

**TAB N**

trust and Subsection (b), this subtitle governs:

- (1) the duties and powers of a trustee;
- (2) relations among trustees; and
- (3) the rights and interests of a beneficiary.

(b) The terms of a trust prevail over any provision of this subtitle, except that the terms of a trust may not limit:

- (1) the requirements imposed under Section [112.031](#);
- (2) the applicability of Section [114.007](#) to an exculpation term of a trust;

- (3) the periods of limitation for commencing a judicial proceeding regarding a trust;

- (4) a trustee's duty:

- (A) with regard to an irrevocable trust, to respond to a demand for accounting made under Section [113.151](#) if the demand is from a beneficiary who, at the time of the demand:

- (i) is entitled or permitted to receive distributions from the trust; or

- (ii) would receive a distribution from the trust if the trust terminated at the time of the demand; and

- (B) to act in good faith and in accordance with the purposes of the trust;

- (5) the power of a court, in the interest of justice, to take action or exercise jurisdiction, including the power to:

- (A) modify, reform, or terminate a trust or take other action under Section [112.054](#);

- (B) remove a trustee under Section [113.082](#);

- (C) exercise jurisdiction under Section [115.001](#);

- (D) require, dispense with, modify, or terminate a trustee's bond;

- (E) adjust, deny, or order disgorgement of a trustee's compensation if the trustee commits a breach of trust; or

- (F) make an award of costs and attorney's fees under Section [114.064](#); or

- (6) the applicability of Section [112.038](#).

(c) The terms of a trust may not limit any common-law duty to keep a beneficiary of an irrevocable trust who is 25 years of age or older informed at any time during which the beneficiary:

(1) is entitled or permitted to receive distributions from the trust; or

(2) would receive a distribution from the trust if the trust were terminated.

Added by Acts 2005, 79th Leg., Ch. 148 (H.B. [1190](#)), Sec. 2, eff. January 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 451 (H.B. [564](#)), Sec. 2, eff. June 16, 2007.

Acts 2009, 81st Leg., R.S., Ch. 414 (H.B. [1969](#)), Sec. 2, eff. June 19, 2009.

Acts 2017, 85th Leg., R.S., Ch. 62 (S.B. [617](#)), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1112 (H.B. [2245](#)), Sec. 1, eff. September 1, 2019.

Sec. 111.004. DEFINITIONS. In this subtitle:

(1) "Affiliate" includes:

(A) a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person; or

(B) any officer, director, partner, employee, or relative of a person, and any corporation or partnership of which a person is an officer, director, or partner.

(2) "Beneficiary" means a person for whose benefit property is held in trust, regardless of the nature of the interest.

(3) "Court" means a court of appropriate jurisdiction.

(4) "Express trust" means a fiduciary relationship with respect to property which arises as a manifestation by the settlor of an intention to create the relationship and which subjects the person holding title to the property to equitable duties to deal with the property for the benefit of another person.

(5) "Income" is defined in Section [116.002](#).

(6) "Interest" means any interest, whether legal or equitable or both, present or future, vested or contingent, defeasible or indefeasible.

(7) "Interested person" means a trustee, beneficiary,