

CHAPTER 292
SB 435 - FINAL VERSION

02/08/2024 0261s
2May2024... 1454h

2024 SESSION

24-3038
08/10

SENATE BILL

435

AN ACT relative to the New Hampshire unitrust statute.

SPONSORS: Sen. D'Allesandro, Dist 20; Sen. Bradley, Dist 3; Sen. Soucy, Dist 18; Rep. Hunt, Ches. 14

COMMITTEE: Ways and Means

ANALYSIS

This bill consolidates the New Hampshire unitrust statute into one title and eliminates duplicative statutes.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to the New Hampshire unitrust statute.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 292:1 New Hampshire Uniform Principal and Income Act. Amend RSA 564-C:1-102(8) to read as
2 follows:

3 (8) "Net income" means the total receipts allocated to income during an accounting
4 period minus the disbursements made from income during the period, plus or minus transfers under this
5 chapter to or from income during the period. ~~[During any period in which the trust is being administered~~
6 ~~as a unitrust, either pursuant to the powers conferred by RSA 564-C:1-106 or pursuant to the terms of the~~
7 ~~will or the trust, "net income" means the unitrust amount, if the unitrust amount is no less than 2 percent~~
8 ~~and no more than 8 percent of the fair market value of the trust assets whether determined annually or~~
9 ~~averaged on a multiple year basis.]~~

10 292:2 New Hampshire Uniform Principal and Income Act; Trustee's Power to Convert to Unitrust.
11 Amend RSA 564-C:1-106(d) to read as follows:

12 (d) After a trust is converted to a unitrust, ~~[all of the following apply]~~ ***the provisions of RSA***
13 ***564-C:1-107 shall apply***

14 ~~[(1) The trustee shall follow an investment policy seeking a total return for the~~
15 ~~investments held by the trust, whether the return is to be derived:~~

- 16 (A) ~~from appreciation of capital;~~
17 (B) ~~from earnings and distributions from capital; or~~
18 (C) ~~from both.~~

19 ~~(2) The trustee shall make regular distributions in accordance with the governing~~
20 ~~instrument construed in accordance with the provisions of this section.~~

21 ~~(3) Under the terms of the trust, the term "income" shall mean an annual distribution (the~~
22 ~~unitrust distribution) equal to not less than 3 percent nor more than 5 percent (the payout percentage) of~~
23 ~~the net fair market value of the trust's assets as determined at the end of the calendar year, whether such~~
24 ~~assets would be considered income or principal under other provisions of this chapter, averaged over the~~
25 ~~lesser of:~~

- 26 (A) ~~The 3 preceding years; or~~
27 (B) ~~The period during which the trust has been in existence].~~

28 292:3 New Hampshire Uniform Principal and Income Act; Trustee's Power to Convert to Unitrust.
29 Amend RSA 564-C:1-106(f) to read as follows:

30 (f)(1) Expenses which would be deducted from income if the trust were not a unitrust may not
31 be deducted from the unitrust distribution.

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1 (2) ~~[Unless otherwise provided by the governing instrument, the unitrust distribution shall~~
2 ~~be paid from net income, as such term would be determined if the trust were not a unitrust. To the extent~~
3 ~~net income is insufficient, the unitrust distribution shall be paid from net realized short-term capital gains.~~
4 ~~To the extent income and net realized short-term capital gains are insufficient, the unitrust distribution~~
5 ~~shall be paid from net realized long-term capital gains. To the extent income and net realized short-term~~
6 ~~and long-term capital gains are insufficient, the unitrust distribution shall be paid from the principal of the~~
7 ~~trust]~~ ***Unitrust distributions shall be determined as set forth in RSA 564-C:1-107.***

8 292:4 New Hampshire Uniform Principal and Income Act; Trustee's Power to Convert to Unitrust.
9 Amend RSA 564-C:1-106(g)(3)-(4) to read as follows:

10 (3) average the valuation of the trust's net assets over a period other than ~~[3 years]~~ ***the***
11 ***period described in the trust,*** or

12 (4) ~~[Reconvert]~~ ***reconvert*** from a unitrust.

