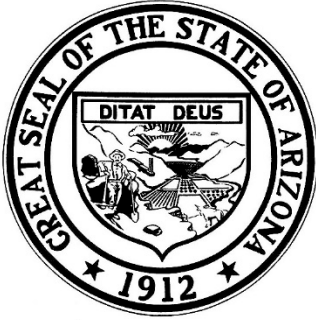


HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2657**

Carter N ADDITIONAL COW
Floor Amendment

-
- Makes a technical change.

Amendment explanation prepared by Nathan M
Phone Number x3646
ls
2/17/2025

ADDITIONAL COW
CARTER N FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2657
(Reference to engrossed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.
[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.
<<Green carets>> indicate a section added to the bill.
<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

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

1 attorney or a power held in any person, fiduciary or representative
2 capacity is exercised.

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

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

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

16 8. "Claims", in respect to estates of decedents and protected
17 persons, includes liabilities of the decedent or the protected person,
18 whether arising in contract, in tort or otherwise, and liabilities of the
19 estate that arise at or after the death of the decedent or after the
20 appointment of a conservator, including funeral expenses and expenses of
21 administration. Claims do not include estate or inheritance taxes or
22 demands or disputes regarding title of a decedent or a protected person to
23 specific assets alleged to be included in the estate.

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

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

29 11. "Court" means the superior court.

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

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

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

38 15. "Devisee" means a person designated in a will to receive a
39 devise. For the purposes of chapter 3 of this title, in the case of a
40 devise to an existing trust or trustee, or to a trustee on trust described
41 by will, the trust or trustee is the devisee and the beneficiaries are not
42 devisees.

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

45 17. "Distributee" means any person who has received property of a
46 decedent from that person's personal representative other than as a
47 creditor or purchaser. Distributee includes a testamentary trustee only

1 to the extent of distributed assets or increment that remains in that
2 person's hands. A beneficiary of a testamentary trust to whom the trustee
3 has distributed property received from a personal representative is a
4 distributee of the personal representative. For the purposes of this
5 paragraph, "testamentary trustee" includes a trustee to whom assets are
6 transferred by will, to the extent of the devised assets.

7 18. "Electronic" means having electrical, digital, magnetic,
8 optical, electromagnetic or similar capabilities.

9 ~~22.~~ 19. "Electronically present" means two or more individuals who
10 are in ~~a~~ different physical ~~location~~ LOCATIONS and who are communicating
11 by means of technology that enables all individuals to see and hear each
12 other in real time to the same extent as if the individuals were
13 physically present in the same location.

14 ~~19.~~ 20. "Electronic record" means a record that is created,
15 generated, sent, communicated, received or stored by electronic means.

16 ~~20.~~ 21. "Electronic signature" means an electronic method or
17 process that does both of the following:

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

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

23 (i) Unique to the person using it.

24 (ii) Capable of verification.

25 (iii) Under the sole control of the person making the electronic
26 signature.

27 (iv) Linked to the electronic record to which the electronic
28 signature relates in a manner so that if the electronic record is changed
29 the electronic signature is invalidated.

30 ~~21.~~ 22. "Electronic will" means a testamentary instrument that is
31 executed and maintained on an electronic medium and that is executed in
32 compliance with section 14-2518.

33 23. "Estate" includes the property of the decedent, trust or other
34 person whose affairs are subject to this title as originally constituted
35 and as it exists from time to time during administration. As it relates
36 to a spouse, the estate includes only the separate property and the share
37 of the community property belonging to the decedent or person whose
38 affairs are subject to this title.

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

41 25. "Fiduciary" includes a personal representative, guardian,
42 conservator and trustee.

43 26. "Foreign personal representative" means a personal
44 representative who is appointed by another jurisdiction.

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

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

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

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

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

15 32. "Incapacitated person" has the same meaning prescribed in
16 section 14-5101.

17 33. "Informal proceedings" means those proceedings conducted
18 without notice to interested persons by an officer of the court acting as
19 a registrar for probate of a will or appointment of a personal
20 representative.

21 34. "Interested person" includes any trustee, heir, devisee, child,
22 spouse, creditor, beneficiary, person holding a power of appointment and
23 other person who has a property right in or claim against a trust estate
24 or the estate of a decedent, ward or protected person. Interested person
25 also includes a person who has priority for appointment as personal
26 representative and other fiduciaries representing interested persons.
27 Interested person, as the term relates to particular persons, may vary
28 from time to time and must be determined according to the particular
29 purposes of, and matter involved in, any proceeding.

30 35. "Issue" of a person means descendant as defined in this
31 section.

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

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

39 38. "Letters" includes letters testamentary, letters of
40 guardianship, letters of administration and letters of conservatorship.

