

§1202. Definitions

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings. [PL 2021, c. 235, §1 (NEW).]

1. Appointive property. "Appointive property" means the property or property interest subject to a power of appointment.

[PL 2021, c. 235, §1 (NEW).]

2. Ascertainable standard. "Ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of 26 United States Code, Section 2041(b)(1)(A), as amended, or 26 United States Code, Section 2514(c)(1), as amended, and any applicable regulations.

[PL 2021, c. 235, §1 (NEW).]

3. Authorized fiduciary. "Authorized fiduciary" means:

A. A trustee or other fiduciary, other than a settlor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one or more current beneficiaries; [PL 2021, c. 235, §1 (NEW).]

B. A special fiduciary appointed under section 1208; or [PL 2021, c. 235, §1 (NEW).]

C. A special-needs fiduciary under section 1212. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

4. Beneficiary. "Beneficiary" means a person that:

A. Has a present or future, vested or contingent, beneficial interest in a trust; [PL 2021, c. 235, §1 (NEW).]

B. Holds a power of appointment over trust property; or [PL 2021, c. 235, §1 (NEW).]

C. Is an identified charitable organization that will or may receive distributions under the terms of the trust. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

5. Charitable interest. "Charitable interest" means an interest in a trust that:

A. Is held by an identified charitable organization and makes the organization a qualified beneficiary; [PL 2021, c. 235, §1 (NEW).]

B. Benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the identified charitable organization a qualified beneficiary; or [PL 2021, c. 235, §1 (NEW).]

C. Is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the identified charitable organization a qualified beneficiary. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

6. Charitable organization. "Charitable organization" means:

A. A person, other than an individual, organized and operated exclusively for charitable purposes; or [PL 2021, c. 235, §1 (NEW).]

B. A government or governmental subdivision, agency or instrumentality, to the extent it holds funds exclusively for a charitable purpose. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

7. Charitable purpose. "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose or another purpose the achievement of which is beneficial to the community.

[PL 2021, c. 235, §1 (NEW).]

8. Court. "Court" means the applicable court in this State having jurisdiction in matters relating to trusts.

[PL 2021, c. 235, §1 (NEW).]

9. Current beneficiary. "Current beneficiary" means a beneficiary that on the date the beneficiary's qualification is determined is a distributee or permissible distributee of trust income or principal. "Current beneficiary" includes the holder of a presently exercisable general power of appointment but does not include a person that is a beneficiary only because the person holds any other power of appointment.

[PL 2021, c. 235, §1 (NEW).]

10. Decanting power. "Decanting power" means the power of an authorized fiduciary under this Act to distribute property of a first trust to one or more 2nd trusts or to modify the terms of the first trust.

[PL 2021, c. 235, §1 (NEW).]

11. Expanded distributive discretion. "Expanded distributive discretion" means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard.

[PL 2021, c. 235, §1 (NEW).]

12. First trust. "First trust" means a trust over which an authorized fiduciary may exercise the decanting power.

[PL 2021, c. 235, §1 (NEW).]

13. First-trust instrument. "First-trust instrument" means the trust instrument for a first trust.

[PL 2021, c. 235, §1 (NEW).]

14. General power of appointment. "General power of appointment" means a power of appointment exercisable in favor of a powerholder, the powerholder's estate, a creditor of the powerholder or a creditor of the powerholder's estate.

[PL 2021, c. 235, §1 (NEW).]

15. Person. "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality or other legal entity.

[PL 2021, c. 235, §1 (NEW).]

16. Power of appointment. "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. "Power of appointment" does not include a power of attorney.

[PL 2021, c. 235, §1 (NEW).]

17. Powerholder. "Powerholder" means a person in which a donor creates a power of appointment.

[PL 2021, c. 235, §1 (NEW).]

18. Presently exercisable power of appointment. "Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time. "Presently exercisable power of appointment":

A. Includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard or the passage of a specified time period only after:

(1) The occurrence of the specified event;

- (2) The satisfaction of the ascertainable standard; or
- (3) The passage of the specified time period; and [PL 2021, c. 235, §1 (NEW).]

B. Does not include a power exercisable only at the powerholder's death. [PL 2021, c. 235, §1 (NEW).]
[PL 2021, c. 235, §1 (NEW).]

19. Qualified beneficiary. "Qualified beneficiary" means a beneficiary that on the date the beneficiary's qualification is determined:

A. Is a distributee or permissible distributee of trust income or principal; [PL 2021, c. 235, §1 (NEW).]

B. Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in paragraph A terminated on that date without causing the trust to terminate; or [PL 2021, c. 235, §1 (NEW).]

C. Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date. [PL 2021, c. 235, §1 (NEW).]
[PL 2021, c. 235, §1 (NEW).]

20. Reasonably definite standard. "Reasonably definite standard" means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 United States Code, Section 674(b)(5)(A) and any applicable regulations.
[PL 2021, c. 235, §1 (NEW).]

21. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
[PL 2021, c. 235, §1 (NEW).]

22. Second trust. "Second trust" means:

A. A first trust after modification under this Act; or [PL 2021, c. 235, §1 (NEW).]

B. A trust to which a distribution of property from a first trust is or may be made under this Act.
[PL 2021, c. 235, §1 (NEW).]
[PL 2021, c. 235, §1 (NEW).]

23. Second-trust instrument. "Second-trust instrument" means the trust instrument for a 2nd trust.
[PL 2021, c. 235, §1 (NEW).]

24. Settlor. "Settlor," except as otherwise provided in section 1224, means a person, including a testator, that 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 the person's contribution except to the extent another person has power to revoke or withdraw that portion.
[PL 2021, c. 235, §1 (NEW).]

25. Sign. "Sign" means, with present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or [PL 2021, c. 235, §1 (NEW).]

B. To attach to or logically associate with the record an electronic symbol, sound or process. [PL 2021, c. 235, §1 (NEW).]
[PL 2021, c. 235, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 235, §1 (NEW).

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