



THE LAW OFFICES OF
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FAMILY WEALTH & LEGACY COUNSELLORS

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Florida Enacts Uniform Trust Code

Florida's new trust code became effective July 1, 2007. The new code contains a set of basic default rules that govern trusts when the settlor's intent is not expressed in the trust instrument. The Code is divided into 11 articles containing important provisions, including the following:

- Virtual representation. Certain unrepresented beneficiaries may be bound by a decision of persons with substantially identical interests with respect to a particular question or dispute, so long as there is no conflict of interest.
- Modification and termination provisions. The Florida Trust Code liberalizes the ability to modify or terminate a trust without disregarding the key principles of honoring the settlor's intent.
- Spendthrift provision. A spendthrift provision may be created by general reference to "spendthrift trust" in the trust instrument. This is one area of concern under the new code in that it may weaken asset protection as it relates to divorce and child support.
- Charitable trusts. The code provides a statutory structure for charitable trusts, codifying trust purpose and the common law doctrine of cy pres. It also provides the ability to enforce trusts for an animal or other trust with a valid purpose but no ascertainable beneficiary.
- Revocable trusts. The code recognizes revocable trusts and contains a major policy change by presuming revocability of trusts. Revocable trusts are generally viewed as a will substitute and are the most popular, modern trusts for estate planning purposes.
- Trustee's duties and powers. The code specifies trustee powers and duties in detail, and provides numerous procedural rules on a trust's administration.
- Protection of beneficiaries and trustees through disclosure. The code provides protection to beneficiaries and trustees through disclosure requirements and fiduciary principles.
- Remedies. The code identifies the remedies for breach of trust, describes how money damages are to be determined, and specifies potential trustee defenses.

The Law Offices of Hoyt & Bryan assists families in the protection of their loved ones by focusing their practice in the areas of Estate Planning, Probate and Trust Administration, Elder Law including Medicaid and VA Planning and Special Needs Planning, Pet Planning, Business Succession Planning and Real Estate. The founders, Peggy Hoyt and

Randy Bryan, are both dual board certified by the Florida Bar in Wills, Trusts and Estates as well as Elder Law. Hoyt & Bryan is the only law firm in Florida with the distinction of two attorneys with these certifications. We offer many complimentary educational workshops each week in our Learning Center at The Law Offices of Hoyt & Bryan and monthly workshops in the Auditorium of One Senior Place in Altamonte Springs. For more information please contact our office at 407-977-8080 or visit our website HoytBryan.com.