

House Engrossed

trusts; estates; policies; procedures

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
First Regular Session  
2025

# HOUSE BILL 2657

AN ACT

AMENDING SECTIONS 14-1201, 14-2302, 14-2402, 14-3716, 14-3718, 14-5101, 14-6102 AND 14-10105, ARIZONA REVISED STATUTES; RELATING TO TRUSTS AND ESTATES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 14-1201, Arizona Revised Statutes, is amended to  
3 read:

4 14-1201. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Agent" includes an attorney-in-fact under a durable or  
7 nondurable power of attorney, a person who is authorized to make decisions  
8 concerning another person's health care and a person who is authorized to  
9 make decisions for another person under a natural death act.

10 2. "Application" means a written request to the registrar for an  
11 order of informal probate or appointment under chapter 3, article 3 of  
12 this title.

13 3. "Basis for compensation" means an hourly rate, a fixed fee or a  
14 contingency fee agreement and reimbursable costs.

15 4. "Beneficiary", as it relates to a trust beneficiary, includes a  
16 person who has any present or future interest, vested or contingent, and  
17 includes the owner of an interest by assignment or other transfer. As it  
18 relates to a charitable trust, beneficiary includes any person entitled to  
19 enforce the trust. As it relates to a beneficiary of a beneficiary  
20 designation, beneficiary refers to a beneficiary of an insurance or  
21 annuity policy, an account with pay on death designation, a security  
22 registered in beneficiary form or a pension, profit sharing, retirement or  
23 similar benefit plan, or any other nonprobate transfer at death. As it  
24 relates to a beneficiary designated in a governing instrument, beneficiary  
25 includes a grantee of a deed, a devisee, a trust beneficiary, a  
26 beneficiary of a beneficiary designation, a donee, appointee or taker in  
27 default of a power of appointment and a person in whose favor a power of  
28 attorney or a power held in any person, fiduciary or representative  
29 capacity is exercised.

30 5. "Beneficiary designation" refers to a governing instrument  
31 naming a beneficiary of an insurance or annuity policy, of an account with  
32 pay on death designation, of a security registered in beneficiary form or  
33 of a pension, profit sharing, retirement or similar benefit plan, or any  
34 other nonprobate transfer at death.

35 6. "Certified paper original" means a tangible medium that contains  
36 both the text of an electronic will and any self-proving affidavit  
37 concerning the electronic will and that is accompanied by an affidavit  
38 that is executed pursuant to section 14-2523.

39 7. "Child" includes a person who is entitled to take as a child  
40 under this title by intestate succession from the parent whose  
41 relationship is involved. Child excludes a person who is only a  
42 stepchild, a foster child, a grandchild or a more remote descendant.

1        8. "Claims", in respect to estates of decedents and protected  
2 persons, includes liabilities of the decedent or the protected person,  
3 whether arising in contract, in tort or otherwise, and liabilities of the  
4 estate that arise at or after the death of the decedent or after the  
5 appointment of a conservator, including funeral expenses and expenses of  
6 administration. Claims do not include estate or inheritance taxes or  
7 demands or disputes regarding title of a decedent or a protected person to  
8 specific assets alleged to be included in the estate.

9        9. "Community property" means that property of a husband and wife  
10 that is acquired during the marriage and that is community property as  
11 prescribed in section 25-211.

12       10. "Conservator" means a person who is appointed by a court to  
13 manage the estate of a protected person.

14       11. "Court" means the superior court.

15       12. "Dependent child" means a minor child whom the decedent was  
16 obligated to support or an adult child who was in fact being supported by  
17 the decedent at the time of the decedent's death.

18       13. "Descendant" means all of the decedent's descendants of all  
19 generations, with the relationship of parent and child at each generation.

20       14. "Devise", when used as a noun, means a testamentary disposition  
21 of real or personal property and, when used as a verb, means to dispose of  
22 real or personal property by will.

23       15. "Devisee" means a person designated in a will to receive a  
24 devise. For the purposes of chapter 3 of this title, in the case of a  
25 devise to an existing trust or trustee, or to a trustee on trust described  
26 by will, the trust or trustee is the devisee and the beneficiaries are not  
27 devisees.