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

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

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

1 42. "Organization" means a corporation, limited liability company,
2 business trust, estate, trust, partnership, joint venture, association,
3 government or governmental subdivision or agency or any other legal or
4 commercial entity.

5 43. "Original will" means either an original paper will or a
6 certified paper original of an electronic will.

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

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

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

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

19 48. "Personal representative" includes an executor, an
20 administrator, a successor personal representative, a special
21 administrator and persons who perform substantially the same function
22 under the law governing their status. A general personal representative
23 excludes a special administrator.

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

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

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

28 52. "Protected person" has the same meaning prescribed in section
29 14-5101.

30 53. "Protective proceeding" has the same meaning prescribed in
31 section 14-5101.

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

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

36 56. "Security" includes any note, stock, treasury stock, bond,
37 debenture, evidence of indebtedness, certificate of interest or
38 participation in an oil, gas or mining title or lease or in payments out
39 of production under that title or lease, collateral trust certificate,
40 transferable share or voting trust certificate and, in general, includes
41 any interest or instrument commonly known as a security, or any
42 certificate of interest or participation, any temporary or interim
43 certificate, receipt or certificate of deposit for, or any warrant or
44 right to subscribe to or purchase, any of these securities.

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

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

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

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

6 61. "Successor personal representative" means a personal
7 representative, other than a special administrator, who is appointed to
8 succeed a previously appointed personal representative.

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

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

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

16 65. "Tangible medium" means a medium on which information may be
17 inscribed by writing, typing, printing or similar means and that is
18 perceivable by reading directly from the medium on which the information
19 is inscribed.

20 66. "Testacy proceeding" means a proceeding to establish a will or
21 determine intestacy.

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

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

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

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

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

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

3 14-2302. Omitted children; shares; definition

4 A. Except as provided in subsection ~~C~~ D of this section, if a
5 testator fails to provide by will for a child who is born or adopted after
6 the testator executes the will, the omitted child receives a share in the
7 estate as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

5 14-2402. Homestead allowance

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

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

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

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

23 14-3716. Powers and duties of successor personal
24 representative

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

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

32 14-3718. Powers of surviving personal representative

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

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

41 14-5101. Definitions

42 In this title, unless the context otherwise requires:

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

45 2. "Contact order" means an order allowing contact between a ward
46 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.

45 G. A proceeding under this section must be commenced within two
46 years after the decedent's death, but a proceeding on behalf of a creditor
47 whose claim was allowed after proceedings challenging disallowance of the

1 claim may be commenced within sixty days after final allowance of the
2 claims.

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

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

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

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

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

30 14-10105. Default and mandatory rules

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

33 1. The duties, powers, exercise of powers, resignation and
34 appointment of a trustee.

35 2. Conflicts of interest of a trustee.

36 3. Relations among trustees.

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

38 5. The rights and interests of a beneficiary.

39 B. The terms of a trust prevail over any provision of this chapter
40 except:

41 1. The requirements for creating a trust.

42 2. The duty of a trustee to act in good faith and in accordance
43 with the purposes of the trust.

44 3. The requirement that a trust and its terms be for the benefit of
45 its beneficiaries and that the trust have a purpose that is lawful, not
46 contrary to public policy and possible to achieve.

1 4. The power of the court to modify or terminate a trust under
2 sections 14-10410, 14-10411, 14-10412, 14-10413, 14-10414, 14-10415 and
3 14-10416.

4 5. The effect of a spendthrift provision and the rights of certain
5 creditors and assignees to reach a trust as provided in article 5 of this
6 chapter.

7 6. The power of the court under section 14-10702 to require,
8 dispense with, modify or terminate a bond.

9 7. The power of the court under section 14-10708, subsection B to
10 adjust a trustee's compensation specified in the terms of the trust that
11 is unreasonably low or high.

12 8. The duty to respond to the request of a qualified beneficiary of
13 an irrevocable trust for trustee's reports and other information
14 reasonably related to the administration of a trust.

15 9. The effect of an exculpatory term under section 14-11008.

16 10. The rights under sections 14-11010, 14-11011, 14-11012 and
17 14-11013 of a person other than a trustee or beneficiary.

18 11. Periods of limitation for commencing a judicial proceeding.

19 12. The power of the court to take action consistent with the
20 settlor's intent and exercise jurisdiction as may be necessary in the
21 interests of justice.

22 13. The subject matter jurisdiction of the court and venue for
23 commencing a proceeding as provided in sections 14-10203 and 14-10204.

24 14. The notice provisions of section 14-10110, subsection B.

25 15. The enforceability of a penalty clause under section 14-10113.

26 Enroll and engross to conform

27 Amend title to conform

NEAL CARTER

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