

**104TH GENERAL ASSEMBLY****State of Illinois****2025 and 2026****SB0264**

Introduced 1/24/2025, by Sen. Robert Peters

**SYNOPSIS AS INTRODUCED:**

760 ILCS 3/103  
760 ILCS 3/110  
760 ILCS 3/402  
760 ILCS 3/407  
760 ILCS 3/409.5 new

Amends the Illinois Trust Code. Allows a virtuous trust to be created for a business or other noncharitable purpose without a definite or definitely ascertainable beneficiary. Requires a virtuous trust to be created by a written instrument. Allows a virtuous trust to hold an ownership interest of any corporation, partnership, limited partnership, cooperative, limited liability company, limited liability partnership, or joint venture. Provides that a trustee of a virtuous trust or a virtuous trust shall not be deemed to violate the trustee's duties by virtue of the trustee investing and managing the trust's assets pursuant to the terms and the purposes of the trust. Exempts a virtuous trust from the common law rule against perpetuities. Allows a virtuous trust to be enforced by one or more trust enforcers appointed in the trust instruction, and allows a virtuous trust instrument to provide for appointing successor trust enforcers. Requires a virtuous trust to have a trust purpose committee with at least 3 persons as members. Includes provisions related to the trust purpose committee, including appointment procedures, voting procedures, powers of the committee, resignation procedures, and reporting requirements. Provides that property of a virtuous trust may be applied only to its intended use. Allows the trust purpose committee and the trust enforcers to modify or terminate a virtuous trust by unanimous agreement. Prohibits a person serving as a trustee from serving as a trust enforcer or as a member of the trust purpose committee. Makes conforming changes.

LRB104 07749 JRC 17794 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Trust Code is amended by changing  
5 Sections 103, 110, 402, and 407 and by adding Section 409.5 as  
6 follows:

7 (760 ILCS 3/103)

8 Sec. 103. Definitions. In this Code:

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

11 (1.5) "Appointive property" means the property or property  
12 interest subject to a power of appointment.

13 (2) "Ascertainable standard" means a standard relating to  
14 an individual's health, education, support, or maintenance  
15 within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of  
16 the Internal Revenue Code and any applicable regulations.

17 (3) "Beneficiary" means a person that:

18 (A) has a present or future beneficial interest in a  
19 trust, vested or contingent, assuming nonexercise of  
20 powers of appointment, excluding the right of a settlor to  
21 be reimbursed for tax obligations as provided in paragraph  
22 (3) of subsection (a) of Section 505;

23 (B) in a capacity other than that of trustee, holds a

1 power of appointment over trust property; or

2 (C) is an identified charitable organization that will

3 or may receive distributions under the terms of the trust.

4 "Beneficiary" does not include a permissible appointee of

5 power of appointment, other than the holder of a presently

6 exercisable general power of appointment, until the power is

7 exercised in favor of such appointee.

8 (4) "Charitable interest" means an interest in a trust

9 that:

10 (A) is held by an identified charitable organization

11 and makes the organization a qualified beneficiary;

12 (B) benefits only charitable organizations and, if the

13 interest were held by an identified charitable

14 organization, would make the organization a qualified

15 beneficiary; or

16 (C) is held solely for charitable purposes and, if the

17 interest were held by an identified charitable

18 organization, would make the organization a qualified

19 beneficiary.

20 (5) "Charitable organization" means:

21 (A) a person, other than an individual, organized and

22 operated exclusively for charitable purposes; or

23 (B) a government or governmental subdivision, agency,

24 or instrumentality, to the extent it holds funds

25 exclusively for a charitable purpose.

26 (6) "Charitable purpose" means the relief of poverty, the

1 advancement of education or religion, the promotion of health,  
2 municipal or other governmental purpose, or another purpose  
3 the achievement of which is beneficial to the community.

4 (7) "Charitable trust" means a trust, or portion of a  
5 trust, created for a charitable purpose.

6 (8) "Community property" means all personal property,  
7 wherever situated, that was acquired as or became, and  
8 remained, community property under the laws of another  
9 jurisdiction, and all real property situated in another  
10 jurisdiction that is community property under the laws of that  
11 jurisdiction.

