trusts.
42(b)	505	(2) The trustee may use the optional notice procedures set forth in section 45a-357 of the general statutes and, upon the trustee's compliance with the procedures set forth in said section, any person so notified shall be forever barred from asserting or recovering on any such claim from the trustee, the trust property or any creditor or beneficiary of the trust.	Existing law for probate estates			
42(b)	505	(3) The provisions of section 45a-365 of the general statutes dealing with the order of payment of claims, expenses and taxes shall apply to a revocable trust.	Existing law for probate estates			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
42(b)	505	<p>(4) If any claim is not presented in writing to the fiduciary of the settlor's estate or the trustee (A) within one hundred fifty days from the date of the appointment of the first fiduciary of the settlor's estate, or (B) if no fiduciary is appointed within one hundred fifty days from the settlor's date of death, then within one hundred fifty days from the settlor's date of death, no trustee shall be chargeable for any assets that a trustee may have paid or distributed in good faith in satisfaction of any lawful claims, expenses or taxes or to any beneficiary before such claim was presented. A payment or distribution of assets by a trustee shall be deemed to have been made in good faith unless the creditor can prove that the trustee had actual knowledge of such claims at the time of such payment or distribution. Such one-hundred-fifty-day period shall not be interrupted or affected by the death, resignation or removal of a trustee, except that the time during which there is no fiduciary in office shall not be counted as part of such period.</p>	Existing law for probate estates			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
42(c)	505	For the purposes of this section: (1) During the period a power of withdrawal may be exercised, the holder of the power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and (2) upon the lapse, release or waiver of a power of withdrawal, the holder of the power of withdrawal is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release or waiver exceeds the greater of the amount specified in Section 2041(b)(2), 2503(b) or 2514(e) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended.	New			
43	506	Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the mandated distribution date.	Existing law			
44	507	Trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt.	Existing law			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
45	601	The capacity required to create, amend, revoke or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.	Present law may be the capacity to make a gift, which is higher than testamentary capacity.  If so (law is unclear), this lowers the standard. See <u>Preston v. Preston</u> , 102 Conn. 96 (1925).	Clarity		Existing law is totally silent on the required capacity to create, amend or revoke a Revocable Trust. This section makes it clear that the capacity requirement is the same as is required for making a Will.  The revocable trust is used primarily as a will substitute, with its key provision being the determination of the persons to receive the trust property upon the settlor's death. To solidify the use of the revocable trust as a device for transferring property at death, the settlor usually also executes a pourover will. The use of a pourover will assures that property not transferred to the trust during life will be combined with the property the settlor did manage to convey. Given this primary use of the revocable trust as a device for disposing of property at death, the capacity standard for wills rather than that for lifetime gifts should apply. The application of the capacity standard for wills does not mean that the revocable trust must be executed with the formalities of a will. There are no execution requirements under this Code for a trust not created by will.
46(a)	602	Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust. This subsection does not apply to a trust created under an instrument executed before the effective date of this section.	Reverses existing common law presumption of irrevocability. See <u>Goytizolo v. Moore</u> , 27 Conn. App. 22, 27 (1992).	Conforms the default rule to the intent of most, if not all, settlors.		
46(b)	602	If a revocable trust is created or funded by more than one settlor: (1) To the extent the trust consists of community property, the trust may be revoked by either spouse acting alone, but may be amended only by joint action of both spouses; and (2) to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to such settlor's contribution.	New	Clarity		

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
46(c)	602	<p>The settlor may revoke or amend a revocable trust:</p> <p>(1) By substantial compliance with a method provided in the terms of the trust; or</p> <p>(2) If the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by (A) a later will or codicil that has been admitted to probate and that expressly refers to the trust or expressly devises specifically identified items of real or personal property that would otherwise have passed according to the terms of the trust, or (B) any other method manifesting clear and convincing evidence of the settlor's intent, provided (i) a written revocable trust may only be amended by a later written instrument, and (ii) a written revocable trust may only be revoked by a later written instrument or by the burning, cancellation, tearing or obliteration of the revocable trust by the settlor or by a person in the settlor's presence and at the settlor's direction.</p>	None. This would allow a settlor to modify a trust by will, under very limited circumstances. The settlor can <u>prohibit</u> modification by will, this section only applies in default.	Would allow emergency trust amendment via death bed wills, if appropriate.		Since many documents are silent on the procedure required to amend or revoke a Revocable Trust, this section provides welcome clarity as to what methods will be effective. However, if the document contains a mandatory procedure, then that provision will control.
46(d)	602	Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.	Existing law			
46(e)	602	A settlor's powers with respect to revocation, amendment or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust or the power.	None, but this provides a sensible rule.	Terms of trust may prohibit.		
46(f)	602	Unless expressly prohibited by the terms of the trust, a conservator of the settlor may exercise a settlor's powers with respect to revocation, amendment or distribution of trust property with the approval of the court supervising the conservatorship.	New	Validates trusts prohibiting Conservator's exercising powers over trust assets.		This <u>validates</u> prohibitions in trust agreements which would prevent a conservator from undoing the trust. Presently, no such prohibition exists. <u>Very useful</u> , enable settlor to prevent conservators from revoking trusts while the settlor is incapable.

<b>CT Act §</b>	<b>UTC §</b>	<b>Text</b>	<b>Existing Law</b>	<b>Benefit</b>	<b>Risk</b>	<b>Comments</b>
46(g)	602	A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.	New	Provides very sensible protection to the Trustee		
47(a)	603	While a trust is revocable and the settlor is alive, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.	None. Clarifies that the settlor's interests are primary, even when the settlor is incapable.	Clarity		
47(b)	603	If a revocable trust has more than one settlor, the duties of the trustee are owed to all of the settlors having capacity to revoke the trust.	New			During settlor's life, the Trustee of a revocable trust owes duties only to the settlor. Thus provisions of the CUTC regarding the rights of beneficiaries (other than the settlor) so not apply until settlor's death.
47(c)	603	During the period a power of withdrawal may be exercised, the holder of the power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
48(a)	604	<p>A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of:</p> <p>(1) Two years after the settlor's death; or</p> <p>(2) One hundred fifty days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding. The trustee shall have the right to provide the documentation and information set forth in this subdivision to (A) all persons who would be entitled to notice of the application for probate of a will or administration of an intestate estate or to notice of the admission of a will to probate or the granting of letters of administration, and (B) all persons whose interests are, in the opinion of the trustee, adversely affected by the trust.</p>	Connecticut presently has no statute of limitation on trust contests after the settlor's death.	Clarity and limitation of trustee liability.		Provides long needed clarity and protection for the Trustee. This section provides finality to the question of when a contest of a revocable trust may be brought. The section is designed to allow an adequate time in which to bring a contest while at the same time permitting the expeditious distribution of the trust property following the settlor's death.
48(b)	604	<p>Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for doing so unless: (1) The trustee knows of a pending judicial proceeding contesting the validity of the trust; (2) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within sixty days after the contestant sent the notification; or (3) the trustee failed to give notice to the qualified beneficiaries in accordance with subdivision (3) of subsection (b) of section 66 of this act.</p>	New	Permits normal administration and protection for Trustee		Because only a small minority of trusts are actually contested, trustees should not be restrained from making distributions because of concern about possible liability should a contest later be filed. Absent a protective statute, a trustee is ordinarily absolutely liable for misdelivery of the trust assets, even if the trustee reasonably believed that the distribution was proper. See Restatement (Second) of Trusts §226 (1959). Subsection (b) addresses liability concerns by allowing the trustee, upon the settlor's death, to proceed expeditiously to distribute the trust property. The trustee may distribute the trust property in accordance with the terms of the trust until and unless the trustee receives notice of a pending judicial proceeding contesting the validity of the trust, until notified by a potential contestant of a possible contest, followed by its filing within 60 days or the Trustee failed to give the required notice to Qualified Beneficiaries..

