

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1250
99TH GENERAL ASSEMBLY

4128S.02T

2018

AN ACT

To repeal sections 456.985, 456.1035, 456.1080, 456.1-103, 456.4-414, 456.8-808, 474.150, 515.575, and 515.635, RSMo, and to enact in lieu thereof twenty-nine new sections relating to trusts and estates.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 456.985, 456.1035, 456.1080, 456.1-103, 456.4-414, 456.8-808, 2 474.150, 515.575, and 515.635, RSMo, are repealed and twenty-nine new sections enacted in 3 lieu thereof, to be known as sections 456.006, 456.985, 456.1035, 456.1080, 456.1-103, 456.4- 4 414, 456.8-808, 472.400, 472.405, 472.410, 472.415, 472.420, 472.425, 472.430, 472.435, 5 472.440, 472.445, 472.450, 472.455, 472.460, 472.465, 472.470, 472.475, 472.480, 472.485, 6 472.490, 474.150, 515.575, and 515.635, to read as follows:

456.006. 1. Where a trust or custodial account constitutes a health savings account,
2 **as defined under 26 U.S.C. Section 223(c)(1), a trust may be created by any of the**
3 **following:**

4 **(1) A transfer of moneys to the trustee or custodian holding such trust or custodial**
5 **account;**

6 **(2) The documentation of the creation of such trust or custodial account in the**
7 **records of the trustee or custodian holding such trust or custodial account; or**

8 **(3) The execution of a trust or custodial agreement with respect to such trust or**
9 **custodial account.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 **2. In any case, a trust or custodial account shall be deemed to have been established**
11 **on the first day on which the individual who is the beneficiary of such trust or custodial**
12 **account is an eligible individual, as defined under 26 U.S.C. Section 223(c)(1), in that**
13 **calendar year in which such trust or custodial account is created in accordance with this**
14 **section.**

 456.985. 1. Except as otherwise provided in the terms of an instrument creating or
2 exercising a power of appointment, sections 456.970 to 456.1135 govern powers of appointment.

 2. The terms of an instrument creating or exercising a power of appointment prevail over
4 any provisions of sections 456.970 to 456.1135 except:

5 **(1) The requisites for the creation of a power of appointment under subsections 1**
6 **to 4 of section 456.990;**

7 **(2)** The transferability of a power of appointment by a powerholder under subsection 1
8 of section 456.995;

9 ~~[(2)]~~ **(3)** The limitations on the authority of a donor to extend a general power of
10 appointment beyond the death of a powerholder under subsection 3 of section 456.995;

11 ~~[(3)]~~ **(4)** The power is exclusionary if the permissible appointees of a power of
12 appointment are not defined and limited under subsection 3 of section 456.1005;

13 ~~[(4)]~~ **(5)** The requisites for the exercise of a power of appointment under section
14 456.1015;

15 ~~[(5)]~~ **(6)** The effect of an impermissible appointment under section 456.1045;

16 ~~[(6)]~~ **(7)** A general power of appointment which is presently exercisable may be reached
17 by the creditors of the powerholder or the powerholder's estate under section 456.1100.

 456.1035. 1. A powerholder of a general power of appointment that permits
2 appointment to the powerholder or the powerholder's estate may make any appointment,
3 including an appointment in trust or creating a new power of appointment, that the powerholder
4 could make in disposing of the powerholder's own property.

 2. A powerholder of a general power of appointment that permits appointment only to
6 the creditors of the powerholder or of the powerholder's estate may appoint only to those
7 creditors.

 3. The powerholder of a nongeneral power may:

9 (1) Make an appointment in any form, including an appointment in trust, in favor of a
10 permissible appointee;

11 (2) Create a general power **or nongeneral power** in a permissible appointee; or

12 (3) Create a nongeneral power in any person to appoint to one or more of the permissible
13 appointees of the original nongeneral power.

456.1080. As provided by sections 469.010 to ~~[469.210]~~ **469.120**, a powerholder may
2 disclaim all or part of a power of appointment, and a permissible appointee, appointee, or taker
3 in default of appointment may disclaim all or part of an interest in appointive property.