12 (9) "Current beneficiary" means a beneficiary that on the  
13 date the beneficiary's qualification is determined is a  
14 distributee or permissible distributee of trust income or  
15 principal. The term "current beneficiary" includes the holder  
16 of a presently exercisable general power of appointment but  
17 does not include a person who is a beneficiary only because the  
18 person holds any other power of appointment. In a revocable  
19 trust, "current beneficiary" does not include a person who may  
20 receive trust assets only through the exercise of a power to  
21 make a gift on behalf of the settlor.

22 (10) "Directing party" means any investment trust advisor,  
23 distribution trust advisor, or trust protector.

24 (11) "Donor", with reference to a power of appointment,  
25 means a person that creates a power of appointment.

26 (12) "Environmental law" means a federal, state, or local

1 law, rule, regulation, or ordinance relating to protection of  
2 the environment.

3 (13) "General power of appointment" means a power of  
4 appointment exercisable in favor of a powerholder, the  
5 powerholder's estate, a creditor of the powerholder, or a  
6 creditor of the powerholder's estate.

7 (14) "Guardian of the estate" means a person appointed by  
8 a court to administer the estate of a minor or adult  
9 individual.

10 (15) "Guardian of the person" means a person appointed by  
11 a court to make decisions regarding the support, care,  
12 education, health, and welfare of a minor or adult individual.

13 (16) "Incapacitated" or "incapacity" means the inability  
14 of an individual to manage property or business affairs  
15 because the individual is a minor, adjudicated incompetent,  
16 has an impairment in the ability to receive and evaluate  
17 information or make or communicate decisions even with the use  
18 of technological assistance; or is at a location that is  
19 unknown and not reasonably ascertainable. Without limiting the  
20 ways in which incapacity may be established, an individual is  
21 incapacitated if:

22 (i) a plenary guardian has been appointed for the  
23 individual under subsection (c) of Section 11a-12 of the  
24 Probate Act of 1975;

25 (ii) a limited guardian has been appointed for the  
26 individual under subsection (b) of Section 11a-12 of the

1 Probate Act of 1975 and the court has found that the  
2 individual lacks testamentary capacity; or

3 (iii) the individual was examined by a licensed  
4 physician who determined that the individual was  
5 incapacitated and the physician made a signed written  
6 record of the physician's determination within 90 days  
7 after the examination and no licensed physician  
8 subsequently made a signed written record of the  
9 physician's determination that the individual was not  
10 incapacitated within 90 days after examining the  
11 individual.

12 (17) "Internal Revenue Code" means the Internal Revenue  
13 Code of 1986 as amended from time to time and includes  
14 corresponding provisions of any subsequent federal tax law.

15 (18) "Interested persons" means: (A) the trustee; and (B)  
16 all beneficiaries, or their respective representatives  
17 determined after giving effect to the provisions of Article 3,  
18 whose consent or joinder would be required in order to achieve  
19 a binding settlement were the settlement to be approved by the  
20 court. "Interested persons" includes a trust advisor,  
21 investment advisor, distribution advisor, trust protector, or  
22 other holder, or committee of holders, of fiduciary or  
23 nonfiduciary powers, if the person then holds powers material  
24 to a particular question or dispute to be resolved or affected  
25 by a nonjudicial settlement in accordance with Section 111 or  
26 by a judicial proceeding. "Interested persons" includes the

1 members of a trust purpose committee and trust enforcers of a  
2 virtuous trust created under Section 409.5.

3 (19) "Interests of the beneficiaries" means the beneficial  
4 interests provided in the trust instrument.

5 (20) "Jurisdiction", with respect to a geographic area,  
6 includes a State or country.

7 (21) "Legal capacity" means that the person is not  
8 incapacitated.

9 (22) "Nongeneral power of appointment" means a power of  
10 appointment that is not a general power of appointment.

11 (22.5) "Permissible appointee" means a person in whose  
12 favor a powerholder may exercise a power of appointment.

13 (23) "Person" means an individual, estate, trust, business  
14 or nonprofit entity, public corporation, government or  
15 governmental subdivision, agency, or instrumentality, or other  
16 legal entity.

17 (24) "Power of appointment" means a power that enables a  
18 powerholder acting in a nonfiduciary capacity to designate a  
19 recipient of an ownership interest in or another power of  
20 appointment over the appointive property. The term "power of  
21 appointment" does not include a power of attorney.