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
48(c)	604	A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.	New	Allows recoupment of any improper distributions.		Even though a distribution in compliance with subsection (b) discharges the trustee from potential liability, subsection (c) makes the beneficiaries of what later turns out to have been an invalid trust liable to return any distribution received.
49(a)	701	Except as otherwise provided in subsection (c) of this section, a person designated as trustee accepts the trusteeship: (1) By substantially complying with a method of acceptance provided in the terms of the trust; (2) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship; or (3) in the case of a testamentary trust, filing an acceptance of trust in the court with jurisdiction over the trust.	Existing law as to testamentary trusts. No comparable provision in current law as to inter vivos trusts	Clarity for inter vivos trusts		As to inter vivos trusts, procedures specified in the terms of the trust are recognized, but only substantial, not literal compliance is required. A failure to meet technical requirements, such as notarization of the trustee's signature, does not result in a failure to accept. Ordinarily, the trustee will indicate acceptance by signing the trust instrument or signing a separate written instrument. However, this section validates any other method demonstrating the necessary intent, such as by knowingly exercising trustee powers, unless the terms of the trust make the specified method exclusive.
49(b)	701	A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have rejected the trusteeship.	Existing law as to power to reject trusteeship.	Limits liability of Trustees.		To avoid the inaction that can result if the person designated as trustee fails to communicate a decision either to accept or to reject the trusteeship, subsection (b) provides that a failure to accept within a reasonable time constitutes a rejection of the trusteeship. What will constitute a reasonable time depends on the facts and circumstances of the particular case. A major consideration is possible harm that might occur if a vacancy in a trusteeship is not filled in a timely manner. A trustee's rejection normally precludes a later acceptance but does not cause the trust to fail. See Restatement (Third) of Trusts §35 cmt. c (Tentative Draft No. 2, approved 1999).

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
49(c)	701	A person designated as trustee, without accepting the trusteeship, may: (1) Act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified beneficiary; and (2) inspect or investigate trust property to determine potential liability under state or federal environmental or other law or for any other purpose.	New			Subsection (c)(1) makes clear that a nominated trustee may act expeditiously to protect the trust property without being considered to have accepted the trusteeship. However, upon conclusion of the intervention, the nominated trustee must send a rejection of office to the settlor, if living, otherwise to a qualified beneficiary.  Because of the potential liability that can inhere in trusteeship, subsection (c)(2) allows a person designated as trustee to inspect the trust property without accepting the trusteeship. The condition of real property is a particular concern, including possible tort liability for the condition of the premises or liability for violation of state or federal environmental laws such as CERCLA, 42 U.S.C. §9607.
49(d)	701	A testamentary trustee that is a foreign corporation shall also comply with section 45a-206 of the general statutes.	Existing law			
50(a)	702	A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.	Similar to existing law			
50(b)	702	The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.	Similar to existing law			
51(a)	703	Cotrustees who are unable to reach a unanimous decision may act by majority decision.	Changes current Connecticut law which requires that Trustees act unanimously unless the document provides otherwise.	Flexibility		Subsection (a) is in accord with Restatement (Third) of Trusts §39 (Tentative Draft No. 2, approved 1999), which rejects the common law rule, followed in earlier Restatements, requiring unanimity among the trustees of a private trust.
51(b)	703	If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.	New	Clarifies current law		Makes it clear that remaining Trustees can act during the period required to fill a vacancy.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
51(c)	703	A cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.	New	Clarity		
51(d)	703	If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.	New	Clarity		
51(e)	703	A trustee may delegate to a cotrustee the performance of any function other than a function that the terms of the trust expressly require to be performed by the trustees jointly. Unless a delegation was irrevocable, a delegating trustee may revoke a delegation previously made.	New	Makes it crystal clear that Trustees may delegate duties to their co-Trustees		The drafters of the Connecticut Act changed the UTC provision to make it clear that a Trustee may delegate any function to a co-Trustee unless the document specifically required a function to be performed by the co-Trustees jointly. The pure UTC provision made delegation very difficult.
51(f)	703	Except as otherwise provided in subsection (g) of this section, a trustee who does not join in an action of another trustee is not liable for the action.	New	Limits Trustee liability.		By permitting the trustees to act by a majority, this section contemplates that there may be a trustee or trustees who might dissent. Trustees who dissent from the acts of a co-trustee are in general protected from liability. Subsection (f) protects trustees who refused to join in the action.
51(g)	703	Each trustee shall exercise reasonable care to: (1) Prevent a cotrustee from committing a serious breach of trust; and (2) compel a cotrustee to redress a serious breach of trust.	New			The protections provided by subsections (f) and (h) no longer apply if the action constitutes a serious breach of trust. In that event, subsection (g) may impose liability against a dissenting trustee for failing to take reasonable steps to rectify the improper conduct. The responsibility to take action against a breaching co-trustee codifies the substance of Sections 184 and 224 of the Restatement (Second) of Trusts (1959).

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
51(h)	703	A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.	New			Subsection (h) protects a dissenting trustee who joined the action at the direction of the majority, such as to satisfy a demand of the other side to a transaction, if the trustee expressed the dissent to a co-trustee at or before the time of the action in question.
52(a)	704	A vacancy in a trusteeship occurs if: (1) A person designated as trustee rejects the trusteeship; (2) a person designated as trustee cannot be identified or does not exist; (3) a trustee resigns; (4) a trustee is disqualified or removed; (5) a trustee dies; or (6) a conservator is appointed for an individual serving as trustee.	Substantially the same as existing statutory and common law	Adds clarity by creating statutory certainty as to events that create a vacancy		
52(b)	704	If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled, unless otherwise required by the terms of the trust. A vacancy in a trusteeship must be filled if the trust has no remaining trustee.	C.G.S. section 45a-474 is ambiguous but can be read to require appointment of a successor trustee	Add welcome clarity to existing law		Many documents are silent on this issue which creates a serious issue for the remaining trustees
52(c)	704	A vacancy in a trusteeship required to be filled must be filled in the following order of priority: (1) By a person designated in the terms of the trust to act as successor trustee or appointed according to a procedure specified in such terms; (2) by a person appointed by unanimous agreement of the qualified beneficiaries; (3) in the case of an inter vivos charitable trust, by a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust; or (4) by a person appointed by the court.	C.G.S. section 45a-474 and 45a-242 provide current procedures which are inadequate and do not provide clear procedures as to how the successor is selected.	Improves current procedures		Section (c) (1) is consistent with current law for both inter vivos and testamentary trusts. Subsections (2) and (3) are new, but only apply if there is no provision in the document.
52(d)	704	Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.	New	Flexibility		Allows the court to deal with specific situations or assets that require a special trustees with unique qualifications.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
53(a)	705	A trustee of an inter vivos trust may resign without court approval upon at least thirty days notice to either: (1) The qualified beneficiaries, the settlor, if living, and all cotrustees; or (2) the court.	Changes current common law rule in Connecticut; See C.G.S. Section 45a-242			This section rejects the common law rule that a trustee may resign only with permission of the court, and goes further than the Restatements, which allow a trustee to resign with the consent of the beneficiaries. See Restatement (Third) of Trusts §36 (Tentative Draft No.2, approved 1999); Restatement (Second) of Trusts §106 (1959). Concluding that the default rule ought to approximate standard drafting practice, the Drafting Committee provided in subsection (a) that a trustee may resign by giving notice to the qualified beneficiaries and any cotrustee. A resigning trustee may also follow the traditional method and resign with approval of the court.
53(b)	705	A trustee of a testamentary trust may resign: (1) Without court approval upon at least thirty days notice to the qualified beneficiaries and the court; or (2) with the approval of the court.	Changes current Connecticut law; See C.G.S. Section 45a-242			See preceding comment.
53(c)	705	In approving a resignation under subdivision (2) of subsection (b) of this section, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property, the beneficiaries and the other trustees, and may issue such other orders as law and equity may require.	Similar to existing law; See C.G.S. Section 45a-242			
53(d)	705	Any liability of a resigning trustee or of any sureties on such trustee's bond for acts or omissions of such trustee is not discharged or affected by such trustee's resignation.	Existing law; See C.G.S. Section 45a-242(e)			
54(a)	706	The settlor, a cotrustee or a beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative.	Existing law; See C.G.S. Section 45a-242			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
54(b)	706	<p>The court may remove a trustee if:</p> <p>(1) The trustee has committed a serious breach of trust;</p> <p>(2) Lack of cooperation among cotrustees substantially impairs the administration of the trust;</p> <p>(3) Because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries; or</p> <p>(4) There has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available. A successor corporate fiduciary shall not be removed in such a manner as to discriminate against state banks or national banking associations. No consolidated state bank or national banking association and no receiving state bank or national banking association may be removed solely because it is a successor fiduciary, as defined in section 45a-245a of the general statutes.</p>	Existing law; See C.G.S. Section 45a-242			
54(c)	706	Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under subsection (b) of section 71 of this act as may be necessary to protect the trust property or the interests of the beneficiaries.	New			Permits court to maintain status quo pending resolution of removal.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
55(a)	707	Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.	Existing common law			
55(b)	707	A trustee who has resigned or been removed shall proceed expeditiously to deliver the trust property within the trustee's possession to the cotrustee, successor trustee or other person entitled to it.	Similar to C.G.S. Section 45a-244			
56(a)	708	If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to compensation that is reasonable under the circumstances.	Existing Connecticut common law, <u>Hayward v. Plant</u>	Consistent with Settlor's intent and reasonable compensation principles		
56(b)	708	If the terms of a trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, but the court may allow more or less compensation if: (1) The duties of the trustee are substantially different from those contemplated when the trust was created; or (2) the compensation specified by the terms of the trust would be unreasonably low or high.				