456.1-103. In sections 456.1-101 to 456.11-1106, **the following terms shall mean:**

2 (1) "Action~~[-]~~", with respect to an act of a trustee, includes a failure to act;

3 (2) "Ascertainable standard" ~~[means]~~, a standard relating to an individual's health,
4 education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or Section
5 2541(c)(1) of the Internal Revenue Code;

6 (3) "Beneficiary" ~~[means]~~, a person that:

7 (a) Has a present or future beneficial interest in a trust, vested or contingent; or

8 (b) In a capacity other than that of trustee, holds a power of appointment over trust
9 property;

10 (4) "Charitable trust" ~~[means]~~, a trust, or portion of a trust, created for a charitable
11 purpose described in subsection 1 of section 456.4-405;

12 (5) "Conservator" ~~[means]~~, a person described in subdivision (3) of section 475.010.
13 This term does not include a conservator ad litem;

14 (6) "Conservator ad litem" ~~[means]~~, a person appointed by the court pursuant to the
15 provisions of section 475.097;

16 (7) **"Directed trust", any trust, including a split interest trust, in which the trust**
17 **instrument:**

18 (a) **Authorizes a trust protector to instruct or direct the trustee;**

19 (b) **Charges a trust protector with any responsibilities regarding the trust;**

20 (c) **Grants the trust protector one or more powers over the trust; or**

21 (d) **Directs one or more powers over the trust to a person, who is not serving as a**
22 **trustee, and is not a settlor or a beneficiary;**

23 (8) "Environmental law" ~~[means]~~, a federal, state, or local law, rule, regulation, or
24 ordinance relating to protection of the environment;

25 ~~[(8)]~~ (9) "Financial institution" ~~[means]~~, a non-foreign bank, savings and loan or trust
26 company chartered, regulated and supervised by the Missouri division of finance, the office of
27 the comptroller of the currency, the office of thrift supervision, the National Credit Union
28 Administration, or the Missouri division of credit union supervision. The term "non-foreign
29 bank" shall mean a bank that is not a foreign bank within the meaning of subdivision (1) of
30 section 361.005;

31 ~~[(9)]~~ (10) "Guardian" ~~[means]~~, a person described in subdivision (7) of section 475.010.
32 The term does not include a guardian ad litem;

33 ~~[(10)]~~ **(11)** "Interested persons", include beneficiaries and any others having a property
34 right in or claim against a trust estate which may be affected by a judicial proceeding. It also
35 includes fiduciaries and other persons representing interested persons. The meaning as it relates
36 to particular persons may vary from time to time and must be determined according to the
37 particular purposes of, and matter involved in, any proceeding;

38 ~~[(11)]~~ **(12)** "Interests of the beneficiaries" ~~[means]~~, the beneficial interests provided in
39 the terms of the trust;

40 ~~[(12)]~~ **(13)** "Internal Revenue Code" ~~[means]~~, the United States Internal Revenue Code
41 of 1986, as in effect on January 1, 2005, or as later amended;

42 ~~[(13)]~~ **(14)** "Jurisdiction~~[-]~~", with respect to a geographic area, includes a state or
43 country;

44 ~~[(14)]~~ **(15)** "Person" ~~[means]~~, an individual, corporation, business trust, estate, trust,
45 partnership, limited liability company, association, joint venture, government; governmental
46 subdivision, agency, or instrumentality; public corporation, or any other legal or commercial
47 entity;

48 ~~[(15)]~~ **(16)** "Permissible distributee" ~~[means]~~, a beneficiary who is currently eligible to
49 receive distributions of trust income or principal, whether mandatory or discretionary;

50 ~~[(16)]~~ **(17)** "Power of withdrawal" ~~[means]~~, a presently exercisable power of a
51 beneficiary to withdraw assets from the trust without the consent of the trustee or any other
52 person;

53 ~~[(17)]~~ **(18)** "Principal place of administration", of a trust is the trustee's usual place of
54 business where the records pertaining to the trust are kept, or the trustee's residence if the trustee
55 has no such place of business, unless otherwise designated by the terms of the trust as provided
56 in section 456.1-108. In the case of cotrustees, the principal place of administration is, in the
57 following order of priority:

58 (a) The usual place of business of the corporate trustee if there is but one corporate
59 cotrustee;

