

## Preface

This year, in addition to publishing a substantially updated and reorganized replacement for the volume that includes Sections 551-610, we continued making internal revisions in other parts of the treatise, including the substantial reorganization and streamlining of parts of the text and a number of footnotes. We hope that these changes present the material in a manner that more closely comports with the way the law of trusts and fiduciary duty is conceived in the twenty-first century. As time permits, we will continue this modernization. At the same time, we have already begun making plans to completely revise the treatise in a fourth edition as soon as possible.

The law of trusts and fiduciary duty is now governed largely by state enactments of several uniform statutes. This shift to statute-based law from law that was governed almost entirely by judicial decisions began in the 1990s with the widespread adoption of the Uniform Prudent Investor Act and a new Uniform Principal and Income Act. The first decade of the twenty-first century brought the Uniform Trust Code, now in effect in approximately three-quarters of the states, and the Uniform Prudent Management of Institutional Funds Act, which has been enacted in all but two United States jurisdictions. A Uniform Fiduciary Access to Digital Assets Act, revised to solve several problems with the initial version, was introduced in 2015 and also has now been enacted in all but a few states. Uniform acts on trust decanting, directed trusts, and powers of appointment were published between 2013 and 2015; they have now been adopted or are being considered in more than a third of the states. In 2018, the Uniform Law Commission again updated the statute governing allocations between income and principal in the Uniform Fiduciary Income and Principal Act. About eight states have adopted the new act and several others are considering it.

Substantial portions of the uniform acts codify settled law. But each state legislature has modified the uniform prototypes to suit its unique political and social context. In addition, the change to statute-based law has brought a

change in the subject matter of judicial decisions in this area of the law. We now see more cases that involve statutory interpretation rather than application of judicial precedents and principles. In addition to reporting on these cases, we have attempted to identify common trends in the decisions interpreting uniform acts as well as the effects of the uniform acts on decision-making in the states that have not yet adopted them. We have also included citations to law review articles and other commentary that identify and evaluate trends in the development of the law.

We have begun monitoring the influence of two new restatements of the law. In 2021, the American Law Institute completed work on a Restatement of the Law of Charitable Nonprofit Organizations, which compiles the law as it applies to charitable trusts as well as other forms of charitable entities. We have added discussions of its provisions to our chapters on charitable trusts. The ALI is now working on a Fourth Restatement of Property. As drafts of the chapters relevant to the law of trusts appear, we will add references to them to the treatise as well.

Several years ago, we began monitoring changes in prevailing thought on policy considerations in two areas: domestic asset protection trusts, sometimes called self-settled spendthrift trusts, and the abrogation or abolition of the rule against perpetuities. Although developments in these subjects seem to have slowed down, we will continue to review new statutes, cases, and commentaries as they appear.

The 2024 supplements benefited from the work of a number of people. I would like to acknowledge their contributions here and thank them publicly for their efforts. I wish to express my sincere gratitude to Barbara W. Johnson now retired from the Knoxville, Tennessee, bar, who has worked on the treatise since 1994, and John L. Grigsby, now retired from the Barbourville, Kentucky, bar, who has been with us since 1996. They have worked with me on all aspects of the organization, research, and writing of these supplements, including supervising the law students and younger lawyers who do our preliminary research.

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both in print and electronic media, and training new law students in efficient research techniques, especially in the use of electronic sources.

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