13 292:5 New Section; New Hampshire Uniform Principal and Income Act. Amend RSA 564-C:1
14 inserting after section 1-106 the following new section:

15 564-C:1-107 Creation of Total Return Unitrust.

16 (a) The following provisions shall apply to a trust that, by its governing instrument, or by
17 conversion pursuant to RSA 564-C:1-106, requires or permits the distribution, at least annually, of a
18 unitrust amount equal to a fixed percentage of not less than 3 nor more than 5 percent per year of the fair
19 market value of the trust's assets, valued at least annually, such trust to be referred to in this section as a
20 "total return unitrust."

21 (b) The unitrust amount for a total return unitrust may be determined by reference to the fair
22 market value of the trust's assets in one year or more than one year.

23 (c) Distribution of such a fixed percentage unitrust amount is considered a distribution of all
24 the income of the total return unitrust.

25 (d) A total return unitrust may or may not provide a mechanism for changing the unitrust
26 percentage similar to the mechanism provided under RSA 564-C:1-106, based upon the factors noted
27 therein, and may or may not provide for a conversion from a unitrust to an income trust and/or a
28 reconversion of an income trust to a unitrust similar to the mechanism under RSA 564-C:1-106.

29 (e) If a total return unitrust does not specifically or by reference to RSA 564-C:1-106 deny a
30 power to change the unitrust percentage or to convert to an income trust, then the trustee shall have such
31 power and the total return unitrust shall be deemed to be a "unitrust" within the meaning of RSA 564-C:1-
32 106 for purposes of applying RSA 564-C:1-106 to the trust.

33 (f) The distribution of a fixed percentage of not less than 3 percent nor more than 5 percent
34 reasonably apportions the total return of a total return unitrust.

35 (g) The trust instrument may grant discretion to the trustee to adopt a consistent practice of
36 treating capital gains as part of the unitrust distribution, to the extent that the unitrust distribution exceeds
37 the net accounting income, or it may specify the ordering of such classes of income.

38 (h) Unless the terms of the trust specifically provide otherwise, the trustee:

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1 (1) Shall consider the unitrust amount as paid from net income determined as if the trust
2 were not a unitrust; and

3 (2) To the extent net income is insufficient, then after calculating the trust's capital gain
4 net income as described in Internal Revenue Code ("I.R.C.") section 1222(9) (26 U.S.C. section 1222(9)),
5 shall consider the unitrust amount as paid from net realized short-term capital gain as described in I.R.C.
6 section 1222(5) (26 U.S.C. section 1222(5)) and then from net realized long-term capital gain described in
7 I.R.C. section 1222(7) (26 U.S.C. section 1222(7)); and

8 (3) Shall then consider the unitrust amount as paid from the principal of the trust.

9 (i) The trust instrument may provide that:

10 (1) Assets for which a fair market value cannot be readily ascertained shall be valued
11 using such valuation methods as are deemed reasonable and appropriate;

12 (2) Assets used by a trust beneficiary, such as a residence property or tangible personal
13 property, may be excluded from the net fair market value for computing the unitrust amount; and

14 (3) A trustee has discretion under RSA 564-C:1-106(e) after the conversion of a trust to a
15 unitrust.

16 292:6 New Hampshire Trust Code; Collecting Trust Property. Amend RSA 564-B:8-812(b) and (c) to
17 read as follows:

18 (b) Except as otherwise provided under the terms of the trust, the trustee shall take
19 reasonable steps to redress a breach of trust known to the trustee to have been committed by a cotrustee
20 or a former trustee *prior to the trustee's acceptance of trusteeship*.