60 (b) The usual place of business or residence of the trustee who is a professional fiduciary
61 if there is but one such trustee and no corporate cotrustee; or

62 (c) The usual place of business or residence of any of the cotrustees;

63 ~~[(18)]~~ **(19)** "Professional fiduciary" ~~[means]~~, an individual who represents himself or
64 herself to the public as having specialized training, experience or skills in the administration of
65 trusts;

66 ~~[(19)]~~ **(20)** "Property" ~~[means]~~, anything that may be the subject of ownership, whether
67 real or personal, legal or equitable, or any interest therein;

68 ~~[(20)]~~ **(21)** "Qualified beneficiary" ~~[means]~~ , a beneficiary who, on the date the
69 beneficiary's qualification is determined:

70 (a) Is a permissible distributee;

71 (b) Would be a permissible distributee if the interests of the permissible distributees
72 described in paragraph (a) of this subdivision terminated on that date; or

73 (c) Would be a permissible distributee if the trust terminated on that date;

74 ~~[(21)]~~ **(22)** "Record" ~~[means]~~ , information that is inscribed on a tangible medium or that
75 is stored in an electronic or other medium and is retrievable in perceivable form;

76 ~~[(22)]~~ **(23)** "Revocable[;]", as applied to a trust, means that the settlor has the legal power
77 to revoke the trust without the consent of the trustee or a person holding an adverse interest,
78 regardless of whether the settlor has the mental capacity to do so in fact;

79 ~~[(23)]~~ **(24)** "Settlor" ~~[means]~~ , a person, including a testator, who creates, or contributes
80 property to, a trust. If more than one person creates or contributes property to a trust, each
81 person is a settlor of the portion of the trust property attributable to that person's contribution
82 except to the extent another person has the power to revoke or withdraw that portion pursuant
83 to the terms of the trust;

84 ~~[(24)]~~ **(25)** "Sign" ~~[means]~~, with present intent to authenticate or adopt a record:

85 (a) To execute or adopt a tangible symbol; or

86 (b) To attach to or logically associate with the record an electronic sound, symbol, or
87 process;

88 ~~[(25)]~~ **(26)** "Spendthrift provision" ~~[means]~~ , a term of a trust which restrains either the
89 voluntary or involuntary transfer or both the voluntary and involuntary transfer of a beneficiary's
90 interest;

91 ~~[(26)]~~ **(27)** "State" ~~[means]~~ , a state of the United States, the District of Columbia, Puerto
92 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
93 jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal
94 law or formally acknowledged by a state;

95 ~~[(27)]~~ **(28)** "Terms of a trust" ~~[means]~~ , the manifestation of the settlor's intent regarding
96 a trust's provisions as expressed in the trust instrument or as may be established by other
97 evidence that would be admissible in a judicial proceeding;

98 ~~[(28)]~~ **(29)** "Trust instrument" ~~[means]~~ , an instrument executed by the settlor that
99 contains terms of the trust, including any amendments thereto;

100 **(30) "Trust protector", any person, group of persons, or entity not serving as a**
101 **trustee and not the settlor or a beneficiary, designated in a trust instrument to instruct or**
102 **direct the trustee or charged in the trust instrument with any responsibilities regarding the**
103 **trust or expressly granted in the trust instrument one or more powers over the trust. The**

104 term "trust protector" includes, but is not limited to, persons or entities identified in the
105 trust instrument as trust advisors, trust directors, distribution advisors, or investment
106 advisors;

107 ~~[(29)]~~ (31) "Trustee", includes an original, additional, and successor trustee, and a
108 cotrustee.

456.4-414. 1. After notice to the qualified beneficiaries, the trustee of a trust consisting
2 of trust property having a total value less than ~~[one hundred thousand]~~ **two hundred fifty**
3 **thousand** dollars may terminate the trust if the trustee concludes that the value of the trust
4 property is insufficient to justify the cost of administration.

5 2. The court may modify or terminate a trust or remove the trustee and appoint a
6 different trustee if it determines that the value of the trust property is insufficient to justify the
7 cost of administration.

8 3. Upon termination of a trust under this section, the trustee shall distribute the trust
9 property in a manner consistent with the purposes of the trust.