28       16. "Disability" means cause for a protective order as described in  
29 section 14-5401.

30       17. "Distributee" means any person who has received property of a  
31 decedent from that person's personal representative other than as a  
32 creditor or purchaser. Distributee includes a testamentary trustee only  
33 to the extent of distributed assets or increment that remains in that  
34 person's hands. A beneficiary of a testamentary trust to whom the trustee  
35 has distributed property received from a personal representative is a  
36 distributee of the personal representative. For the purposes of this  
37 paragraph, "testamentary trustee" includes a trustee to whom assets are  
38 transferred by will, to the extent of the devised assets.

39       18. "Electronic" means having electrical, digital, magnetic,  
40 optical, electromagnetic or similar capabilities.

41       ~~22.~~ 19. "Electronically present" means two or more individuals who  
42 are in ~~a~~ different physical ~~location~~ LOCATIONS and who are communicating  
43 by means of technology that enables all individuals to see and hear each  
44 other in real time to the same extent as if the individuals were  
45 physically present in the same location.

1       ~~19.~~ 20. "Electronic record" means a record that is created,  
2 generated, sent, communicated, received or stored by electronic means.

3       ~~20.~~ 21. "Electronic signature" means an electronic method or  
4 process that does both of the following:

5       (a) Is attached to or logically associated with an electronic  
6 record and that is executed or adopted by a person with the intent to sign  
7 the electronic record.

8       (b) Uses a security procedure that allows a determination that the  
9 electronic signature was all of the following:

10       (i) Unique to the person using it.

11       (ii) Capable of verification.

12       (iii) Under the sole control of the person making the electronic  
13 signature.

14       (iv) Linked to the electronic record to which the electronic  
15 signature relates in a manner so that if the electronic record is changed  
16 the electronic signature is invalidated.

17       ~~21.~~ 22. "Electronic will" means a testamentary instrument that is  
18 executed and maintained on an electronic medium and that is executed in  
19 compliance with section 14-2518.

20       23. "Estate" includes the property of the decedent, trust or other  
21 person whose affairs are subject to this title as originally constituted  
22 and as it exists from time to time during administration. As it relates  
23 to a spouse, the estate includes only the separate property and the share  
24 of the community property belonging to the decedent or person whose  
25 affairs are subject to this title.

26       24. "Exempt property" means that property of a decedent's estate  
27 that is described in section 14-2403.

28       25. "Fiduciary" includes a personal representative, guardian,  
29 conservator and trustee.

30       26. "Foreign personal representative" means a personal  
31 representative who is appointed by another jurisdiction.

32       27. "Formal proceedings" means proceedings that are conducted  
33 before a ~~judge~~ JUDICIAL OFFICER with notice to interested persons.

34       28. "Governing instrument" means a deed, will, trust, insurance or  
35 annuity policy, account with pay on death designation, security registered  
36 in beneficiary form, pension, profit sharing, retirement or similar  
37 benefit plan, instrument creating or exercising a power of appointment or  
38 power of attorney or supported decision-making agreement or a dispositive,  
39 appointive or nominative instrument of any similar type.

40       29. "Guardian" means a person who has qualified as a guardian of a  
41 minor or incapacitated person pursuant to testamentary or court  
42 appointment but excludes a person who is merely a guardian ad litem.

43       30. "Guardian ad litem" includes a person who is appointed pursuant  
44 to section 14-1408.

1       31. "Heirs", except as controlled by section 14-2711, means  
2 persons, including the surviving spouse and the state, who are entitled  
3 under the statutes of intestate succession to the property of a decedent.

4       32. "Incapacitated person" has the same meaning prescribed in  
5 section 14-5101.

6       33. "Informal proceedings" means those proceedings conducted  
7 without notice to interested persons by an officer of the court acting as  
8 a registrar for probate of a will or appointment of a personal  
9 representative.