21 (c) Except as otherwise provided under the terms of the trust, the trustee shall take
22 reasonable steps to redress a breach of trust actually known to the trustee to have been committed by [~~a~~
23 ~~trust advisor,~~] a former trust advisor[~~, a trust protector,~~] or a former trust protector. This subsection does
24 not impose upon a trustee who is an excluded fiduciary any duty to monitor, duty to advise, or duty to
25 warn as described under RSA 564-B:12-1204.

26 292:7 New Hampshire Trust Code; No Duty to Review Actions of Trustee, Trust Advisor, or Trust
27 Protector. Amend RSA 564-B:12-1204 to read as follows:

28 564-B:12-1204 No Duty to Review Actions of Trustee, Trust Advisor, or Trust Protector.

29 (a) Whenever, pursuant to the terms of a trust, an agreement of the qualified beneficiaries, or
30 a court order, an excluded fiduciary is to follow the direction of a trustee, trust advisor, or trust protector
31 with respect to investment decisions, distribution decisions, or other decisions of the non-excluded
32 fiduciary, then, except to the extent that the terms of the trust, the agreement of the qualified beneficiaries,
33 or the court order provide otherwise, the excluded fiduciary shall have no duty to:

34 (1) monitor the conduct of the trustee, trust advisor, or trust protector;

35 (2) provide advice to the trustee, trust advisor, or trust protector or consult with the
36 trustee, trust advisor, or trust protector; or

37 (3) communicate with or warn or apprise any beneficiary or third party concerning
38 instances in which the excluded fiduciary would or might have exercised the excluded fiduciary's own
39 discretion in a manner different from the manner directed by the trustee, trust advisor, or trust protector; *or*

1 ***(4) redress a breach of trust actually known to the excluded fiduciary to have been***
2 ***committed by a trustee, trust advisor, or trust protector.***

3 (b) Absent clear and convincing evidence to the contrary, the actions of the excluded
4 fiduciary pertaining to matters within the scope of the trustee, trust advisor, or trust protector's authority
5 (such as confirming that the trustee, trust advisor, or trust protector's directions have been carried out and
6 recording and reporting actions taken at the trustee, trust advisor, or trust protector's direction or other
7 information pursuant to RSA 564-B:8-813), shall be presumed to be administrative actions taken by the
8 excluded fiduciary solely to allow the excluded fiduciary to perform those duties assigned to the excluded
9 fiduciary under the terms of the trust, the agreement of the qualified beneficiaries, or the court order, and
10 such administrative actions shall not be deemed to constitute an undertaking by the excluded fiduciary to
11 monitor the trustee, trust advisor, or trust protector or otherwise participate in actions within the scope of
12 the trustee, trust advisor, or trust protector's authority.

13 ***(c) Notwithstanding (a) and (b), if an excluded fiduciary actually knows of a serious breach of***
14 ***trust having been committed by a trustee, trust advisor, or trust protector, then such trustee shall take***
15 ***reasonable steps to redress such serious breach of trust.***

16 292:8 New Hampshire Trust Code; Cotrustees. Amend RSA 564-B:7-703(g)(2) to read as follows:

17 (2) compel a cotrustee to redress a serious breach of trust ***if the serious breach is***
18 ***actually known to the cotrustee.***

19 292:9 New Hampshire Trust Code; Scope. Amend RSA 564-B:1-102 to read as follows:

20 564-B:1-102 Scope.