10 4. This section does not apply to an easement for conservation or preservation.

456.8-808. 1. While a trust is revocable, the trustee may follow a direction of the settlor
2 that is contrary to the terms of the trust.

3 2. A trust instrument may provide for ~~[the appointment of a trust protector. For purposes~~
4 ~~of this section, a "trust protector", whether referred to in the trust instrument by that name or by~~
5 ~~some other name, is a person, other than the settlor, a trustee, or a beneficiary, who is expressly~~
6 ~~granted in the trust instrument one or more powers over the trust]~~ **one or more persons, not**
7 **then serving as a trustee and not the settlor or a beneficiary, to be given any powers over**
8 **the trust as expressly granted in the trust instrument. Any such person may be identified**
9 **and appointed as a trust protector or similar term. Whenever a trust instrument names,**
10 **appoints, authorizes, or otherwise designates a trust protector, the trust shall be deemed**
11 **a directed trust.**

12 3. A trust protector appointed in the trust instrument shall have only the powers granted
13 to the trust protector by the express terms of the trust instrument, and a trust protector is only
14 authorized to act within the scope of the authority expressly granted in the trust instrument.
15 Without limiting the authority of the settlor to grant powers to a trust protector, the express
16 powers that may be granted include, but are not limited to, the following:

17 (1) Remove and appoint a trustee **or a trust protector** or name a successor trustee or
18 trust protector;

19 (2) Modify or amend the trust instrument to:

20 (a) Achieve favorable tax status or respond to changes in the Internal Revenue Code or
21 state law, or the rulings and regulations under such code or law;

- 22 (b) Reflect legal changes that affect trust administration;
- 23 (c) Correct errors or ambiguities that might otherwise require court construction; or
- 24 (d) Correct a drafting error that defeats a grantor's intent;
- 25 (3) Increase, decrease, modify, or restrict the interests of the beneficiary or beneficiaries
- 26 of the trust;
- 27 (4) Terminate the trust in favor of the beneficiary or beneficiaries of the trust;
- 28 (5) Change the applicable law governing the trust and the trust situs; or
- 29 (6) Such other powers as are expressly granted to the trust protector in the trust
- 30 instrument.
- 31 4. Notwithstanding any provision in the trust instrument to the contrary, a trust protector
- 32 shall have no power to modify a trust to:
- 33 (1) Remove a requirement from a trust created to meet the requirements of 42 U.S.C.
- 34 Section 1396p(d)(4) to pay back a governmental entity for benefits provided to the permissible
- 35 beneficiary of the trust at the death of that beneficiary; or
- 36 (2) Reduce or eliminate an income interest of the income beneficiary of any of the
- 37 following types of trusts:
- 38 (a) A trust for which a marital deduction has been taken for federal tax purposes under
- 39 Section 2056 or 2523 of the Internal Revenue Code or for state tax purposes under any
- 40 comparable provision of applicable state law, during the life of the settlor's spouse;
- 41 (b) A charitable remainder trust under Section 664 of the Internal Revenue Code, during
- 42 the life of the noncharitable beneficiary;
- 43 (c) A grantor retained annuity trust under Section 2702 of the Internal Revenue Code,
- 44 during any period in which the settlor is a beneficiary; or
- 45 (d) A trust for which an election as a qualified Sub-Chapter S Trust under Section
- 46 1361(d) of the Internal Revenue Code is currently in place.
- 47 5. Except to the extent otherwise provided in a trust instrument specifically referring to
- 48 this subsection, the trust protector shall not exercise a power in a way that would result in a
- 49 taxable gift for federal gift tax purposes or cause the inclusion of any assets of the trust in the
- 50 trust protector's gross estate for federal estate tax purposes.
- 51 6. Except to the extent otherwise provided in the trust instrument and in subsection 7 of
- 52 this section, and notwithstanding any provision of sections 456.1-101 to 456.11-1106 to the
- 53 contrary:
- 54 (1) A trust protector shall act in a fiduciary capacity in carrying out the powers granted
- 55 to the trust protector in the trust instrument, and shall have such duties to the beneficiaries, the
- 56 settlor, or the trust as set forth in the trust instrument, **provided that the trust instrument may**
- 57 **provide that the trust protector shall act in a nonfiduciary capacity.** A trust protector is not