22 (25) "Power of withdrawal" means a presently exercisable  
23 general power of appointment other than a power:

24 (A) exercisable by the powerholder as trustee that is  
25 limited by an ascertainable standard; or

26 (B) exercisable by another person only upon consent of

1 the trustee or a person holding an adverse interest.

2 (26) "Powerholder" means a person in which a donor creates  
3 a power of appointment.

4 (27) "Presently exercisable power of appointment" means a  
5 power of appointment exercisable by the powerholder at the  
6 relevant time. The term "presently exercisable power of  
7 appointment":

8 (A) includes a power of appointment exercisable only  
9 after the occurrence of a specified event, the  
10 satisfaction of an ascertainable standard, or the passage  
11 of a specified time only after:

12 (i) the occurrence of the specified event;

13 (ii) the satisfaction of the ascertainable  
14 standard; or

15 (iii) the passage of the specified time; and

16 (B) does not include a power exercisable only at the  
17 powerholder's death.

18 (28) "Presumptive remainder beneficiary" means a  
19 beneficiary of a trust, as of the date of determination and  
20 assuming nonexercise of all powers of appointment, who either:

21 (A) would be a distributee or permissible distributee of trust  
22 income or principal if the trust terminated on that date; or

23 (B) would be a distributee or permissible distributee of trust  
24 income or principal if the interests of all distributees  
25 currently eligible to receive income or principal from the  
26 trust terminated on that date without causing the trust to



1 terminate.

2 (29) "Property" means anything that may be the subject of  
3 ownership, whether real or personal, legal or equitable, or  
4 any interest therein.

5 (30) "Qualified beneficiary" means each current  
6 beneficiary and presumptive remainder beneficiary.

7 (31) "Revocable", as applied to a trust, means revocable  
8 by the settlor without the consent of the trustee or a person  
9 holding an adverse interest. A revocable trust is deemed  
10 revocable during the settlor's lifetime.

11 (32) "Settlor", except as otherwise provided in Sections  
12 113 and 1225, means a person, including a testator, who  
13 creates, or contributes property to, a trust. If more than one  
14 person creates or contributes property to a trust, each person  
15 is a settlor of the portion of the trust property attributable  
16 to that person's contribution except to the extent another  
17 person has the power to revoke or withdraw that portion.

18 (33) "Sign" means, with present intent to authenticate or  
19 adopt a record:

20 (A) to execute or adopt a tangible symbol; or

21 (B) to attach to or logically associate with the  
22 record an electronic symbol, sound, or process.

23 (34) "Spendthrift provision" means a term of a trust that  
24 restrains both voluntary and involuntary transfer of a  
25 beneficiary's interest.

26 (35) "State" means a State of the United States, the

1 District of Columbia, Puerto Rico, the United States Virgin  
2 Islands, or any territory or insular possession subject to the  
3 jurisdiction of the United States. The term "state" includes  
4 an Indian tribe or band recognized by federal law or formally  
5 acknowledged by a state.

6 (36) "Terms of the trust" means:

7 (A) except as otherwise provided in paragraph (B), the  
8 manifestation of the settlor's intent regarding a trust's  
9 provisions as:

10 (i) expressed in the trust instrument; or

11 (ii) established by other evidence that would be  
12 admissible in a judicial proceeding; or

13 (B) the trust's provisions as established, determined,  
14 or modified by:

15 (i) a trustee or other person in accordance with  
16 applicable law;

17 (ii) a court order; or

18 (iii) a nonjudicial settlement agreement under  
19 Section 111.

20 (37) "Trust" means (A) a trust created by will, deed,  
21 agreement, declaration, or other written instrument, or (B) an  
22 oral trust under Section 407.

23 (38) "Trust accounting" means one or more written  
24 communications from the trustee with respect to the accounting  
25 year that describe: (A) the trust property, liabilities,  
26 receipts, and disbursements, including the amount of the

1 trustee's compensation; (B) the value of the trust assets on  
2 hand at the close of the accounting period, to the extent  
3 feasible; and (C) all other material facts related to the  
4 trustee's administration of the trust.

5 (39) "Trust instrument" means the written instrument  
6 stating the terms of a trust, including any amendment, any  
7 court order or nonjudicial settlement agreement establishing,  
8 construing, or modifying the terms of the trust in accordance  
9 with Section 111, Sections 410 through 416, or other  
10 applicable law, and any additional trust instrument under  
11 Article 12.

