## **Table of Contents**

# CHAPTER 1. BACKGROUND OF TRUST LAW IN GEORGIA

§ 1:1	Introduction
§ 1:2	Trust law resources
§ 1:3	History of trusts
§ 1:4	History of trusts and trust law in Georgia
§ 1:5	COVID-19 pandemic issues
§ 1:6	—Access to the courts
§ 1:7	-Execution of estate planning documents
§ 1:8	—Legislation during the pandemic
§ 1:9	Georgia trust law and the Uniform Trust Code
§ 1:10	Types of trusts: general
§ 1:11	Types of trusts: trusts created to maintain eligibility for governmental assistance
§ 1:12	General provisions of Georgia Trust Code Article I: effective date; survival of common law; jurisdiction
§ 1:13	Governing law
§ 1:14	Georgia Trust Code as a default statute
§ 1:15	Representation
š 1·16	Binding nonjudicial settlement agreements

§ 1:17 Definitions in the Georgia Trust Code

# CHAPTER 2. CREATION AND VALIDITY OF AN EXPRESS TRUST

§ 2:1	· · ·
0.00	trust construction
$\S~2:2$	—Conditions in terrorem
$\S 2:3$	—Settlor's capacity; undue influence; intention; lawful
	purpose
$\S~2:4$	—The writing requirement
$\S 2:5$	—The property requirement
§ 2:6	Additions to trusts after the settlor's death
§ 2:7	Creation and validity of an express trust: the
	beneficiary requirement
§ 2:8	Trusts for animals
§ 2:9	Business trusts

## CHAPTER 3. REVOCATION, REFORMATION, MODIFICATION, AND TERMINATION OF TRUSTS

§ 3:1 Revocable trusts: generally

§ 3:2	Revocable trusts: the sole beneficiary rule and special needs trusts
§ 3:3	Trust reformation
§ 3:4	Modification, division, consolidation, and termination of trusts generally
§ 3:5	Modification or termination of trusts with consent of the settlor and the qualified beneficiaries while the settlor is alive
§ 3:6	Modification or termination of trusts with consent of the qualified beneficiaries after the settlor has died
§ 3:7	Modification of trusts upon approval of the court
§ 3:8	Division or consolidation of trusts upon approval of the court
§ 3:9	Termination of trusts upon court approval
§ 3:10	Uneconomic trusts: modification and termination
§ 3:11	Trust decanting

## CHAPTER 4. SPENDTHRIFT TRUSTS AND DISCRETIONARY TRUSTS

- § 4:1 Spendthrift trusts
- § 4:2 Discretionary trusts
- § 4:3 Claims by creditors of the settlor

#### CHAPTER 5. CHARITABLE TRUSTS

- § 5:1 Charitable trusts: generally
- § 5:2 Cy pres
- § 5:3 Charitable trusts and the rule against perpetuities
- § 5:4 Private foundations
- § 5:5 Enforcement of charitable trusts
- $\S~5:6~$  Georgia Prudent Management of Institutional Funds Act

### CHAPTER 6. IMPLIED TRUSTS

- § 6:1 Definition; nature; imposition; enforcement
- § 6:2 Church property
- § 6:3 Constructive trusts
- § 6:4 Resulting trusts

#### CHAPTER 7. TRUSTEES GENERALLY

- § 7:1 The requirement of a trustee with duties to perform
- § 7:2 Capacity of trustee
- § 7:3 Trustees: appointment and vacancies
- § 7:4 Acceptance of trusteeship
- § 7:5 Trustee's bond

#### Table of Contents

- § 7:6 Cotrustees
- § 7:7 Trustee compensation
- § 7:8 Resignation of trustee
- § 7:9 Removal of trustee
- § 7:10 Successor trustees

### CHAPTER 8. ACCOUNTING BY TRUSTEES

- § 8:1 Accounting to beneficiaries
- § 8:2 Interim accounting by trustee
- § 8:3 Final accounting of trustee
- § 8:4 Equitable accounting
- § 8:5 Duty to keep beneficiaries reasonably informed

### CHAPTER 9. DUTIES OF A TRUSTEE

- § 9:1 Duties generally
- § 9:2 Specific duties of a trustee
- § 9:3 Specific duties: duty of prudent administration
- $\S~9:4$  Specific duties: duty to inform as to existence of trust
- § 9:5 Specific duties: duty to avoid conflict of interest
- § 9:6 Specific duties: duty of impartiality

## CHAPTER 10. LIABILITY OF TRUSTEES AND TRUSTS

- § 10:1 Actions for breach of trust
- § 10:2 Damages for breach of trust
- § 10:3 Relief of trustee from liability
- § 10:4 Personal liability of trustees
- § 10:5 Limitation of actions
- § 10:6 Liability of trust for actions of trustee

### CHAPTER 11. TRUSTEE POWERS

- § 11:1 Trustee powers: generally
- § 11:2 Statutory trustee powers
- § 11:3 Certification of trusts
- § 11:4 Registration and deposit of securities
- § 11:5 Directed trusts

#### CHAPTER 12. TRUSTEE INVESTMENTS

- § 12:1 Trustee investments: general standard
- § 12:2 Trustee investments: managing the risk of concentrated holdings
- § 12:3 Delegation of investment and management functions
- § 12:4 Power of adjustment and unitrusts: generally

- § 12:5 Power to adjust
- § 12:6 Unitrusts

## CHAPTER 13. GEORGIA PRINCIPAL AND INCOME ACT

- § 13:1 Georgia Principal and Income Act: general principles and definitions
- § 13:2 Georgia Principal and Income Act: payment of interest and expenses
- § 13:3 Georgia Principal and Income Act: apportionment at beginning and end of income interest
- § 13:4 Georgia Principal and Income Act: allocation of receipts from entities
- § 13:5 Georgia Principal and Income Act: apportionment of miscellaneous receipts
- § 13:6 Georgia Principal and Income Act: apportionment of disbursements

### **CHAPTER 14. CONSTRUCTION OF TRUSTS**

- § 14:1 Construction generally
- § 14:2 Construction of trusts: declaratory judgments
- § 14:3 Words and phrases: persons
- § 14:4 Words and phrases: miscellaneous

## CHAPTER 15. SPECIAL CONSIDERATIONS AND EMERGING ISSUES

- § 15:1 Alternative dispute resolution
- § 15:2 —Mediation
- § 15:3 —Arbitration
- § 15:4 Liability of banks holding fiduciary accounts
- § 15:5 Duties of attorneys who represent trustees
- § 15:6 Drafting attorney named as trustee
- § 15:7 Drafting attorney named as beneficiary
- § 15:8 Attorney's fiduciary relationship with clients
- § 15:9 Professional responsibility challenges in determining client capacity
- § 15:10 Fiduciary exception to attorney-client privilege
- § 15:11 Trust mills and the unauthorized practice of law
- § 15:12 Digital asset trusts
- § 15:13 Georgia appellate courts' increasingly strict adherence to text of statutes and documents
- § 15:14 State income taxation of trust beneficiaries
- § 15:15 Electronic estate planning documents
- § 15:16 Tortious interference with inheritance or gift

#### Table of Contents

§ 15:17 Corporate Transparency Act and trust reporting requirements

### **APPENDICES**

Appendix A. Georgia Code Revision History

Appendix B. **Cross-Reference Tables** 

Appendix C. History of Georgia Trust Code Sections

"So You Call Yourself a Trust Attorney? Making Friends with a Baker's Dozen of Georgia's Appendix D.

Greatest Trust Law Cases"

**Table of Laws and Rules** 

**Table of Cases** 

Index