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(8) "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates and includes income of the trust that, at the time of the exercise of a power of distribution under Section 112.072 or 112.073, is not currently required to be distributed.

(9) "Second trust" means any irrevocable trust to which principal is distributed under Section 112.072 or 112.073.

(10) "Successor beneficiary" means a beneficiary other than a current or presumptive remainder beneficiary. The term does not include a potential appointee under a power of appointment held by a beneficiary.

Added by Acts 2013, 83rd Leg., R.S., Ch. 699 (H.B. 2913), Sec. 3, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 62 (S.B. 617), Sec. 7, eff. September 1, 2017.

Sec. 112.0715. CREATION OF SECOND TRUST. (a) A second trust may be created by a distribution of principal under Section 112.072 or 112.073 to a trust created under the same trust instrument as the first trust from which the principal is distributed or to a trust created under a different trust instrument.

(b) If a second trust is created by a distribution of principal under Section 112.072 or 112.073 to a trust created under the same trust instrument as the first trust from which the principal is distributed, the property is not required to be retitled.

(c) The legislature intends this section to be a codification of the common law of this state in effect immediately before September 1, 2019.

Added by Acts 2019, 86th Leg., R.S., Ch. 1112 (H.B. 2245), Sec. 4, eff. September 1, 2019.

Sec. 112.072. DISTRIBUTION TO SECOND TRUST: TRUSTEE WITH FULL DISCRETION. (a) An authorized trustee who has the full discretion to distribute the principal of a trust may distribute

all or part of the principal of that trust in favor of a trustee of a second trust for the benefit of one, more than one, or all of the current beneficiaries of the first trust and for the benefit of one, more than one, or all of the successor or presumptive remainder beneficiaries of the first trust.

(b) The authorized trustee may, in connection with the exercise of a power of distribution under this section, grant a power of appointment, including a currently exercisable power of appointment, in the second trust to one or more of the current beneficiaries of the first trust who, at the time the power of appointment is granted, is eligible to receive the principal outright under the terms of the first trust.

(c) If the authorized trustee grants a power of appointment to a beneficiary under Subsection (b), the class of permissible appointees in whose favor the beneficiary may appoint under that power may be broader or different than the current, successor, and presumptive remainder beneficiaries of the first trust.

(d) If the beneficiaries of the first trust are described as a class of persons, the beneficiaries of the second trust may include one or more persons who become members of that class after the distribution to the second trust.

(e) The authorized trustee shall exercise a power to distribute under this section in good faith, in accordance with the terms and purposes of the trust, and in the interests of the beneficiaries.

Added by Acts 2013, 83rd Leg., R.S., Ch. 699 (H.B. 2913), Sec. 3, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 62 (S.B. 617), Sec. 8, eff. September 1, 2017.

Sec. 112.073. DISTRIBUTION TO SECOND TRUST: TRUSTEE WITH LIMITED DISCRETION. (a) An authorized trustee who has limited discretion to distribute the principal of a trust may distribute all or part of the principal of that trust in favor of a trustee of a second trust as provided by this section.

(b) The current beneficiaries of the second trust must be