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
57(a)	709	A trustee is entitled to be reimbursed out of the trust property, with interest as appropriate, for: (1) Expenses that were properly incurred in the defense or administration of the trust, unless the trustee is determined to have committed a breach of trust; and (2) to the extent necessary to prevent unjust enrichment of the trust, expenses that were not properly incurred in the administration of the trust.	New	Clarity		<p>A trustee has the authority to expend trust funds as necessary in the administration of the trust, including expenses incurred in the hiring of agents.</p> <p>Subsection (a)(1) clarifies that a trustee is entitled to reimbursement from the trust for incurring expenses within the trustee's authority. The trustee may also withhold appropriate reimbursement for expenses before making distributions to the beneficiaries. See Restatement (Third) of Trusts §38 cmt. b (Tentative Draft No. 2, approved 1999); Restatement (Second) of Trusts §244 cmt. b (1959). A trustee is ordinarily not entitled to reimbursement for incurring unauthorized expenses.</p> <p>As provided in subsection (a)(2), a trustee is entitled to reimbursement for unauthorized expenses only if the unauthorized expenditures benefited the trust. The purpose of this provision, which is derived from Restatement (Second) of Trusts §245 (1959), is not to ratify the unauthorized conduct of the trustee, but to prevent unjust enrichment of the trust. Given this purpose, a court, on appropriate grounds, may delay or even deny reimbursement for expenses which benefited the trust. Appropriate grounds include: (1) whether the trustee acted in bad faith in incurring the expense; (2) whether the trustee knew that the expense was inappropriate; (3) whether the trustee reasonably believed the expense was necessary for the preservation of the trust estate; (4) whether the expense has resulted in a benefit; and (5) whether indemnity can be allowed without defeating or impairing the purposes of the trust. See Restatement (Second) of Trusts §245 cmt. g (1959).</p>
57(b)	709	An advance by the trustee of money for the protection of the trust gives rise to a lien against trust property to secure reimbursement with reasonable interest.	New			Subsection (b) implements Section 59(h)(5), which creates an exception to the duty of loyalty for advances by the trustee for the protection of the trust if the transaction is fair to the beneficiaries.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
58	801	Upon acceptance of a trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and purposes, the intentions of the settlor and the interests of the beneficiaries, and in accordance with sections 1 to 85, inclusive, of this act.	New statutory provision, however, this represents current common law in Connecticut			<p>This section confirms that a primary duty of a trustee is to follow the terms and purposes of the trust and to do so in good faith. Only if the terms of a trust are silent or for some reason invalid on a particular issue does this Code govern the trustee's duties.</p> <p>In order to make it very clear that the Trustee's duty is to carry out the terms of the trust in accordance with the intentions of the settlor, the drafters of the Connecticut Act added the words "the intentions of the settlor" to section 58. As indicated in the definitions, the term "interests of the beneficiaries" means the beneficial interests provided in the terms of the trust and not the "desires" of the beneficiaries..</p>
59(a)	802	A trustee shall invest and manage the trust assets solely in the interests of the beneficiaries.	Current common law			One again, the term "interests of the beneficiaries" means the beneficial interests as provided for in the terms of the trust.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
59(b)	802	<p>Subject to the rights of persons dealing with or assisting the trustee as provided in section 81 of this act, a sale, encumbrance or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless: (1) The transaction was authorized by the terms of the trust; (2) the transaction was approved by the court; (3) the beneficiary did not commence a judicial proceeding within the time allowed by section 74 of this act; (4) the beneficiary consented to the trustee's conduct, ratified the transaction or released the trustee as provided in section 78 of this act; or (5) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.</p>	<p>Statutory enactment of the current Connecticut common law</p>			<p>Duty of loyalty issues often arise in connection with the settlor's designation of the trustee. For example, it is not uncommon that the trustee will also be a beneficiary. Or the settlor will name a friend or family member who is an officer of a company in which the settlor owns stock. In such cases, settlors should be advised to consider addressing in the terms of the trust how such conflicts are to be handled. Section 105 authorizes a settlor to override an otherwise applicable duty of loyalty in the terms of the trust. Sometimes the override is implied. The grant to a trustee of authority to make a discretionary distribution to a class of beneficiaries that includes the trustee implicitly authorizes the trustee to make distributions for the trustee's own benefit.</p> <p>Subsection (b) states the general rule with respect to transactions involving trust property that are affected by a conflict of interest. A transaction affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary who is affected by the transaction. Subsection (b) carries out the "no further inquiry" rule by making transactions involving trust property entered into by a trustee for the trustee's own personal account voidable without further proof. Such transactions are irrebuttably presumed to be affected by a conflict between personal and fiduciary interests. It is immaterial whether the trustee acts in good faith or pays a fair consideration. See Restatement (Second) of Trusts §170 cmt. b (1959).</p> <p>As provided in subsection (b), no breach of the duty of loyalty occurs if the transaction was authorized by the terms of the trust or approved by the court, or if the beneficiary failed to commence a judicial proceeding within the time allowed or chose to ratify the transaction, either prior to or subsequent to its occurrence. In determining whether a beneficiary has consented to a transaction, the principles of virtual representation may be applied.</p>