12 (40) "Trustee" includes an original, additional, and  
13 successor trustee, and a co-trustee.

14 (41) "Unascertainable beneficiary" means a beneficiary  
15 whose identity is uncertain or not reasonably ascertainable.

16 (Source: P.A. 101-48, eff. 1-1-20; 102-279, eff. 1-1-22.)

17 (760 ILCS 3/110)

18 Sec. 110. Others treated as qualified beneficiaries.

19 (a) A person appointed to enforce a trust created for the  
20 care of an animal or another noncharitable purpose as provided  
21 in Section 408 or 409 has the rights of a qualified beneficiary  
22 under this Code.

23 (b) The Attorney General has the rights of a qualified  
24 beneficiary with respect to a charitable trust having its  
25 principal place of administration in this State.

1       (c) A trust enforcer of a virtuous trust as provided in  
2       Section 409.5 has the rights of a qualified beneficiary under  
3       this Code.

4       (Source: P.A. 101-48, eff. 1-1-20.)

5               (760 ILCS 3/402)

6       Sec. 402. Requirements for creation.

7       (a) A trust is created only if:

8               (1) the settlor or other person creating the trust has  
9       capacity to create a trust;

10              (2) the settlor or other person creating the trust  
11       indicates an intention to create the trust;

12              (3) the trust has a definite beneficiary or is:

13                      (A) a charitable trust;

14                      (B) a trust for the care of an animal, as provided  
15       in Section 408; ~~or~~

16                      (C) a trust for a noncharitable purpose, as  
17       provided in Section 409; or

18                      (D) a virtuous trust, as provided in Section  
19       409.5;

20              (4) the trustee has duties to perform; and

21              (5) the same person is not the sole trustee and sole  
22       beneficiary.

23       (b) A beneficiary is definite if the beneficiary can be  
24       ascertained now or in the future, subject to any applicable  
25       rule against perpetuities.

1 (c) A power in a trustee to select a beneficiary from an  
2 indefinite class is valid. If the power is not exercised  
3 within a reasonable time, the power fails and the property  
4 subject to the power passes to the persons who would have taken  
5 the property had the power not been conferred.

6 (Source: P.A. 101-48, eff. 1-1-20; 102-279, eff. 1-1-22.)

7 (760 ILCS 3/407)

8 Sec. 407. Evidence of oral trust. Except as required by a  
9 statute other than this Code or by Section 409.5, a trust need  
10 not be evidenced by a trust instrument, but the creation of an  
11 oral trust and its terms may be established only by clear and  
12 convincing evidence.

13 (Source: P.A. 101-48, eff. 1-1-20.)

14 (760 ILCS 3/409.5 new)

15 Sec. 409.5. Virtuous trust.

16 (a) A trust may be created for a business or other  
17 noncharitable purpose without a definite or definitely  
18 ascertainable beneficiary. The business purpose may seek  
19 economic and noneconomic benefits.

20 (b) A trust authorized by this Section shall be created by  
21 a written instrument. The trust instrument may designate one  
22 or more categories of stakeholders for whose benefit the trust  
23 is created, which may include, but shall not be limited to,  
24 employees, suppliers, and customers of a business or its

1 subsidiaries or communities in which offices or other  
2 establishments of a business or its subsidiaries are located.

3 (c) A trust authorized by this Section may hold an  
4 ownership interest of any corporation, partnership, limited  
5 partnership, cooperative, limited liability company, limited  
6 liability partnership, or joint venture.

7 (d) A trustee of a trust created under this Section shall  
8 not be deemed to violate the trustee's duties under Article 9  
9 by virtue of the trustee investing and managing the trust's  
10 assets pursuant to the terms and the purposes of the trust,  
11 which may include retaining an ownership interest in a  
12 specific corporation, partnership, limited partnership,  
13 cooperative, limited liability company, limited liability  
14 partnership, or joint venture.

15 (e) A trust authorized by this Section shall be exempt  
16 from the common law rule against perpetuities.

17 (f) A trust authorized by this Section may be enforced by  
18 one or more trust enforcers appointed in the trust instrument,  
19 and the trust instrument may provide a process for appointing  
20 successor trust enforcers. If at any time no person is acting  
21 as trust enforcer, the court shall appoint one or more trust  
22 enforcers. Each trust enforcer shall enforce the purpose and  
23 the terms of the trust and shall exercise authority as a  
24 fiduciary. If more than one person is acting as a trust  
25 enforcer, action may be taken by a majority of the persons  
26 acting as trust enforcers. A trust enforcer is not a

1 beneficiary of a trust created pursuant to this Section, but a  
2 trust enforcer has the rights of a qualified beneficiary.