58 a trustee, and is not liable or accountable as a trustee when performing or declining to perform
59 the express powers given to the trust protector in the trust instrument. A trust protector is not
60 liable for the acts or omissions of any fiduciary or beneficiary under the trust instrument;

61 (2) A trust protector is exonerated from any and all liability for the trust protector's acts
62 or omissions, or arising from any exercise or nonexercise of the powers expressly conferred on
63 the trust protector in the trust instrument, unless it is established by a preponderance of the
64 evidence that the acts or omissions of the trust protector were done or omitted in breach of the
65 trust protector's duty, in bad faith or with reckless indifference;

66 (3) A trust protector is authorized to exercise the express powers granted in the trust
67 instrument at any time and from time to time after the trust protector acquires knowledge of their
68 appointment as trust protector and of the powers granted. **The trust protector may take any**
69 **action, judicial or otherwise, necessary to carry out the duties given to the trust protector**
70 **in the trust instrument;**

71 (4) A trust protector is entitled to receive, from the assets of the trust for which the trust
72 protector is acting, reasonable compensation, and reimbursement of the reasonable costs and
73 expenses incurred, in determining whether to carry out, and in carrying out, the express powers
74 given to the trust protector in the trust instrument;

75 (5) A trust protector is entitled to receive, from the assets of the trust for which the trust
76 protector is acting, reimbursement of the reasonable costs and expenses, including attorney's
77 fees, of defending any claim made against the trust protector arising from the acts or omissions
78 of the trust protector acting in that capacity unless it is established by clear and convincing
79 evidence that the trust protector was acting in bad faith or with reckless indifference; and

80 (6) The express powers granted in the trust instrument shall not be exercised by the trust
81 protector for the trust protector's own personal benefit.

82 7. If a trust protector is granted a power in the trust instrument to direct, consent to, or
83 disapprove a trustee's actual or proposed investment decision, distribution decision, or other
84 decision of the trustee required to be performed under applicable trust law in carrying out the
85 duties of the trustee in administering the trust, then only with respect to such power, excluding
86 the powers identified in subsection 3 of this section, the trust protector shall have the same duties
87 and liabilities as if serving as a trustee under the trust instrument **unless the trust instrument**
88 **expressly provides otherwise. In carrying out any written directions given to the trustee**
89 **by the trust protector concerning actual or proposed investment decisions, the trustee shall**
90 **not be subject to the provisions of sections 469.900 to 469.913. For purposes of this**
91 **subsection, "investment decisions" means, with respect to any investment, decisions to**
92 **retain, purchase, sell, exchange, tender, or otherwise engage in transactions affecting the**

93 ownership of investments or rights therein and, with respect to nonpublicly traded
94 investments, the valuation thereof.

95 8. Any trustee of a directed trust shall not be accountable under the law or equity
96 for any act or omission of a trust protector and shall stand absolved from liability for
97 executing the decisions or instructions from a trust protector or for monitoring the actions
98 or inactions of a trust protector. A trustee shall take reasonable steps to facilitate the
99 activity of a trust protector in a directed trust. A trustee shall carry out the written directions
100 given to the trustee by a trust protector acting within the scope of the powers expressly granted
101 to the trust protector in the trust instrument. Except [~~in cases of bad faith or reckless indifference~~
102 ~~on the part of the trustee, or~~] as otherwise provided in the trust instrument, the trustee shall not
103 be liable for any loss resulting directly or indirectly from any act taken or omitted as a result of
104 the written direction of the trust protector or the failure of the trust protector to provide consent.
105 Except as otherwise provided in the trust instrument, the trustee shall have no duty to monitor
106 the conduct of the trust protector, provide advice to or consult with the trust protector, or
107 communicate with or warn or apprise any beneficiary concerning instances in which the trustee
108 would or might have exercised the trustee's own discretion in a manner different from the manner
109 directed by the trust protector. **Except as otherwise provided in the trust instrument, any**
110 **actions taken by the trustee at the trust protector's direction shall be deemed to be**
111 **administrative actions taken by the trustee solely to allow the trustee to carry out the**
112 **instructions of the trust protector and shall not be deemed to constitute an act by the**
113 **trustee to monitor the trust protector or otherwise participate in actions within the scope**
114 **of the trust protector's authority. Whenever a directed trust reserves to a person or vests**
115 **in an advisory or investment committee authority to direct the making or retention of any**
116 **investment, to the exclusion of the trustee or trustees, the excluded trustee or trustees shall**
117 **not be liable, individually or as a trustee, for any loss resulting from the making or**
118 **retention of any investment pursuant to such direction.**