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
59(c)	802	A sale, encumbrance or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with: (1) The trustee's spouse; (2) the trustee's descendants, siblings, parents or their spouses; (3) an agent or attorney of the trustee; or (4) a corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.	New			The rule is less severe with respect to transactions involving trust property entered into with persons who have close business or personal ties with the trustee. Under subsection (c), a transaction between a trustee and certain relatives and business associates is presumptively voidable, not void. Also presumptively voidable are transactions with corporations or other enterprises in which the trustee, or a person who owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment. The presumption is rebutted if the trustee establishes that the transaction was not affected by a conflict between personal and fiduciary interests. Among the factors tending to rebut the presumption are whether the consideration was fair and whether the other terms of the transaction are similar to those that would be transacted with an independent party.
59(d)	802	A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.	New			Subsection (d) creates a presumption that a transaction between a trustee and a beneficiary not involving trust property is an abuse by the trustee of a confidential relationship with the beneficiary. This subsection has limited scope. If the trust has terminated, there must be proof that the trustee's influence with the beneficiary remained. Furthermore, whether or not the trust has terminated, there must be proof that the trustee obtained an advantage from the relationship. The fact the trustee profited is insufficient to show an abuse if a third party would have similarly profited in an arm's length transaction.
59(e)	802	A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.	New			Subsection (e), which allows a beneficiary to void a transaction entered into by the trustee that involved an opportunity belonging to the trust, is based on Restatement (Second) of Trusts §170 cmt. k (1959). While normally associated with corporations and with their directors and officers, what is usually referred to as the corporate opportunity doctrine also applies to other types of fiduciary. The doctrine prohibits the trustee's pursuit of certain business activities, such as entering into a business in direct competition with a business owned by the trust, or the purchasing of an investment that the facts suggest the trustee was expected to purchase for the trust.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
59(f)	802	<p>(1) The following transactions are not presumed to be affected by a conflict of interest between a trustee’s personal and fiduciary interests, provided the transaction and any investment made pursuant to the transaction complies with the Connecticut Uniform Prudent Investor Act, sections 45a-541 to 45a-5411 of the general statutes: (A) An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee; (B) an investment by a trustee in an insurance contract purchased from an insurance agency owned by, or affiliated with, the trustee or its affiliate; (C) the placing of securities transactions by a trustee through a securities broker that is a part of the same company as the trustee, is owned by the trustee or is affiliated with the trustee.</p> <p>(2) A trustee may be compensated for any transaction described in this subsection out of fees charged to the trust if the trustee, at least annually, notifies the persons entitled under section 66 of this act to receive a copy of the trustee’s annual report of the rate and method by which the compensation was determined.</p>	New but in part substantially similar to C.G.S. Section 45a-209, dealing with investments in mutual funds			This section creates several exceptions to the “no further inquiry rule” for transactions frequently entered into by professional fiduciaries on behalf of a trust that the drafters of the Connecticut Act felt should not be presumed tainted with a conflict of interest. This section represents a substantial change from the pure UTC provision which was limited to investments in mutual funds.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
59(g)	802	In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.	New statutory provision but part of common law			Subsection (g) addresses an overlap between trust and corporate law. It is based on Restatement of Trusts (Second) §193 cmt. a (1959), which provides that “[i]t is the duty of the trustee in voting shares of stock to use proper care to promote the interest of the beneficiary,” and that the fiduciary responsibility of a trustee in voting a control block “is heavier than where he holds only a small fraction of the shares.” When the trust owns the entirety of the shares of a corporation, the corporate assets are in effect trust assets that the trustee determines to hold in corporate form. The trustee may not use the corporate form to escape the fiduciary duties of trust law. Thus, for example, a trustee whose duty of impartiality would require the trustee to make current distributions for the support of current beneficiaries may not evade that duty by holding assets in corporate form and pleading the discretion of corporate directors to determine dividend policy. Rather, the trustee must vote for corporate directors who will follow a dividend policy consistent with the trustee’s trust-law duty of impartiality.
59(h)	802	This section does not preclude the following transactions, if fair to the beneficiaries: (1) An agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee; (2) payment of reasonable compensation to the trustee; (3) a transaction between a trust and another trust, decedent’s estate or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest; (4) a deposit of trust money in a regulated financial service institution operated by the trustee; or (5) an advance by the trustee of money for the protection of the trust.	New			Subsection (h) contains several exceptions to the general duty of loyalty, which apply if the transaction was fair to the beneficiaries. Subsection (h)(1)-(2) clarify that a trustee is free to contract about the terms of appointment and rate of compensation. Consistent with Restatement (Second) of Trusts §170 cmt. r (1959), subsection (h)(3) authorizes a trustee to engage in a transaction involving another trust of which the trustee is also trustee, a transaction with a decedent’s estate or a conservatorship estate of which the trustee is personal representative or conservator, or a transaction with another trust or other fiduciary relationship in which a beneficiary of the trust has an interest. The authority of a trustee to deposit funds in a financial institution operated by the trustee, as provided in subsection (h)(4), is recognized in Restatement (Second) of Trusts §170 cmt. m (1959). The power to deposit funds in its own institution does not negate the trustee’s responsibility to invest prudently, including the obligation to earn a reasonable rate of interest on deposits. Subsection (h)(5) authorizes a trustee to advance money for the protection of the trust. Such advances usually are of small amounts and are made in emergencies or as a matter of convenience. Pursuant to Section 57(b), the trustee has a lien against the trust property for any advances made.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
59(i)	802	The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.	New	Flexibility		Permits the Trustee to seek the appointment of a special trustee in situations where the Trustee is concerned with Duty Of Loyalty issues.
60	804	A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution.	New but similar to common law principles			<p>The duty to administer a trust with prudence is a fundamental duty of the trustee. This duty does not depend on whether the trustee receives compensation. The duty may be altered by the terms of the trust.</p> <p>The language of this section diverges from the language of the previous Restatement. The prior Restatement can be read as applying the same standard- “man of ordinary prudence would exercise in dealing with his own property”- regardless of the type or purposes of the trust. See Restatement (Second) of Trusts §174 cmt. a (1959). <u>This section appropriately bases the standard on the purposes and other circumstances of the particular trust.</u></p> <p>A settlor who wishes to modify the standard of care specified in this section is free to do so, but there is a limit. Section 77 prohibits a settlor from exculpating a trustee from liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or to the interests of the beneficiaries.</p>
61(a)	808	While a trust is revocable, the trustee may follow a direction of the settlor that is contrary to the terms of the trust.	New			<p>Subsection (a) is an application of Section 47 (a), which provides that a revocable trust is subject to the settlor’s exclusive control as long as the settlor has capacity. Because of the settlor’s degree of control, subsection (a) of this section authorizes a trustee to rely on a written direction from the settlor even if it is contrary to the terms of the trust.</p>

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
61(b)	808	If the terms of a trust confer upon a person other than the settlor of a revocable trust power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise of the power unless the attempted exercise is manifestly contrary to the terms of the trust or the trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that the person holding the power owes to the beneficiaries of the trust.	New	Formal recognition of Trust Protector concept which is now very common		<p>Subsections (b)-(d) ratify the use of trust protectors and advisers. Subsections (b) and (d) are based in part on Restatement (Second) of Trusts §185 (1959). Subsection (c) is similar to Restatement (Third) of Trusts §64(2) (Tentative Draft No. 3, 2001). “Advisers” have long been used for certain trustee functions, such as the power to direct investments or manage a closely-held business. “Trust protector,” a term largely associated with offshore trust practice, is more recent and usually connotes the grant of greater powers, sometimes including the power to amend or terminate the trust. Subsection (c) ratifies the recent trend to grant third persons such broader powers.</p> <p>Powers to direct are most effective when the trustee is not deterred from exercising the power by fear of possible liability. On the other hand, the trustee does have overall responsibility for seeing that the terms of the trust are honored. For this reason, subsection (b) imposes only minimal oversight responsibility on the trustee. A trustee must generally act in accordance with the direction. A trustee may refuse the direction only if the attempted exercise would be manifestly contrary to the terms of the trust or the trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty owed by the holder of the power to the beneficiaries of the trust.</p> <p>The provisions of this section may be altered in the terms of the trust. A settlor can provide that the trustee must accept the decision of the power holder without question. Or a settlor could provide that the holder of the power is not to be held to the standards of a fiduciary.</p>
61(c)	808	The terms of a trust may confer upon a trustee or other person a power to direct the modification or termination of the trust.	New			See above
61(d)	808	A person, other than a beneficiary, who holds a power to direct as specified in subsection (b) or (c) of this section is presumptively a fiduciary and is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results from breach of a fiduciary duty.	New			See above