10       34. "Interested person" includes any trustee, heir, devisee, child,  
11 spouse, creditor, beneficiary, person holding a power of appointment and  
12 other person who has a property right in or claim against a trust estate  
13 or the estate of a decedent, ward or protected person. Interested person  
14 also includes a person who has priority for appointment as personal  
15 representative and other fiduciaries representing interested persons.  
16 Interested person, as the term relates to particular persons, may vary  
17 from time to time and must be determined according to the particular  
18 purposes of, and matter involved in, any proceeding.

19       35. "Issue" of a person means descendant as defined in this  
20 section.

21       36. "Joint tenants with the right of survivorship" and "community  
22 property with the right of survivorship" includes co-owners of property  
23 held under circumstances that entitle one or more to the whole of the  
24 property on the death of the other or others but excludes forms of  
25 co-ownership registration in which the underlying ownership of each party  
26 is in proportion to that party's contribution.

27       37. "Lease" includes any oil, gas or other mineral lease.

28       38. "Letters" includes letters testamentary, letters of  
29 guardianship, letters of administration and letters of conservatorship.

30       39. "Minor" means a person who is under eighteen years of age.

31       40. "Mortgage" means any conveyance, agreement or arrangement in  
32 which property is encumbered or used as security. Mortgage does not  
33 include leases or easements.

34       41. "Nonresident decedent" means a decedent who was domiciled in  
35 another jurisdiction at the time of the decedent's death.

36       42. "Organization" means a corporation, limited liability company,  
37 business trust, estate, trust, partnership, joint venture, association,  
38 government or governmental subdivision or agency or any other legal or  
39 commercial entity.

40       43. "Original will" means either an original paper will or a  
41 certified paper original of an electronic will.

42       44. "Paper will" means a testamentary instrument that is executed  
43 and maintained on a tangible medium and that is executed in compliance  
44 with section 14-2502 or 14-2503.

1       45. "Parent" includes any person entitled to take, or who would be  
2 entitled to take if the child died without a will, as a parent under this  
3 title by intestate succession from the child whose relationship is in  
4 question and excludes any person who is only a stepparent, foster parent  
5 or grandparent.

6       46. "Payor" means a trustee, insurer, business entity, employer,  
7 government, governmental agency or subdivision or any other person who is  
8 authorized or obligated by law or a governing instrument to make payments.

9       47. "Person" means an individual or an organization.

10       48. "Personal representative" includes an executor, an  
11 administrator, a successor personal representative, a special  
12 administrator and persons who perform substantially the same function  
13 under the law governing their status. A general personal representative  
14 excludes a special administrator.

15       49. "Petition" means a written request to the court for an order  
16 after notice.

17       50. "Proceeding" includes action at law and suit in equity.

18       51. "Property" has the same meaning prescribed in section 14-10103.

19       52. "Protected person" has the same meaning prescribed in section  
20 14-5101.

21       53. "Protective proceeding" has the same meaning prescribed in  
22 section 14-5101.

23       54. "Qualified custodian" means a person who fulfills the  
24 requirements of section 14-2520.

25       55. "Registrar" means the official of the court who is designated  
26 to perform the functions of registrar as provided in section 14-1307.

27       56. "Security" includes any note, stock, treasury stock, bond,  
28 debenture, evidence of indebtedness, certificate of interest or  
29 participation in an oil, gas or mining title or lease or in payments out  
30 of production under that title or lease, collateral trust certificate,  
31 transferable share or voting trust certificate and, in general, includes  
32 any interest or instrument commonly known as a security, or any  
33 certificate of interest or participation, any temporary or interim  
34 certificate, receipt or certificate of deposit for, or any warrant or  
35 right to subscribe to or purchase, any of these securities.

36       57. "Separate property" means that property of a husband or wife  
37 that is the spouse's separate property as defined in section 25-213.

38       58. "Settlement", in reference to a decedent's estate, includes the  
39 full process of administration, distribution and closing.

40       59. "Special administrator" means a personal representative as  
41 described by sections 14-3614 through 14-3618.

42       60. "State" has the same meaning prescribed in section 14-10103.

43       61. "Successor personal representative" means a personal  
44 representative, other than a special administrator, who is appointed to  
45 succeed a previously appointed personal representative.

1       62. "Successors" means persons, other than creditors, who are  
2 entitled to property of a decedent under a will or this title.