21 (a) This chapter applies to express trusts, charitable or noncharitable, and trusts created
22 pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an
23 express trust, ***including, but not limited to, a special needs trust authorized by 42 U.S.C. section***
24 ***1396p(d)(4)(A) and (C) that requires the trust to be administered in the manner of an express trust.***

25 (b) ***This chapter shall not apply to a resulting or constructive trust, a business trust which***
26 ***provides for certificates to be issued to the beneficiary, an investment trust, a voting trust, a security***
27 ***instrument, a trust created by the judgment or decree by any other court, a liquidation trust, or a trust for***
28 ***the primary purpose of paying dividends, interest, interest coupons, salaries, wages, pensions or profits,***
29 ***or employee benefits of any kind, an instrument wherein a person is nominee or escrowee for another, a***
30 ***trust created in deposits in any financial institution, or other trust the nature of which does not admit of***
31 ***general trust administration.***

32 (c) Without precluding other means for establishing that this chapter applies to a specific
33 trust, this chapter applies to a trust to the extent that the terms of the trust provide that this state's laws
34 govern the trust's validity, interpretation, or administration.

35 [(e)] ***(d)*** Unless otherwise provided under the terms of the trust, New Hampshire law shall
36 apply to the administrative matters of a trust that has its principal place of administration within this state.

37 [(d)] ***(e)*** This chapter shall not limit the authority of the director of charitable trusts or the
38 department of health and human services as otherwise provided by statute or common law.

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1 292:10 New Section; New Hampshire Trust Code; Limitations on Certain Trustees who are
2 Beneficiaries. Amend RSA 564-B by inserting after section 8-817 the following new section:

3 564-B:8-818 Limitations on Certain Trustees who are Beneficiaries.

4 (a)(1) Due to the inherent conflict of interest that exists between a trustee who is a
5 beneficiary and other beneficiaries of the trust, unless the terms of a trust refer specifically to this
6 paragraph and provide expressly to the contrary, any power conferred upon a trustee (other than the
7 settlor of a revocable or amendable trust or a decedent's or settlor's spouse who is a trustee of a
8 testamentary or inter vivos trust for which a marital deduction has been allowed) shall not include the
9 following:

10 (A) To make discretionary distributions of either principal or income to or for the
11 benefit of such trustee, except to provide for that trustee's health, education, maintenance, or support as
12 described under Internal Revenue Code sections 2041 and 2514.

13 (B) To make discretionary allocations of receipts or expenses as between principal
14 and income, unless such trustee acts in a fiduciary capacity whereby such trustee has no power to
15 enlarge or shift any beneficial interest except as an incidental consequence of the discharge of such
16 trustee's fiduciary duties.

17 (C) To make discretionary distributions of either principal or income to satisfy any
18 legal support obligations of such trustee.

19 (2) Any of the powers described in subparagraph (1) that are conferred upon 2 or more
20 trustees may be exercised by the trustees who are not so disqualified. If there is no trustee qualified to
21 exercise such power, the interested parties may unanimously appoint a trustee who is not so disqualified
22 to exercise such power(s), or an interested party may apply to a court of competent jurisdiction to appoint
23 such a trustee and such power may be exercised by such trustee appointed by the court.

24 292:11 New Section; New Hampshire Trust Code; Specific Powers of Trustee; Powers of Fiduciaries
25 in Environmental Matters. Amend RSA 564-B by inserting after section 8-816 the following new section:

26 564-B:8-816-a Specific Powers of Trustee; Powers of Fiduciaries in Environmental Matters.

27 (1) The general court has determined that it will benefit the public health, safety, and
28 welfare to empower fiduciaries to assess fiduciary property to determine environmental condition, to
29 prevent and remediate contamination, and to otherwise bring fiduciary property into compliance with
30 environmental laws.

31 (2) In this section:

32 (A) "Environmental laws" means any federal, state or local law, rule, regulation, or
33 ordinance relating to protection of the environment or human health.

34 (B) "Fiduciary" means any individual, partnership, corporation, firm, or any other
35 entity and any officer, employee, or agent of such fiduciary, who is acting in any of the following
36 capacities:

37 (i) Executor, administrator, guardian, or conservator.

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1 (ii) Trustee under a will or inter vivos instrument creating a trust under which the
2 trustee takes title to, or otherwise controls or manages, property for the purpose of protecting or
3 conserving such property under the ordinary rules applied in the probate courts of this state.