119 9. Except to the extent otherwise expressly provided in the trust instrument, the trust
120 protector shall be entitled to receive information regarding the administration of the trust as
121 follows:

122 (1) Upon the request of the trust protector, unless unreasonable under the circumstances,
123 the trustee shall promptly provide to the trust protector any and all information related to the trust
124 that may relate to the exercise or nonexercise of a power expressly granted to the trust protector
125 in the trust instrument. The trustee has no obligation to provide any information to the trust
126 protector except to the extent a trust protector requests information under this section;

127 (2) The request of the trust protector for information under this section shall be with
128 respect to a single trust that is sufficiently identified to enable the trustee to locate the records
129 of the trust; and

130 (3) If the trustee is bound by any confidentiality restrictions with respect to an asset of
131 a trust, a trust protector who requests information under this section about such asset shall agree
132 to be bound by the confidentiality restrictions that bind the trustee before receiving such
133 information from the trustee.

134 10. A trust protector may resign by giving thirty days' written notice to the trustee and
135 any successor trust protector. A successor trust protector, if any, shall have all the powers
136 expressly granted in the trust instrument to the resigning trust protector unless such powers are
137 expressly modified for the successor trust protector.

138 11. A trust protector of a trust having its principal place of administration in this state
139 submits personally to the jurisdiction of the courts of this state during any period that the
140 principal place of administration of the trust is located in this state and the trust protector is
141 serving in such capacity. **The trust instrument may also provide that a trust protector is**
142 **subject to the personal jurisdiction of the courts of this state as a condition of appointment.**

472.400. Sections 472.400 to 472.490 shall be known and may be cited as the
2 **"Missouri Fiduciary Access to Digital Assets Act".**

472.405. As used in sections 472.400 to 472.490, the following terms mean:

2 (1) "Access", includes view, marshal, manage, copy, distribute, or delete;

3 (2) "Account", an arrangement under a terms-of-service agreement in which a
4 custodian carries, maintains, processes, receives, or stores a digital asset of the user or
5 provides goods or services to the user;

6 (3) "Agent", an attorney-in-fact granted authority under a durable or nondurable
7 power of attorney;

8 (4) "Carries", engages in the transmission of electronic communications;

9 (5) "Catalogue of electronic communications", information that identifies each
10 person with which a user has had an electronic communication, the time and date of the
11 communication, and the electronic address of the person;

12 (6) "Conservator", a person appointed by a court to have the care and custody of
13 the estate of a minor or a disabled person. A "limited conservator" is one whose duties or
14 powers are limited. The term "conservator", as used in sections 472.400 to 472.490,
15 includes limited conservator unless otherwise specified or apparent from the context;

16 (7) "Content of an electronic communication", information concerning the
17 substance or meaning of the communication which:

18 (a) Has been sent or received by a user;