3       63. "Supervised administration" refers to the proceedings described  
4 in chapter 3, article 5 of this title.

5       64. "Survive" means that a person has neither predeceased an event,  
6 including the death of another person, nor is deemed to have predeceased  
7 an event under section 14-2104 or 14-2702.

8       65. "Tangible medium" means a medium on which information may be  
9 inscribed by writing, typing, printing or similar means and that is  
10 perceivable by reading directly from the medium on which the information  
11 is inscribed.

12       66. "Testacy proceeding" means a proceeding to establish a will or  
13 determine intestacy.

14       67. "Testator" includes a person of either sex.

15       68. "Trust" includes an express trust, private or charitable, with  
16 any additions, wherever and however created. Trust also includes a trust  
17 created or determined by judgment or decree under which the trust is to be  
18 administered in the manner of an express trust. Trust excludes other  
19 constructive trusts and excludes resulting trusts, conservatorship,  
20 personal representatives, trust accounts, custodial arrangements pursuant  
21 to chapter 7, article 7 of this title, business trusts providing for  
22 certificates to be issued to beneficiaries, common trust funds, voting  
23 trusts, security arrangements, liquidation trusts and trusts for the  
24 primary purpose of paying debts, dividends, interest, salaries, wages,  
25 profits, pensions or employee benefits of any kind, trusts created by a  
26 city or town for the payment of medical insurance, health care benefits or  
27 expenses, long-term or short-term disability, self insurance reserves and  
28 similar programs administered by a city or town, legal defense trusts and  
29 any arrangement under which a person is nominee or escrowee for another.

30       69. "Trustee" includes an original, additional or successor  
31 trustee, whether or not appointed or confirmed by the court.

32       70. "Ward" has the same meaning prescribed in section 14-5101.

33       71. "Will" includes a codicil and any testamentary instrument that  
34 merely appoints ~~an executor~~ A PERSONAL REPRESENTATIVE, revokes or revises  
35 another will, nominates a guardian OR CONSERVATOR, OR BOTH, or expressly  
36 excludes or limits the right of an individual or class to succeed to  
37 property of the decedent passing by intestate succession. A will may be a  
38 paper will or an electronic will.

39       Sec. 2. Section 14-2302, Arizona Revised Statutes, is amended to  
40 read:

41       14-2302. Omitted children; shares; definition

42       A. Except as provided in subsection ~~E~~ D of this section, if a  
43 testator fails to provide by will for a child who is born or adopted after  
44 the testator executes the will, the omitted child receives a share in the  
45 estate as follows:

1        1. If the testator had no child living when the testator executed  
2 the will, an omitted child receives a share in the estate equal in value  
3 to what the child would have received if the testator had died intestate,  
4 unless the will devised all or substantially all of the estate to the  
5 other parent of the omitted child and that other parent survives the  
6 testator and is entitled to take under the will.

7        2. If the testator had one or more children living when the  
8 testator executed the will and the will devised property or an interest in  
9 property to one or more of the then-living children, an omitted child is  
10 entitled to share in the testator's estate as follows:

11        (a) The portion of the testator's estate in which the omitted child  
12 is entitled to share is limited to devises made to the testator's  
13 then-living children under the will.

14        (b) As limited under subdivision (a) of this paragraph, the omitted  
15 child is entitled to receive the share of the testator's estate that the  
16 child would have received if the testator had included all omitted  
17 children with the children to whom devises were made under the will and  
18 had given an equal share of the estate to each child.

19        B. To the extent feasible, the interest granted an omitted child  
20 under subsection A, paragraph 2 of this section shall be of the same  
21 character, whether equitable or legal, present or future, as that devised  
22 to the testator's then-living children under the will.

23        C. In satisfying a share prescribed by subsection A, paragraph 2 of  
24 this section, devises to the testator's children who were living when the  
25 will was executed abate ratably. In abating the devises of the  
26 then-living children, the court shall preserve to the maximum extent  
27 possible the character of the testamentary plan adopted by the testator.

28        D. Subsection A of this section does not apply if either of the  
29 following is true:

30        1. It appears from the will that the omission was intentional.