4 (iii) Court-appointed receiver.

5 (iv) Trustee appointed in proceedings under federal bankruptcy laws.

6 (v) Assignee or trustee acting under an assignment made for the benefit of
7 creditors under the laws of this state.

8 (vi) Trustee pursuant to an indenture agreement or similar financing agreement
9 for debt securities, certificates of interest of participation in any such debt securities, or any successor to
10 any of the foregoing.

11 (C) "Hazardous substances" mean oil as defined in RSA 146-A:2, III or any
12 substance defined as hazardous or toxic under RSA 147-A:2, VII or otherwise regulated by any
13 environmental laws.

14 (3) Unless expressly limited by the instrument, judgment, decree, or order establishing
15 the fiduciary relationship, a fiduciary shall have, in its discretion, the following powers, provided that the
16 fiduciary shall disclose in writing to the person or persons to whom the fiduciary sends communications or
17 statements relating to the property held in a fiduciary capacity, the fiduciary's intent to exercise any or all
18 of the authority granted in this section prior to the first exercise of such authority:

19 (A) To inspect and monitor real and personal property to which the fiduciary takes
20 legal title (including, without limitation, interests in sole proprietorships, partnerships, or corporations and
21 any assets owned by such business enterprises) or over which a fiduciary may exercise control, for the
22 purposes of determining compliance with environmental laws affecting such property, and to respond to
23 actual or threatened violations of any environmental laws affecting such property held or controlled by the
24 fiduciary.

25 (B) To take, on behalf of an estate, person or business, any action necessary to
26 prevent, abate, or otherwise remedy any actual or threatened release of hazardous substances or
27 violation of any environmental laws affecting real or personal property held or controlled by the fiduciary,
28 either before or after the initiation of an enforcement action by any government body.

29 (C) To refuse to accept real or personal property in trust if:

30 (i) Such property either is or may be contaminated by any hazardous
31 substances, or such property is being used or has been used for any activities directly or indirectly
32 involving hazardous substances, which could impair the value of the assets therein held or controlled; or

33 (ii) Such property may be in violation of any environmental laws.

34 (D) To settle or compromise, at any time, any and all claims against the estate, trust,
35 person or business which may be asserted by any governmental body or private body, involving the
36 alleged release or threatened release of hazardous substances and the alleged violation of any
37 environmental laws affecting real or personal property held by the estate or trust or owned by the person
38 or business.

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1 (E) To release or disclaim at any time or times any power granted by any document
2 or any statute or rule of law which, in the sole discretion of the fiduciary, may expose the fiduciary to
3 liability in the fiduciary's individual capacity under the environmental laws or impair the value of the assets
4 retained or controlled by the fiduciary.

5 (4) A fiduciary may charge the reasonable cost of any abatement, cleanup, inspection,
6 assessment, insurance, database review, monitoring, or any other response or remedial action, as
7 authorized under this chapter, against the income or principal for the estate, trust, personal estate, or
8 business assets, and shall not be personally responsible therefor.

9 (5)(A) Nothing in this section shall be construed to alter or affect a fiduciary's liability or
10 obligations as otherwise established by environmental laws. The fiduciary's failure to exercise powers
11 granted under this section in and of itself shall not create a cause of action against the fiduciary. A
12 fiduciary shall not be liable in its individual capacity to any beneficiary or any other party for any action
13 taken with the approval of a governmental agency with responsibility for environmental compliance. A
14 fiduciary shall not be liable in its individual capacity to a beneficiary or any other party for any other action
15 taken to:

16 (i) Assess potential environmental contamination of fiduciary property; or

17 (ii) Bring fiduciary property into compliance with environmental laws where the
18 fiduciary acts reasonably and prudently.

19 (B) In particular, a fiduciary shall not be liable for any decrease in value or
20 exhaustion of assets by reason of actions taken in accordance with this section.