- 19 **(b) Is in electronic storage by a custodian providing an electronic-communication**
20 **service to the public or is carried or maintained by a custodian providing a remote-**
21 **computing service to the public; and**
- 22 **(c) Is not readily accessible to the public;**
- 23 **(8) "Court", any court with competent jurisdiction within this state;**
- 24 **(9) "Custodian", a person that carries, maintains, processes, receives, or stores a**
25 **digital asset of a user;**
- 26 **(10) "Designated recipient", a person chosen by a user using an online tool to**
27 **administer digital assets of the user;**
- 28 **(11) "Digital asset", an electronic record in which an individual has a right or**
29 **interest. The term does not include an underlying asset or liability unless the asset or**
30 **liability is itself an electronic record;**
- 31 **(12) "Electronic", relating to technology having electrical, digital, magnetic,**
32 **wireless, optical, electromagnetic, or similar capabilities;**
- 33 **(13) "Electronic communication", has the same meaning as set forth in 18 U.S.C.**
34 **Section 2510(12), as amended;**
- 35 **(14) "Electronic communication service", a custodian that provides to a user the**
36 **ability to send or receive an electronic communication;**
- 37 **(15) "Fiduciary", an original, additional, or successor personal representative,**
38 **conservator, agency, or trustee;**
- 39 **(16) "Information", data, text, images, videos, sounds, codes, computer programs,**
40 **software, databases, or the like;**
- 41 **(17) "Online tool", an electronic service provided by a custodian that allows the**
42 **user, in an agreement distinct from the terms-of-service agreement between the custodian**
43 **and user, to provide directions for disclosure or nondisclosure of digital assets to a third**
44 **person;**
- 45 **(18) "Person", an individual, estate, trust, business or nonprofit entity, public**
46 **corporation, government or governmental subdivision, agency, instrumentality, or other**
47 **legal entity;**
- 48 **(19) "Personal representative", executor or administrator, including an**
49 **administrator with the will annexed, an administrator de bonis non, an administrator**
50 **pending contest, an administrator during minority or absence, and any other type of**
51 **administrator of the estate of a decedent whose appointment is permitted, or any person**
52 **who performs substantially the same function under the law of Missouri, including without**
53 **limitation an affiant who has filed a small estate affidavit under section 473.097. It does**
54 **not include an executor de son tort;**

55 (20) "Power of attorney", a record that grants an agent authority to act in the place
56 of a principal;

57 (21) "Principal", an individual who grants authority to an agent in a power of
58 attorney;

59 (22) "Protected person", an individual for whom a conservator has been appointed,
60 including a protectee, a disabled person, and an individual for whom an application for the
61 appointment of a conservator is pending;

62 (23) "Record", information that is inscribed on a tangible medium or that is stored
63 in an electronic or other medium and is retrievable in perceivable form;

64 (24) "Remote computing service", a custodian that provides to a user computer
65 processing services or the storage of digital assets by means of an electronic
66 communications system, as defined in 18 U.S.C. Section 2510(14), as amended;

67 (25) "Terms-of-service agreement", an agreement that controls the relationship
68 between a user and a custodian;

69 (26) "Trustee", a fiduciary with legal title to property under an agreement or
70 declaration that creates a beneficial interest in another, including an original, additional,
71 and successor trustee, and a co-trustee;

72 (27) "User", a person that has an account with a custodian;

73 (28) "Will", includes a testamentary instrument, a codicil, a testamentary
74 instrument that only appoints an executor, and instrument that revokes or revises a
75 testamentary instrument.

472.410. 1. Sections 472.400 to 472.490 shall apply to:

2 (1) A fiduciary or agent acting under a will or power of attorney executed before,
3 on, or after the effective date of sections 472.400 to 472.490;

4 (2) A personal representative acting for a decedent who dies before, on, or after the
5 effective date of sections 472.400 to 472.490;

6 (3) A conservatorship proceeding commenced before, on, or after the effective date
7 of sections 472.400 to 472.490; and

8 (4) A trustee acting under a trust created before, on, or after the effective date of
9 sections 472.400 to 472.490.

10 2. Sections 472.400 to 472.490 shall apply to a custodian if the user resides in this
11 state or resided in this state at the time of the user's death.

12 3. Sections 472.400 to 472.490 shall not apply to a digital asset of an employer used
13 by an employee in the ordinary course of the employer's business.

472.415. 1. A user may use an online tool to direct the custodian to disclose to a
2 designated recipient or not to disclose some or all of the user's digital assets, including the

3 content of electronic communications. If the online tool allows the user to modify or delete
4 a direction at all times, a direction regarding disclosure using an online tool overrides a
5 contrary direction by the user in a will, trust, power of attorney, or other record.

6 2. If a user has not used an online tool to give direction under subsection 1 of this
7 section or if the custodian has not provided an online tool, the user may allow or prohibit
8 in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all
9 of the user's digital assets, including the content of electronic communications sent or
10 received by the user.

11 3. A user's direction under subsection 1 or 2 of this section overrides a contrary
12 provision in a terms-of-service agreement that does not require the user to act affirmatively
13 and distinctly from the user's assent to the terms-of-service.