31        2. The testator provided for the omitted child by transfer outside  
32 the will and the intent that the transfer be in lieu of a testamentary  
33 provision is shown by the testator's statements or can be reasonably  
34 inferred from the amount of the transfer or other evidence.

35        E. If at the time the testator executed the will the testator fails  
36 to provide by will for a living child solely because the testator believes  
37 the child to be dead, the child is entitled to share in the estate as if  
38 the child were an omitted after-born or after-adopted child.

39        F. In satisfying a share provided by subsection A, paragraph 1 of  
40 this section, devises made by the will abate under section 14-3902.

41        G. For the purposes of this section, "omitted child" means a child  
42 who was born or adopted after the testator executed a will.



1       Sec. 3. Section 14-2402, Arizona Revised Statutes, is amended to  
2 read:

3       14-2402. Homestead allowance

4       A. A decedent's surviving spouse is entitled to a homestead  
5 allowance of ~~eighteen thousand dollars~~ \$18,000. If there is no surviving  
6 spouse each minor child and each dependent child of the decedent are  
7 entitled to a homestead allowance of ~~eighteen thousand dollars~~ \$18,000  
8 divided by the number of minor and dependent children of the decedent.

9       B. The homestead allowance is exempt from and has priority over all  
10 claims against the estate, except expenses of administration.

11       C. The homestead allowance is chargeable against any benefit or  
12 share that passes to the surviving spouse or minor or dependent child by  
13 the decedent's will, by nonprobate transfer pursuant to section ~~14-6102~~  
14 ~~14-6101~~ or by intestate succession, unless it is otherwise provided by the  
15 decedent's will or by the governing instrument for a nonprobate transfer.  
16 To determine the homestead allowance under this section, a survivorship  
17 interest in a joint tenancy of real estate is considered a nonprobate  
18 transfer pursuant to section ~~14-6102~~ 14-6101.

19       Sec. 4. Section 14-3716, Arizona Revised Statutes, is amended to  
20 read:

21       14-3716. Powers and duties of successor personal  
22       representative

23       A successor personal representative has the same power and duty as  
24 the original personal representative to complete the administration and  
25 distribution of the estate, as expeditiously as possible, but he shall not  
26 exercise any power expressly made personal to the ~~executor~~ PERSONAL  
27 REPRESENTATIVE named in the will.

28       Sec. 5. Section 14-3718, Arizona Revised Statutes, is amended to  
29 read:

30       14-3718. Powers of surviving personal representative

31       Unless the terms of the will otherwise provide, every power  
32 exercisable by personal co-representatives may be exercised by the one or  
33 more remaining after the appointment of one or more is terminated, and if  
34 one of two or more nominated as ~~co-executors~~ CO-PERSONAL REPRESENTATIVES  
35 is not appointed, those appointed may exercise all the powers incident to  
36 the office.

37       Sec. 6. Section 14-5101, Arizona Revised Statutes, is amended to  
38 read:

39       14-5101. Definitions

40       In this title, unless the context otherwise requires:

41       1. "Contact" includes in-person contact, written communication and  
42 all forms of electronic communications.

43       2. "Contact order" means an order allowing contact between a ward  
44 and a person with a significant relationship to the ward.

1        3. "Incapacitated person" means any person who is impaired by  
2 reason of mental illness, mental deficiency, mental disorder, physical  
3 illness or disability, chronic use of drugs, chronic intoxication or other  
4 cause, except minority, to the extent that he lacks sufficient  
5 understanding or capacity to make or communicate responsible decisions  
6 concerning his person. In cases of limited guardianship only, a person is  
7 not deemed an incapacitated person for purposes of voting if, ~~the person~~  
8 ~~files a petition and has a hearing and the judge~~ ON PETITION AND AFTER A  
9 HEARING, THE JUDICIAL OFFICER determines by clear and convincing evidence  
10 that the person retains sufficient understanding to exercise the right to  
11 vote pursuant to section 14-5304.02.

12        4. "Inpatient psychiatric facility" means a hospital that contains  
13 an organized psychiatric services unit or a special hospital that is  
14 licensed to provide psychiatric services.

