

§ 36C-8B-22. Saving provision.

(a) If exercise of the decanting power would be effective under this Article except that the second trust in part does not comply with this Article, the exercise of the decanting power is effective and the following rules apply with respect to the principal of the second trust attributable to the exercise of the power:

- (1) A provision in the second trust which is not permitted under this Article is void to the extent necessary to comply with this Article.
- (2) A provision required by this Article to be in the second trust which is not contained in the second trust is deemed to be included in the second trust to the extent necessary to comply with this Article.

(b) If a trustee of other fiduciary of a second trust determines that subsection (a) of this section applies to a prior exercise of the decanting power, the fiduciary shall take corrective action consistent with the fiduciary's duties. (2017-121, s. 1.)