<b>CT Act §</b>	<b>UTC §</b>	<b>Text</b>	<b>Existing Law</b>	<b>Benefit</b>	<b>Risk</b>	<b>Comments</b>
62	809	A trustee shall take reasonable steps to take control of and protect the trust property.	Existing Law			
63(a)	810	A trustee shall keep adequate records of the administration of the trust.	Existing law			
63(b)	810	A trustee shall keep trust property separate from the trustee's own property.	Existing law			
63(c)	810	Except as otherwise provided in subsection (d) of this section, a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.	Existing law			
63(d)	810	If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of two or more separate trusts.	Existing law			
64	811	A trustee shall take reasonable steps to enforce claims of the trust and to defend claims against the trust.	Existing law			
65	812	A trustee shall take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee, and to redress a breach of trust known to the trustee to have been committed by a former trustee.	Existing law			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
66(a)	813	Unless, under the circumstances, disclosure is unreasonable: (1) A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests; and (2) a trustee shall promptly respond to a qualified beneficiary's request for information reasonably related to the administration of the trust.	New, however, many of the principles are consistent with existing common law	Promotes communication between trustees and beneficiaries.	Standard may be subjective regarding reasonableness.	<p>The duty to keep the beneficiaries reasonably informed of the administration of the trust is a fundamental duty of a trustee. For the common law duty to keep the beneficiaries informed, see Restatement (Second) of Trusts §173 (1959). This section makes the duty to keep the beneficiaries informed more precise by limiting it to the “qualified beneficiaries.”</p> <p>The provisions of section (a)(1) may be changed by the settlor so as to limit the Trustee's duty to keep qualified beneficiaries informed. The drafters of the Connecticut Act limited the Trustee's mandatory duty to respond in section (a)(2), to requests from “qualified beneficiaries” (as opposed to “beneficiaries” as provided in the pure UTC) for information “reasonably” related to the administration of the trust (the pure UTC does not contain the word “reasonably”)</p> <p>In addition, subsection (a) was revised to make the exception for unreasonable disclosure apply to both parts of the subsection. This was designed to deal with the situation of the impaired beneficiary, who may, for example, be abusing substances and who may not be helped by disclosure.</p>
66(a)	813					<p>As indicated above, the drafters of the Connecticut Act limited the Trustee's duties to provide information and to respond to requests, to the “qualified beneficiaries” of a trust. The drafters specifically rejected the notion of limiting the Trustee's duties to the current beneficiaries of the trust. It is a fundamental principle of trust law that both the current beneficiaries and the ultimate remainder beneficiaries have the right to protect their interests in the trust. A provision limiting rights to current beneficiaries effectively strips the remainder beneficiaries of their right to protect their interest in the trust, represents absurd public policy and would turn the common law on its head. Such a provision could also lull a Trustee into incorrectly thinking that its only duty was to the current beneficiaries and not to the remainder beneficiaries who will ultimately judge the Trustee's performance (and personal liability).</p>

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
66(b)	813	A trustee: (1) Upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the trust instrument; (2) within sixty days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address and telephone number; and (3) within sixty days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument and of the right to a trustee's report as provided in subsection (c) of this section.	New, however, once again many of the principles are a part of the current common law.			This section provides default rules that require the Trustee, upon request, to provide a beneficiary with a copy of the trust instrument, and to notify the qualified beneficiaries of the creation of an irrevocable trust or the fact that a revocable trust has become irrevocable. <u>With the exception of the notification requirement of Section 66(b)(3), all of these default rules may be changed by the settlor.</u>
66(c)	813	A trustee shall send to the distributees or permissible distributees of trust income or principal, and to other qualified or nonqualified beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. An executor, administrator or conservator may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.	Current law requires a trustee, upon request, to provide a beneficiary with financial information regarding the trust. Unless otherwise provided in the trust instrument, this section would make this mandatory as to <u>current</u> beneficiaries.  This does not apply retroactively to existing trusts.			Subsection (c) provides a default rule that requires the trustee to furnish the current beneficiaries and other beneficiaries who request it with a copy of a trustee's report at least annually and upon termination of the trust. Unless a co-trustee remains in office, the former trustee also must provide a report to all of the qualified beneficiaries upon the trustee's resignation or removal. If the vacancy occurred because of the former trustee's death or adjudication of incapacity, a report may, but need not be provided by the former trustee's personal representative, conservator, or guardian.  The CUTC employs the term "report" instead of "accounting" in order to negate any inference that the report must be prepared in any particular format or with a high degree of formality. The reporting requirement might even be satisfied by providing the beneficiaries with copies of the trust's income tax returns and monthly brokerage account statements if the information on those returns and statements is complete and sufficiently clear. The key factor is not the format chosen but whether the report provides the beneficiaries with the information necessary to protect their interests.  <u>The requirements of section (c) may be modified or eliminated entirely by the terms of the trust.</u>

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
66(d)	813	A beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.	New	Clarity		
66(e)	813	Judicial approval of a trustee's report forecloses claims as to those given notice of the proceeding as to matters disclosed in the report.	Existing law			The drafters of the Connecticut Act added this provision to make it clear that the judicial approval of a Trustee's report forecloses all claims as to matters disclosed in the report.
67(a)	814	Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute", "sole" or "uncontrolled", the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust, the intentions of the settlor and the interests of the beneficiaries.	New, however, this is consistent with common law	Clarifies law in Connecticut		Despite the breadth of discretion purportedly granted by the wording of a trust, no grant of discretion to a trustee, whether with respect to management or distribution, is ever absolute. A grant of discretion establishes a range within which the trustee may act. The greater the grant of discretion, the broader the range. Pursuant to subsection (a), a trustee's action must always be in good faith, with regard to the purposes of the trust, and in accordance with the trustee's other duties, including the obligation to exercise reasonable skill, care and caution.
67(b)	814	Subject to subsection (d) of this section, and unless the terms of the trust expressly indicate that a rule in this subsection does not apply: (1) A person, other than a settlor, who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee's individual 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, or any subsequent corresponding internal revenue code of the United States, as from time to time amended; and (2) a trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.	Similar to C.G.S. section 45a-487	Improves the existing statute	None	This section improves on our existing statute (45a-487) in that instead of totally disabling the beneficiary-trustee, it cuts back powers held by a beneficiary-trustee that are not limited to an ascertainable standard to an ascertainable standard relating to the beneficiary-trustee's health, education, support or maintenance.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
67(c)	814	A power to make discretionary distributions, the exercise of which is limited or prohibited by subsection (b) of this section, may be exercised by a majority of the remaining trustees whose exercise of such power is not so limited or prohibited. If the exercise of such power by all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise such power.	Existing law, See C.G.S. Section 45a-487			
67(d)	814	Subsection (b) of this section does not apply to: (1) A power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in Section 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, was previously allowed; (2) any trust during any period that the trust may be revoked or amended by its settlor; or (3) a trust, if contributions to the trust qualify for the annual exclusion under Section 2503(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended.	Existing law, See C.G.S. Section 45a-487			
68(a)	815	A trustee, without authorization by the court, may exercise: (1) Powers conferred by the terms of the trust; and (2) except as limited by the terms of the trust, (A) all powers over the trust property which an unmarried competent owner has over individually-owned property, (B) any other powers appropriate to achieve the proper investment, management and distribution of the trust property, and (C) any other powers conferred by sections 1 to 85, inclusive, of this act.	New			This section is intended to grant trustees the broadest possible powers, but to be exercised always in accordance with the duties of the trustee and any limitations stated in the terms of the trust. This broad authority is denoted by granting the trustee the powers of an unmarried competent owner of individually owned property, unlimited by restrictions that might be placed on it by marriage, disability, or co-tenancy. The powers conferred elsewhere in this Code that are subsumed under this section include all of the specific powers listed in Section 69 as well as other powers described elsewhere in this Code.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
68(b)	815	The exercise of a power is subject to the fiduciary duties prescribed by sections 58 to 70, inclusive, of this act.	New			
69	816	Without limiting the authority conferred by section 68 of this act, a trustee may:  (1) Collect trust property and accept or reject additions to the trust property from a settlor or any other person;	New but similar to the Connecticut Fiduciary Powers Act (45a-233 - 45a-236) except that these powers apply automatically			This section enumerates specific powers commonly included in trust instruments and in trustee powers legislation. All the powers listed are subject to alteration in the terms of the trust.
69	816	(2) Acquire or sell property, for cash or on credit, at public or private sale;	New			
69	816	(3) Exchange, partition or otherwise change the character of trust property;				
69	816	(4) Deposit trust money in an account in a regulated financial service institution;				
69	816	(5) Borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;				
69	816	(6) With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members or property owners, including merging, dissolving or otherwise changing the form of business organization or contributing additional capital;				