15        5. "Investigator" means a person who is appointed by the court  
16 under section 14-5308.

17        6. "Joint legal decision-making" has the same meaning prescribed in  
18 section 25-401.

19        7. "Legal decision-making" has the same meaning prescribed in  
20 section 25-401.

21        8. "Minor ward" means a minor for whom a guardian has been  
22 appointed solely because of minority.

23        ~~8.~~ 9. "Parenting time" has the same meaning prescribed in section  
24 25-401.

25        ~~9.~~ 10. "Physician" means a person licensed pursuant to title 32,  
26 chapter 13 or 17.

27        ~~10.~~ 11. "Protected person" means a minor or any other person for  
28 whom a conservator has been appointed or any other protective order has  
29 been made.

30        ~~11.~~ 12. "Protective proceeding" means a proceeding under section  
31 14-5401 to determine that a person cannot effectively manage or apply his  
32 estate to necessary ends, either because he lacks the ability or is  
33 otherwise inconvenienced, or because he is a minor, and to secure  
34 administration of his estate by a conservator or other appropriate relief.

35        ~~12.~~ 13. "Psychologist" means a person licensed pursuant to title  
36 32, chapter 19.1.

37        ~~13.~~ 14. "Registered nurse" has the same meaning as prescribed in  
38 section 32-1601.

39        ~~14.~~ 15. "Significant relationship" means the person either is  
40 related to the ward by blood or marriage or is a close friend of the ward  
41 as established by a history of pattern and practice.

42        ~~15.~~ 16. "Visitation" has the same meaning prescribed in section  
43 25-401.

44        ~~16.~~ 17. "Ward" means a person for whom a guardian has been  
45 appointed.

1       Sec. 7. Section 14-6102, Arizona Revised Statutes, is amended to  
2 read:

3       14-6102. Nonprobate transferees; liability for creditor  
4               claims and statutory allowances

5       A. Except as otherwise provided by law, a transferee of a  
6 nonprobate transfer is subject to liability to the decedent's probate  
7 estate for allowed claims against the decedent's probate estate and  
8 statutory allowances to the decedent's spouse and children to the extent  
9 the decedent's probate estate is insufficient to satisfy those claims and  
10 allowances. The liability of a nonprobate transferee may not exceed the  
11 value of nonprobate transfers received or controlled by that transferee.

12       B. Nonprobate transferees are liable for the insufficiency  
13 described in subsection A of this section in the following order:

14       1. As provided in the decedent's will or any other governing  
15 instrument.

16       2. To the extent of the value of the nonprobate transfer received  
17 or controlled by the trustee of a trust serving as the principal  
18 nonprobate instrument in the decedent's estate plan as shown by its  
19 designation as devisee of the decedent's residuary estate or by other  
20 facts or circumstances.

21       3. Other nonprobate transferees, in proportion to the values  
22 received.

23       C. Unless otherwise provided by the trust instrument, interests of  
24 beneficiaries in all trusts that incur liabilities under this section  
25 abate as necessary to satisfy the liability as if all of the trust  
26 ~~interments~~ INSTRUMENTS were a single will and the ~~interest~~ INTERESTS OF  
27 BENEFICIARIES were devisees under it.

28       D. A provision made in one instrument may direct the apportionment  
29 of the liability among the nonprobate transferees taking under that or any  
30 other governing instrument. If a provision in one instrument conflicts  
31 with a provision in another instrument, the later instrument prevails.

32       E. On due notice to a nonprobate transferee, the liability imposed  
33 by this section is enforceable in proceedings in this state, wherever the  
34 transferee is located.

35       F. A proceeding under this section may not be commenced unless the  
36 personal representative of the decedent's estate has received from the  
37 surviving spouse or a child to the extent that statutory allowances are  
38 affected, or from a creditor, a written demand for the proceeding. If the  
39 personal representative declines or fails to commence a proceeding after  
40 demand, a person making the demand may commence the proceeding in the name  
41 of the decedent's estate, at the expense of the person making the demand  
42 and not of the estate. A personal representative who declines in good  
43 faith to commence a requested proceeding incurs no personal liability for  
44 declining.

