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; notice to beneficiaries
§ 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 Creation and validity of an express trust—Generally; trust construction
§ 2:2 —Conditions in terrorem
§ 2:3 —Settlor's capacity; undue influence; intention; lawful purpose
§ 2:4 —The writing requirement
§ 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
§ 2:10 Purpose trusts and stewardship 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 or donor

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
§ 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
§ 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
§ 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 Liability of drafting attorney to beneficiaries
§ 15:9 Attorney's fiduciary relationship with clients
§ 15:10 Professional responsibility challenges in determining client capacity
§ 15:11 Fiduciary exception to attorney-client privilege
§ 15:12 Trust mills and the unauthorized practice of law

§ 15:13 Digital asset trusts
§ 15:14 Georgia appellate courts' increasingly strict adherence to text of statutes and documents
§ 15:15 State income taxation of trust beneficiaries
§ 15:16 Electronic estate planning documents
§ 15:17 Electronic signatures, notice, and records
§ 15:18 Tortious interference with inheritance or gift
§ 15:19 Trusts and federal reporting requirements
§ 15:20 Pre-mortem validation of trusts
§ 15:21 Letter of wishes

APPENDICES

Appendix A. Georgia Code Revision History
Appendix B. Cross-Reference Tables
Appendix C. History of Georgia Trust Code Sections
Appendix D. "So You Call Yourself a Trust Attorney? Making Friends with a Baker's Dozen of Georgia's Greatest Trust Law Cases"
Appendix E. Historical Georgia Statutory Fiduciary Powers

Table of Laws and Rules

Table of Cases

Index