3 (g) A trust authorized by this Section must have a trust  
4 purpose committee with at least 3 persons as members. Each  
5 member of the trust purpose committee shall exercise authority  
6 as a fiduciary. The trust instrument may appoint the initial  
7 members of the trust purpose committee and may provide a  
8 process for appointing successor members. A vacancy on the  
9 trust purpose committee must be filled if the trust purpose  
10 committee has fewer than 3 members.

11 (h) A vacancy on the trust purpose committee that is  
12 required to be filled must be filled in the following order of  
13 priority:

14 (1) by a person designated in the trust instrument or  
15 selected through a process provided in the trust  
16 instrument;

17 (2) by a person appointed by unanimous agreement of  
18 the trust enforcers; or

19 (3) by a person appointed by the court.

20 (i) Unless the trust instrument provides otherwise and  
21 except as provided in paragraph (4) of subsection (j) or  
22 subsection (o), the trust purpose committee may take action by  
23 a majority vote of its members.

24 (j) Unless the trust instrument provides otherwise, the  
25 trust purpose committee has the power, in carrying out the  
26 purposes of the trust and after notice to the trust enforcers,

1 to:

2 (1) remove a trustee, with or without cause;

3 (2) appoint one or more successor trustees or  
4 co-trustees;

5 (3) remove a trust enforcer, with or without cause;

6 (4) remove a member of the trust purpose committee, by  
7 unanimous vote of all other members of the trust purpose  
8 committee; and

9 (5) direct distributions from the trust.

10 (k) Property of a trust authorized by this Section may be  
11 applied only to its intended use. No court shall have  
12 authority to determine that the value of the trust property  
13 exceeds the amount required for the intended use.

14 (l) Unless the trust instrument provides otherwise, a  
15 member of the trust purpose committee or a trust enforcer may  
16 resign:

17 (1) after at least 30 days' notice to the trustee, all  
18 other trust enforcers, and all other members of the trust  
19 purpose committee; or

20 (2) at any time with the approval of the court.

21 (m) The trust purpose committee must send a report to the  
22 trustee and to the trust enforcers at least annually showing  
23 receipts and disbursements and listing the trust property and  
24 liabilities. The trust purpose committee shall keep the  
25 trustee and the trust enforcers reasonably informed about the  
26 administration of the trust and of the material facts



1 necessary for the trustee to comply with the trustee's duties  
2 under Section 813.1 and for the trust enforcers to protect the  
3 purposes of the trust.

4 (n) A trustee of a trust authorized by this Section shall  
5 act in accordance with a direction from the trust purpose  
6 committee unless the action is manifestly contrary to the  
7 terms of the trust or the trustee knows that the action would  
8 constitute a serious breach of a fiduciary duty that the trust  
9 purpose committee, the trust enforcer, or the trustee owes to  
10 the trust. A trustee is liable only for willful misconduct and  
11 is not liable for reliance on documents provided by the trust  
12 purpose committee or the trust enforcer.

13 (o) Unless the terms of the trust provide otherwise, the  
14 trust purpose committee and the trust enforcers, acting  
15 together, may modify or terminate a trust authorized by this  
16 Section by unanimous agreement of the members of the trust  
17 purpose committee and unanimous agreement of the trust  
18 enforcers.

19 (p) Upon termination of a trust authorized by this  
20 Section, the trustee shall distribute all remaining trust  
21 property as the terms of the trust provide, or if the terms of  
22 the trust do not provide for complete distribution of the  
23 property, as a court determines to be consistent with the  
24 purposes for which the trust was created.

25 (q) A person serving as a trustee may not serve as a trust  
26 enforcer or as a member of the trust purpose committee, and a

1 person serving as a trust enforcer may not serve as a member of  
2 the trust purpose committee.

3 (r) This Section does not apply to trusts created pursuant  
4 to Section 7.65 of the Business Corporation Act of 1983.

5 (s) A trust created under this Section may be referred to  
6 as a "virtuous trust".

7 (t) Section 808 shall not apply to a virtuous trust.