1       G. A proceeding under this section must be commenced within two  
2 years after the decedent's death, but a proceeding on behalf of a creditor  
3 whose claim was allowed after proceedings challenging disallowance of the  
4 claim may be commenced within sixty days after final allowance of the  
5 claims.

6       H. Unless a written notice asserting that a decedent's probate  
7 estate is insufficient to pay allowed claims and statutory allowances have  
8 been received from the decedent's personal representative, the following  
9 rules apply:

10       1. Payment or delivery of assets by any financial institution,  
11 registrar or other obligor to a nonprobate transferee in accordance with  
12 the terms of the governing instrument controlling the transfer releases  
13 the obligor from all claims for amounts paid or assets delivered.

14       2. A trustee receiving or controlling a nonprobate transfer is  
15 released from liability under this section on any assets distributed to  
16 the trust's beneficiaries. Each beneficiary to the extent of the  
17 distribution received becomes liable for the amount of the trustee's  
18 liability attributable to that asset imposed by subsections B and C of  
19 this section.

20       I. For the purposes of this section a nonprobate transfer is a  
21 valid transfer effective at death, other than a transfer of a survivorship  
22 interest in a joint tenancy of real estate, by a transferor whose last  
23 domicile was in this state, and to the extent that the transferor  
24 immediately before death had power, acting alone, to prevent the transfer  
25 by revocation or withdrawal and to instead use the property for the  
26 benefit of the transferor or apply it to discharge claims against the  
27 transfer's probate estate. With respect to multiple party accounts, the  
28 portion of the account that is a nonprobate transfer is that portion of  
29 that account to which the decedent was beneficially entitled immediately  
30 before death pursuant to section 14-6211.

31       Sec. 8. Section 14-10105, Arizona Revised Statutes, is amended to  
32 read:

33       14-10105. Default and mandatory rules

34       A. Except as otherwise provided in the terms of the trust, this  
35 chapter governs:

36       1. The duties, powers, exercise of powers, resignation and  
37 appointment of a trustee.

38       2. Conflicts of interest of a trustee.

39       3. Relations among trustees.

40       4. ~~Mergers~~ COMBINATIONS or divisions of trusts.

41       5. The rights and interests of a beneficiary.

42       B. The terms of a trust prevail over any provision of this chapter  
43 except:

44       1. The requirements for creating a trust.

- 1       2. The duty of a trustee to act in good faith and in accordance  
2 with the purposes of the trust.
- 3       3. The requirement that a trust and its terms be for the benefit of  
4 its beneficiaries and that the trust have a purpose that is lawful, not  
5 contrary to public policy and possible to achieve.
- 6       4. The power of the court to modify or terminate a trust under  
7 sections 14-10410, 14-10411, 14-10412, 14-10413, 14-10414, 14-10415 and  
8 14-10416.
- 9       5. The effect of a spendthrift provision and the rights of certain  
10 creditors and assignees to reach a trust as provided in article 5 of this  
11 chapter.
- 12       6. The power of the court under section 14-10702 to require,  
13 dispense with, modify or terminate a bond.
- 14       7. The power of the court under section 14-10708, subsection B to  
15 adjust a trustee's compensation specified in the terms of the trust that  
16 is unreasonably low or high.
- 17       8. The duty to respond to the request of a qualified beneficiary of  
18 an irrevocable trust for trustee's reports and other information  
19 reasonably related to the administration of a trust.
- 20       9. The effect of an exculpatory term under section 14-11008.
- 21       10. The rights under sections 14-11010, 14-11011, 14-11012 and  
22 14-11013 of a person other than a trustee or beneficiary.
- 23       11. Periods of limitation for commencing a judicial proceeding.
- 24       12. The power of the court to take action consistent with the  
25 settlor's intent and exercise jurisdiction as may be necessary in the  
26 interests of justice.
- 27       13. The subject matter jurisdiction of the court and venue for  
28 commencing a proceeding as provided in sections 14-10203 and 14-10204.
- 29       14. The notice provisions of section 14-10110, subsection B.
- 30       15. The enforceability of a penalty clause under section 14-10113.