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
69	816	(7) With respect to stocks or other securities, exercise the rights of an absolute owner, including the right to (A) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement, (B) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery, (C) pay calls, assessments and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights, and (D) deposit the securities with a depository or other regulated financial service institution;				
69	816	(8) With respect to an interest in real property, construct or make ordinary or extraordinary repairs to, alterations to or improvements in buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;				
69	816	(9) Enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;				
69	816	(10) Grant an option involving a sale, lease or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;				

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
69	816	(11) Insure the property of the trust against damage or loss, and insure the trustee, the trustee's agents and beneficiaries against liability arising from the administration of the trust;				
69	816	(12) Abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;				
69	816	(13) With respect to possible liability for violation of environmental law, (A) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property, (B) take action to prevent, abate or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement, (C) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law, (D) compromise claims against the trust which may be asserted for an alleged violation of environmental law, and (E) pay the expense of any inspection, review, abatement or remedial action to comply with environmental law;	New			
69	816	(14) Pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
69	816	(15) Pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;	New			
69	816	(16) Exercise elections with respect to federal, state and local taxes;	New			
69	816	(17) Select a mode of payment under any employee benefit or retirement plan, annuity or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;	New			
69	816	(18) Make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, with the trustee having a lien on future distributions for repayment of such loans;	New			
69	816	(19) Pledge trust property to guarantee loans made by others to the beneficiary;	New			
69	816	(20) Appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
69	816	(21) Pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by: (A) paying it to the beneficiary's conservator; (B) paying it to the beneficiary's custodian under the Uniform Transfers to Minors Act or custodial trustee under the Uniform Custodial Trust Act, and, for such purpose, creating a custodianship or custodial trust; (C) if the trustee does not know of a conservator, custodian or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or (D) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;	New			
69	816	(22) On distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for such purposes, and adjust for resulting differences in valuation;	New			
69	816	(23) Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration or other procedure for alternative dispute resolution;	New			
69	816	(24) Prosecute or defend an action, claim or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
69	816	(25) Sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers; and	New			
69	816	(26) On termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it.	New			
70(a)	817	Upon termination or partial termination of a trust, the trustee of an inter vivos trust may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within thirty days after the proposal was sent, but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.	New	Facilitates procedure for distributions on termination, thus limits trustee liability.	None	Subsection (a) is based on Section 3-906(b) of the Uniform Probate Code. It addresses the dilemma that sometimes arises when the trustee is reluctant to make distribution until the beneficiary approves but the beneficiary is reluctant to approve until the assets are in hand. The procedure made available under subsection (a) facilitates the making of non-pro-rata distributions. However, whenever practicable it is normally better practice to obtain the advance written consent of the beneficiaries to a proposed plan of distribution.
70(b)	817	Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses and taxes.	New			Subsection (b) recognizes that upon an event terminating or partially terminating a trust, expeditious distribution should be encouraged to the extent reasonable under the circumstances. However, a trustee is entitled to retain a reasonable reserve for payment of debts, expenses, and taxes. Sometimes these reserves must be quite large, for example, upon the death of the beneficiary of a QTIP trust that is subject to federal estate tax in the beneficiary's estate. Not infrequently, a substantial reserve must be retained until the estate tax audit is concluded several years after the beneficiary's death.
70(c)	817	A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent: (1) It was induced by improper conduct of the trustee; or (2) the beneficiary, at the time of the release, did not know of the beneficiary's rights or of the material facts relating to the breach.	New			Subsection (c) is an application of Section 78. Section 78 addresses the validity of any type of release that a beneficiary might give. Subsection (c) is more limited, dealing only with releases given upon termination of the trust. Factors affecting the validity of a release include adequacy of disclosure, whether the beneficiary had a legal incapacity, and whether the trustee engaged in any improper conduct. See Restatement (Second) of Trusts §216 (1959).
71(a)	1001	A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.	Existing law	Codifies existing law-clarity	None	