21 292:12 New Subparagraph; New Hampshire Trust Code; Certification of Trust. Amend RSA 564-
22 B:10-1013 by inserting after subparagraph (j) the following new subparagraph:

23 (k) The filing by a trustee of a written certificate signed by the trustee, filed and recorded as
24 hereinafter set forth and in substantially the following form shall be conclusive evidence and notice to all
25 third parties that the trustee named therein and the trustee's successors have full and absolute power to
26 convey any interest in real estate and improvements thereon held by the trustee and no third person or
27 purchaser, without actual knowledge to the contrary, shall be obligated to further inquire as to the power
28 or authority of the trustee to convey or to see to the application of any trust assets paid or delivered to the
29 trustee.

30 The undersigned trustee(s) as Trustee(s) under the Trust created by _____ as grantor
31 under trust agreement dated _____, and thereto have full and absolute power in said trust
32 agreement to convey any interest in real estate and improvements thereon held in said trust and no
33 purchaser or third party shall be bound to inquire whether the trustee has said power or is properly
34 exercising said power or to see to the application of any trust asset paid to the trustee for a conveyance
35 thereof. _____, Trustee

36 (1) A similar certificate filed by any successor to the trustee named in an original or any
37 subsequent certificate shall have the same effect as the original certificate. Such a certificate, in writing,
38 executed with the formalities required for a deed of real property by the trustee or trustees of the trust and
39 recorded in the registry of deeds in the county in which the real estate and improvements lie shall

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1 conclusively establish the power of the trustee to convey said real estate and improvements as set forth
2 above.

3 (2) A written certificate signed by a trustee with signature sworn to before a notary public,
4 delivered to the transferee or a transfer agent in substantially the following form, shall be conclusive
5 evidence and notice to all third parties that the trustee named therein and the trustee's successors have
6 full and absolute power to convey any interest in personal property, tangible or intangible, held by the
7 trustee and no third person or purchaser, without actual knowledge to the contrary, shall be obligated to
8 further inquire as to the power or authority of the trustee to convey or to see to the application of any trust
9 assets paid or delivered to the trustee.

10 The undersigned trustee(s) as Trustee(s) under the _____ Trust created by _____ as grantor
11 under trust agreement dated _____, and thereto have full and absolute power in said trust agreement to
12 convey any interest in personal property held in said trust and no purchaser or third party shall be bound
13 to inquire whether the trustee has said power or is properly exercising said power or to see to the
14 application of any trust asset paid to the trustee for a conveyance thereof. _____, Trustee

15 (3) A similar certificate signed by any successor to the trustee named in an original or
16 any subsequent certificate shall have the same effect as the original certificate. Such a certificate, in
17 writing, sworn to, and delivered in the same manner as the prior trustee's certificate, shall conclusively
18 establish the power of the successor trustee to convey said personal property.

19 292:13 New Hampshire Trust Code; Subject Matter Jurisdiction. Amend RSA 564-B:2-203 to read as
20 follows:

21 564-B:2-203 Subject-Matter Jurisdiction.

22 (a) Except as provided in subsection (b), the probate division of the circuit court shall have
23 exclusive jurisdiction of the creation by judgment or decree, interpretation, construction, modification,
24 termination, and administration of those trusts described in [~~RSA 564-A:1, I~~] ***RSA 564-B***, and over the
25 appointment, removal, and surcharge of trustees, trust advisors, and trust protectors of such trusts.

26 (b) The probate division of the circuit court has concurrent jurisdiction with the superior court
27 of proceedings involving charitable uses and trusts other than those trusts described in [~~RSA 564-A:1, I~~]
28 ***RSA 564-B:1-102(b)***.

29 292:14 New Hampshire Trust Code; General Powers of Trustees. Amend RSA 564-B:8-815(c) to
30 read as follows:

31 (c) The powers of a trustee are subject to the provisions of [~~RSA 564-A:3, IV~~] ***RSA 564-B:8-***
32 ***818***.

