

### § 36C-1-103. Definitions.

The following definitions apply in this Chapter:

- (1) Action. – When applicable to an act of a trustee, includes a failure to act.
- (2) Ascertainable standard. – A standard relating to an individual's health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code.
- (3) Beneficiary. – A person who:
  - a. Has a present or future beneficial interest in a trust, vested or contingent, including the owner of an interest by assignment or transfer, but excluding a permissible appointee of a power of appointment; or
  - b. In a capacity other than that of trustee, holds a power of appointment over trust property.
- (4) Charitable trust. – A trust, including a split-interest trust as described in section 4947 of the Internal Revenue Code, created for a charitable purpose described in G.S. 36C-4-405(a).
- (5) Environmental law. – A federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.
- (6) General guardian. – As defined in G.S. 35A-1202(7).
- (7) Guardian of the estate. – As defined in G.S. 35A-1202(9).
- (8) Guardian of the person. – As defined in G.S. 35A-1202(10).
- (9) Interests of the beneficiaries. – The beneficial interests provided in the terms of the trust.
- (10) Internal Revenue Code. – The Internal Revenue Code of 1986, as amended from time to time. Each reference to a provision of the Internal Revenue Code shall include any successor to that provision.
- (11) Jurisdiction. – When applicable to a geographic area, includes a state or country.
- (12) Person. – An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.
- (13) Power of withdrawal. – A presently exercisable general power of appointment other than a power:
  - a. Exercisable by a trustee and limited by an ascertainable standard; or
  - b. Exercisable by another person only upon consent of the trustee or a person holding an adverse interest.
- (13a) Principal place of administration. – The trustee's usual place of business where the records pertaining to the trust are kept or the trustee's residence if the trustee has no usual place of business. In the case of cotrustees, the principal place of administration is one of the following:
  - a. The usual place of business of the corporate trustee if there is a corporate cotrustee.
  - b. The usual place of business or residence of any of the cotrustees if there is no corporate cotrustee.
- (14) Property. – Anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.
- (15) Qualified beneficiary. – A living beneficiary to whom, on the date the beneficiary's qualification is determined, any of the following apply:
  - a. Is a distributee or permissible distributee of trust income or principal.

- b. Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in sub-subdivision a. of this subdivision terminated on that date without causing the trust to terminate.
  - c. Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.
- (16) Revocable. – When applicable to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.
  - (17) Settlor. – Except as otherwise provided in G.S. 36C-8B-25, a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.
  - (18) Spendthrift provision. – A term of a trust that restrains both voluntary and involuntary transfer of a beneficiary's interest.
  - (19) State. – A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.
  - (20) Terms of a trust. – The manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as established, determined, or amended by any of the following:
    - a. A judicial proceeding.
    - b. A nonjudicial settlement agreement.
    - c. A nonjudicial modification with the consent of the settlor and all beneficiaries under G.S. 36C-4-411(a) or other law.
    - d. A trustee or other person in accordance with law, including a power holder under Article 8A of this Chapter or a trustee under Article 8B of this Chapter.
  - (21) Trust instrument. – An instrument that contains the terms of a trust.
  - (22) Trustee. – Includes an original, additional, and successor trustee, and a cotrustee, whether or not appointed or confirmed by a court. The term does not include trustees in mortgages and deeds of trusts. (2001-413, s. 1; 2005-192, s. 2; 2007-106, s. 2; 2009-222, s. 1; 2017-121, s. 2.1; 2021-85, s. 2(a).)