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
71(b)	1001	To remedy a breach of trust that has occurred or may occur, the court may: (1) Compel the trustee to perform the trustee's duties; (2) enjoin the trustee from committing a breach of trust; (3) compel the trustee to redress a breach of trust by paying money, restoring property or other means; (4) order a trustee to account; (5) appoint a special fiduciary to take possession of the trust property and administer the trust; (6) suspend the trustee; (7) remove the trustee as provided in section 54 of this act; (8) reduce or deny compensation to the trustee; (9) subject to section 81 of this act, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds; or (10) order any other appropriate relief.	No existing statutes	Clarity	None	
72(a)	1002	A trustee who commits a breach of trust is liable to the beneficiaries affected for the greater of: (1) The amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or (2) the profit the trustee made by reason of the breach.	New as to "the greater of" measure of damages.			Subsection (a) partially reflects new law in Connecticut. The damages set out in subsection (1) respond to the traditional measure of damages and mostly reflects existing law. See <u>Champagne v. Champagne</u> , 43 Conn. App. 844, 685 A.2d 1153 (1996), after remand, 54 Conn. App. 321, 734 A.2d 1048 (1999); Restatement (Third) of Trusts, Prudent Investor Rule § 205 (1992). This is known as "appreciation" damages. The Code takes the common sense approach that the breaching trustee ought not benefit from the breach and provides an alternative measure of damages.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
72(b)	1002	Except as otherwise provided in this subsection, if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees. A trustee is not entitled to contribution if the trustee was substantially more at fault than another trustee or if the trustee committed the breach of trust in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received.	Probably new; present law unclear.	Clarity; fairer than “per capita” damages approach where all trustees pay, regardless of fault.	None	A comparative fault rule such as this is fairer than the “per capita” alternative (everyone pays because they all bear some responsibility). Second, co-trustees are never equally at fault and that requirement could be used as a defense to avoid liability. Third, the Comments to Section 72 discuss the rationale for the use of comparative fault, how it is determined and when it is applied, and as so explained that model makes sense. The comparative fault language in subsection (b) also makes good policy. It also comports with the growing trend toward the use of comparative fault and differing levels of liability in other areas of the law.
73(a)	1003	A trustee is accountable to an affected beneficiary for any profit made by the trustee arising from the administration of the trust, even absent a breach of trust.	New, but accepted common law.	Clarity	None	This Section, which obligates the trustee to disgorge the profit even absent a breach, is accepted common law. A transaction such as the sale of an insurance policy by a settlor’s long time advisor, who is the trustee of the ILIT, would be prohibited under this section, but will be allowed under Section 59 if it is authorized in the trust, approved by the beneficiaries, etc. (See 59(b)). This section is based upon the Restatement of Trusts 2d. Section 203.
73(b)	1003	Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit.	New	Clarity	None	This section would not eliminate simple negligence as a cause of action. Any breach of trust is actionable, with the remedies spelled out in Section 71. This section simply <u>absolves</u> the trustee for losses, if there was no breach, and <u>imposes</u> liability for profits, even without a breach.
74(a)	1005	A beneficiary may not commence a proceeding against a trustee for breach of trust more than one year after the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and informed the beneficiary of the time allowed for commencing a proceeding.	New	Limits trustee liability by imposing a short statute of limitations on claims for breach of trust.	None	Connecticut presently has no such statute of limitations.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
74(b)	1005	A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into its existence.	None	Clarify statute of limitation of liability; encourages disclosure	None	
74(c)	1005	If subsection (a) of this section does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within six years after the first to occur of: (1) The removal or resignation of the trustee; (2) the termination of the beneficiary's interest in the trust; or (3) the termination of the trust.	None	Clarifies long statute of limitations that applies to breach of trust.	None	Drafters deliberately used a long, default claims period in order to encourage trustees to account. Note: Claims against <u>deceased</u> trustees must be brought within claims period of 45a-375.
75	1006	A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance.	None	Allows the Trustee to administer the trust without concern that its reliance on the trust language is misplaced.		Similar to Prudent Investor Act Section 1(b). Trustee would <u>not</u> be protected if it was aware of an agreement or decree clarifying or changing the stated trust language.
76	1007	If the happening of an event, including marriage, divorce, performance of educational requirements or death, affects the administration or distribution of a trust, a trustee who has exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting from the trustee's lack of knowledge.	New; Reverses the common law, which imposed strict liability for misdelivery. See Restatement 2d. Section 226.	Limits trustee liability	None	Designed to encourage trustees to administer trusts expeditiously, without concern for liability for failure to determine external facts.
77(a)	1008	A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it: (1) Relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; or (2) was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor.	No existing statute, but codifies the common law.	Clarity	None	Similar to Section 5(b)(2), which says the trust cannot waive the Trustee's duty to act in good faith and in accordance with the trust purposes. See also Section 67, obligating a trustee to so exercise its discretion.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
77(b)	1008	Except for terms intended to provide protection for carrying out a stated trust purpose, an exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair under the circumstances and that its existence and contents were adequately communicated to the settlor.	New - designed to overrule several MA cases.	Clarity		Creates a rebuttable presumption of invalidity; allows a trustee to prove that the exculpatory term is fair and was disclosed to the settlor. Exculpatory clauses could still be used, for example, when the settlor was represented by independent counsel.
78	1009	A trustee is not liable to a beneficiary for breach of trust if the beneficiary consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless: (1) The consent, release or ratification of the beneficiary was induced by improper conduct of the trustee; or (2) at the time of the consent, release or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.	New	Limits trustee liability		
79(a)	1010	Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administering the trust if the trustee in the contract disclosed the fiduciary capacity.	New - common law holds trustee personally liable on contracts, even if Trustee discloses capacity, if the contract is silent	Limits trustee liability	None	Designed to limit trustee liability and facilitate commercial transactions. There is no requirement that the contract specifically identify the trust; the trustee need only sign as such.
79(b)	1010	Except as otherwise limited by state statute, a trustee is personally liable for torts committed in the course of administering a trust, or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.	New	Limits trustee liability		<u>Reverses</u> common law, which makes trustee personally liable for torts committed during administration, meaning any deficiency came out of the trustee's pocket.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
79(c)	1010	A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted in a judicial proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable for the claim.	New	Limits trustee liability		Designed to allow lawsuits directly against trustee in its fiduciary capacity, instead of directly, which then requires the trustee to file a second lawsuit for indemnity from the trust.
80(a)	1011	Except as otherwise provided in subsection (c) of this section, or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed pursuant to the Uniform Partnership Act, sections 34-300 to 34-399, inclusive, of the general statutes, or the Uniform Limited Partnership Act, sections 34-9 to 34-38u, inclusive, of the general statutes.	New	Limits trustee liability who is a <u>general</u> partner		Limits liability of a trustee of a trust that holds a partnership interest from personal liability for contracts of the partnership.
80(b)	1011	Except as otherwise provided in subsection (c) of this section, a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.	New	Limits trustee liability		Likewise, for torts that an agent of the partnership may have committed.
80(c)	1011	The immunity provided by this section does not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the trustee's descendants, siblings or parents or the spouse of any of them.	New			

<b>CT Act §</b>	<b>UTC §</b>	<b>Text</b>	<b>Existing Law</b>	<b>Benefit</b>	<b>Risk</b>	<b>Comments</b>
80(d)	1011	If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.	New			
81(a)	1012	A person other than a beneficiary who in good faith assists a trustee, or who in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's powers, is protected from liability as if the trustee properly exercised the power.	New			This does not protect a third party unless they inquire as to whether or not the trustee is, in fact, a trustee. Once the third party ascertains that she is dealing with a trustee, she is held to a standard of good faith. It codifies the "bona fide purchaser" rule.
81(b)	1012	A person other than a beneficiary who in good faith deals with a trustee is not required to inquire into the extent of the trustee's powers or the propriety of their exercise.	New			Negates a duty of inquiry by third parties.
81(c)	1012	A person who in good faith delivers assets to a trustee need not ensure their proper application.	New			Negates any obligation to follow property after its delivery to the trustee.
81(d)	1012	A person other than a beneficiary who in good faith assists a former trustee, or who in good faith and for value deals with a former trustee, without knowledge that the trustee has terminated, is protected from liability as if the former trustee were still a trustee.	New			Protects individuals who deal with a trustee without knowledge that the trusteeship has terminated.
81(e)	1012	Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection provided by this section.	New			Reiterates the CUTC's status as default law to other commercial statutes.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
82(a)	1013	Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information: (1) That the trust exists and the date the trust instrument was executed; (2) the identity of the settlor; (3) the identity and address of the currently acting trustee; (4) the powers of the trustee; (5) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust; (6) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee; (7) the trust's taxpayer identification number; and (8) the manner of taking title to trust property.	New	Maintains confidentiality and assists in commercial transactions.	None	Intended to provide a mechanism for maintaining the privacy of the trust where a third party seeks to verify the trust or the trustee's authority. Seeks to discourage third party requests for complete copies of the trust.
82(b)	1013	A certification of trust may be signed or otherwise authenticated by any trustee.	New	Clarity	None	
82(c)	1013	A certification of trust must state that the trust has not been revoked, modified or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.	New	Clarity	None	
82(d)	1013	A certification of trust need not contain the dispositive terms of a trust.	New	Clarity	None	
82(e)	1013	A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.	New	Protects third parties transacting business with trustees.		

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
82(f)	1013	A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification.	New; but probably would be existing law.	Protects third parties transacting business with trustees.		
82(g)	1013	A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.	New	Protects third parties transacting business with trustees.		
82(h)	1013	A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.	New	Protects the settlor's and beneficiary's privacy.		This imposes liability on a third party who unreasonably refuses to rely on a certification.
82(i)	1013	This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.	New; but probably would be existing law.			
83	1101	In applying and construing the uniform provisions of sections 1 to 85, inclusive, of this act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact such uniform provisions.	New			This is in all uniform acts.
84	1103	If any provision of sections 1 to 85, inclusive, of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of sections 1 to 85, inclusive, of this act which can be given effect without the invalid provision or application, and to this end the provisions of sections 1 to 85, inclusive, of this act are severable.	New			This is in all uniform acts.