33 292:15 New Hampshire Trust Code; Certification of Trust. Amend RSA 564-B:10-1013(j) to read as
34 follows:

35 (j) Instead of the certification of trust described in subsection (a), a certificate described in
36 [~~RSA 564-A:7~~] ***subsection (k)*** shall protect persons dealing with a trustee in connection with the
37 conveyance of real or personal property as provided in [~~RSA 564-A:7~~] ***subsection (k)***. Nothing in this
38 section is intended to expand, limit, or otherwise affect the provisions of [~~RSA 564-A:7~~] ***subsection (k)***.

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1 292:16 New Hampshire Trust Code; General Powers of Trustee. Amend RSA 564-B:8-816(a)(13)(F)
2 to read as follows:

3 (F) comply with the environmental provisions of ~~[RSA 564-A:3-a]~~ ***RSA 564-B:8-816-***
4 ***a***,

5 292:17 Trustees of Estates; Removal or Replacement. Amend RSA 564:9, III to read as follows:

6 III. This section shall apply to a trust or trustee of a trust, as defined in ~~[RSA 564-A:1]~~ ***RSA 564-B.***

7 292:18 Uniform Disclaimer of Property Interests Act; Definitions. Amend RSA 563-B:3(h) to read as
8 follows:

9 (h) "Trust" ~~[means]~~ ***shall have the same meaning as described in RSA 564-B:***

10 ~~(1) An express trust, charitable or noncharitable, with additions thereto, whenever and~~
11 ~~however created as defined in RSA 564-A:1; and~~

12 ~~(2) A trust created pursuant to a statute, judgment, or decree which requires the trust to~~
13 ~~be administered in the manner of an express trust].~~

14 292:19 Judges of Probate and Their Jurisdiction; Jurisdiction. Amend RSA 547:3, I(c) and (d) to read
15 as follows:

16 (c) The interpretation and construction of wills and the creation by judgment or decree,
17 interpretation, construction, modification, and termination of those trusts described in ~~[RSA 564-A:1, I]~~
18 ***RSA 564-B.***

19 (d) The administration of those trusts described in ~~[RSA 564-A:1, I]~~ ***RSA 564-B***, and the
20 appointment, removal and surcharge of trustees of such trusts.

21 292:20 Judges of Probate and Their Jurisdiction; Jurisdiction. Amend RSA 547:3, II(a) to read as
22 follows:

23 (a) Subject to RSA 498:4-a, cases involving charitable uses and trusts other than those trusts
24 described in ~~[RSA 564-A:1, I]~~ ***RSA 564-B***, over which the probate court has exclusive jurisdiction as
25 provided in RSA 547:3, I(c) and (d).

26 292:21 Equity Powers and Proceedings; Jurisdiction. Amend RSA 498:1 to read as follows:

27 498:1 Jurisdiction.

28 The superior court shall have the powers of a court of equity in the following cases: charitable uses;
29 trusts other than those trusts described in ~~[RSA 564-A:1]~~ ***RSA 564-B***, over which the probate court has
30 exclusive jurisdiction as provided in RSA 547:3, I(c) and (d); fraud, accident and mistake; the affairs of
31 partners, joint tenants or owners and tenants in common; the redemption and foreclosure of mortgages;
32 contribution; waste and nuisance; the specific performance of contracts; discovery; cases in which there is
33 not a plain, adequate and complete remedy at law; and in all other cases cognizable in a court of equity,
34 except that the court of probate shall have exclusive jurisdiction over equitable matters arising under its
35 subject matter jurisdiction authority in RSA 547, RSA 547-C and RSA 552:7.

36 292:22 Repeal. RSA 564-A, relative to certain provisions regarding trusts, is repealed.

292:23 Effective Date. This act shall take effect 60 days after its passage.

Approved: July 26, 2024
Effective Date: September 24, 2024