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
85(a)	New	<p>Except as otherwise provided in sections 1 to 85, inclusive, of this act, on the effective date of this section:</p> <p>(1) Sections 1 to 85, inclusive, of this act applies to all trusts created before, on or after the effective date of this section;</p>	New			<p>In general, the CUTC will apply to all trusts, including those created and funded prior to the effective date. In fairness to settlors, some of whom created and funded irrevocable trusts based on existing law, some of the CUTC rules and provisions that would change that law will be prospective.</p> <p>The prospective provisions appear as carve outs, and include: the notice provisions; the added rights given to spouses and former spouses in Article 5; creditors' rights against "will substitute" revocable trusts at the settlor's death under Section 42(a)(3); and the extension of the period in gross in Section 29(l) from 21 to 90 years.</p> <p>C.G.S. § 45a-541 through 541f are the Uniform Prudent Investor Act. The CUTC repeals and includes identical sections and leaves the following non-identical sections alone:</p> <ul style="list-style-type: none"> <li>(a) C.G.S. 45a-541f</li> <li>(b) C.G.S. 45a-541g</li> <li>(c) C.G.S. 45a-541b(f)</li> </ul>
85(a)	New	(2) Sections 1 to 85, inclusive, of this act applies to all judicial proceedings concerning trusts commenced on or after the effective date of this section;	New			
85(a)	New	(3) Sections 1 to 85, inclusive, of this act applies to judicial proceedings concerning trusts commenced before the effective date of this section, unless the court finds that application of a particular provision of sections 1 to 85, inclusive, of this act would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of sections 1 to 85, inclusive, of this act does not apply and the superseded law applies;	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
85(a)	New	(4) Any rule of construction or presumption provided in sections 1 to 85, inclusive, of this act applies to trust instruments executed before the effective date of this section unless there is a clear indication of a contrary intent in the terms of the trust;	New			
85(a)	New	(5) An act done before the effective date of this section is not affected by sections 1 to 85, inclusive, of this act;	New			
85(a)	New	(6) The ninety-year period in subdivision (1) of section 29 of this act only applies to trusts that become irrevocable on or after the effective date of this section;	New			
85(a)	New	(7) The provisions of subdivision (3) of subsection (a) of section 42 of this act only apply to revocable trusts of settlors dying on or after the effective date of this section;	New			
85(a)	New	(8) To the extent that they apply to a spouse or former spouse, the provisions of subsection (b) of section 40 of this act and subsection (c) of section 41 of this act do not apply to testamentary and inter vivos trusts created under trust instruments, whether revocable or irrevocable, executed prior to the effective date of this section, and not amended on or after the effective date of this section; and	New			
85(a)	New	(9) The provisions of subsections (b) and (c) of section 66 of this act only apply to trusts that become irrevocable on or after the effective date of this section.	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
85(b)	New	If a right is acquired, extinguished or barred upon the expiration of a prescribed period that has commenced to run under any other statute before the effective date of this section, such statute continues to apply to the right even if it has been repealed or superseded.	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
86	New	<p>Subsection (a) of section 45a-98 of the general statutes is repealed and the following is substituted in lieu thereof (<i>Effective January 1, 2004</i>):</p> <p>(a) Courts of probate in their respective districts shall have the power to: (1) [grant] <u>Grant</u> administration of intestate estates of persons who have died domiciled in their districts and of intestate estates of persons not domiciled in this state which may be granted as provided [by] <u>in</u> section 45a-303; (2) admit wills to probate of persons who have died domiciled in their districts or of nondomiciliaries whose wills may be proved in their districts as provided in section 45a-287; (3) except as provided in section 45a-98a or as limited by an applicable statute of limitations, determine title or rights of possession and use in and to any real, tangible or intangible property that constitutes, or may constitute, all or part of any trust, any decedent's estate, or any estate under control of a guardian or conservator, which trust or estate is otherwise subject to the jurisdiction of the Probate Court, including the rights and obligations of any beneficiary of the trust or estate and including the rights and obligations of any joint tenant with respect to survivorship property; (4) except as provided in section 45a-98a, construe the meaning and effect of any will or trust agreement if a construction is required in connection with the administration or distribution of a trust or estate otherwise subject to the jurisdiction of the Probate Court, or, with respect to an inter vivos trust, if that trust is or could be subject to jurisdiction of the court for an accounting pursuant to section 45a-175, provided such an accounting need not be required; (5) except as provided in section 45a-98a, apply the doctrine of cy pres or approximation; (6) to the extent provided for in section 45a-175,</p>	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
		<p>call executors, administrators, trustees, guardians, conservators, persons appointed to sell the land of minors, and attorneys-in-fact acting under powers of attorney created in accordance with section 45a-562, to account concerning the estates entrusted to their charge; <u>(7) in trust matters, to take any action authorized in subsection (d) of section 12 of this act;</u> and [(7)] (8) make any lawful orders or decrees to carry into effect the power and jurisdiction conferred upon them by the laws of this state.</p>				
87	New	<p>Subsection (c) of section 45a-475 of the general statutes is repealed and the following is substituted in lieu thereof (<i>Effective January 1, 2004</i>):</p> <p>(c) The provisions of section [45a-474 shall] <u>52 of this act do</u> not apply to the trusts specified in this section.</p>	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
88	New	<p>Section 45a-482 of the general statutes is repealed and the following is substituted in lieu thereof (<i>Effective January 1, 2004</i>):</p> <p>When the facts at the time of distribution from an estate to a trust or from a testamentary trust to a successive trust are such that no trust would be operative under the terms of the instrument creating such trust or successive trust because of the death of the life tenant, or because the beneficiary has reached a stipulated age, or if such trust would qualify for termination under section [45a-484] <u>34 of this act</u>, or for any other reason, the fiduciary of such estate or prior trust may distribute, with the approval of the court of probate having jurisdiction, directly from the estate or prior trust to the remaindermen of such trust, the corpus of such trust and any income earned during the period of estate administration or administration of the prior trust and distributable to such remaindermen, without the interposition of the establishment of such trust or successive trust. If distribution is based on the fact that the trust would qualify for termination under section [45a-484] <u>34 of this act</u>, reasonable notice shall be provided to all beneficiaries who are known and in being and who have vested or contingent interests in the trust.</p>	New			

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
89(a)	New	<p>Section 52-321 of the general statutes is repealed and the following is substituted in lieu thereof (<i>Effective January 1, 2004</i>):</p> <p>[Except as provided in sections 52-321a and 52-352b:</p> <p>(a) If property has been given to trustees to pay over the income to any person, without provision for accumulation or express authorization to the trustees to withhold the income, and the income has not been expressly given for the support of the beneficiary or his family, the income shall be liable in equity to the claims of all creditors of the beneficiary.</p>	New			
89(b)	New	<p>Any creditor of the beneficiary who has secured a judgment against the beneficiary may bring an action against him and serve the trustees with garnishee process, and the court to which the action is returnable may direct the trustees to pay over the net income derived from the trust estate to the judgment creditor, as the income may accrue, until the creditor's debt is satisfied.</p>	New			
89(c)	New	<p>The court having jurisdiction over the fund may make such an order for payment pursuant to subsection (b) when the beneficiary is a nonresident of this state, as well as when the beneficiary is a resident, but in the case of a nonresident beneficiary notice shall be given to the nonresident of the action against him as provided in section 52-87. The nonresidence of the beneficiary shall not deprive the court of authority to make such an order.</p>				

CT Act §	UTC §	Text	Existing Law	Benefit	Risk	Comments
89(d)	New	If any such trust has been expressly provided to be for the support of the beneficiary or his family, a court of equity having jurisdiction may make such order regarding the surplus, if any, not required for the support of the beneficiary or his family, as justice and equity may require.				
89(e)	New	The defendant trustee in any such action <u>In any action brought by a creditor of a beneficiary of a trust to enforce a judgment against the beneficiary in which a defendant trustee is served with garnishee process, the trustee</u> shall be entitled to charge in the administration account of the trust such expenses and disbursements as the court to which the action is brought determines to be reasonable and proper.				
90	New	Sections 45a-473, 45a-474, 45a-477, 45a-484 and 45a-487 to 45a-487f, inclusive, of the general statutes are repealed.				

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