472.420. 1. Sections 472.400 to 472.490 shall not change or impair a right of a
2 custodian or a user under a terms-of-service agreement to access and use digital assets of
3 the user.

4 2. Sections 472.400 to 472.490 shall not give a fiduciary or a designated recipient
5 any new or expanded rights other than those held by the user for whom, or for whose
6 estate, the fiduciary or designated recipient acts or represents.

7 3. A fiduciary's or a designated recipient's access to digital assets may be modified
8 or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has
9 not provided direction under section 472.415.

472.425. 1. When disclosing digital assets of a user under sections 472.400 to
2 472.490, the custodian may at its sole discretion:

3 (1) Grant a fiduciary or designated recipient full access to the user's account;

4 (2) Grant a fiduciary or designated recipient partial access to the user's account
5 sufficient to perform the tasks with which the fiduciary or designated recipient is charged;
6 or

7 (3) Provide a fiduciary or designated recipient a copy in a record of any digital
8 asset that, on the date the custodian received the request for disclosure, the user could have
9 accessed if the user were alive and had full capacity and access to the account.

10 2. A custodian may assess a reasonable administrative charge for the cost of
11 disclosing digital assets under sections 472.400 to 472.490.

12 3. A custodian shall not disclose under sections 472.400 to 472.490 a digital asset
13 deleted by a user.

14 4. If a user directs or a fiduciary requests a custodian to disclose under sections
15 472.400 to 472.490 some, but not all, of the user's digital assets, the custodian need not
16 disclose the assets if segregation of the assets would impose an undue burden on the

17 **custodian. If the custodian believes the direction or request imposes an undue burden, the**
18 **custodian or fiduciary may seek an order from the court to disclose:**

- 19 (1) **A subset limited by date of the user's digital assets;**
20 (2) **All of the user's digital assets to the fiduciary or designated recipient;**
21 (3) **None of the user's digital assets; or**
22 (4) **All of the user's digital assets to the court for review in camera.**

472.430. If a deceased user consented or a court directs disclosure of the contents
2 **of electronic communications of the user, the custodian shall disclose to the personal**
3 **representative of the estate of the user the content of an electronic communication sent or**
4 **received by the user if the representative gives the custodian:**

- 5 (1) **A written request for disclosure in physical or electronic form;**
6 (2) **A certified copy of the death certificate of the user;**
7 (3) **A certified copy of the letters testamentary or letters of administration of the**
8 **representative or a certified copy of the certificate of clerk in connection with a small estate**
9 **affidavit or court order;**
10 (4) **Unless the user provided direction using an online tool, then in the case of user**
11 **consent to disclosure, a copy of the user's will, trust, power of attorney, or other record**
12 **evidencing the user's consent to disclosure of the content of electronic communications;**
13 **and**
14 (5) **If requested by the custodian for the purpose of identifying the correct account**
15 **of the user:**
16 (a) **A number, username, address, or other unique subscriber or account identifier**
17 **assigned by the custodian to identify the user's account;**
18 (b) **Evidence linking the account to the user; or**
19 (c) **A finding by the court that:**
20 a. **The user had a specific account with the custodian, identifiable by the**
21 **information specified in paragraph (a) of this subdivision;**
22 b. **Disclosure of the content of electronic communications of the user would not**
23 **violate 18 U.S.C. Section 2701, et seq., as amended, 47 U.S.C. Section 222, as amended, or**
24 **other applicable law;**
25 c. **Unless the user provided direction using an online tool, the user consented to**
26 **disclosure of the content of electronic communications; or**
27 d. **Disclosure of the content of electronic communications of the user is reasonably**
28 **necessary for administration of the estate.**

472.435. Unless the user prohibited disclosure of digital assets or the court directs
2 **otherwise, a custodian shall disclose to the personal representative of the estate of a**

3 **deceased user a catalogue of electronic communications sent or received by the user and**
4 **digital assets, other than the content of electronic communications, of the user, if the**
5 **representative gives the custodian:**

6 **(1) A written request for disclosure in physical or electronic form;**

7 **(2) A certified copy of the death certificate of the user;**

8 **(3) A certified copy of the letters testamentary or letters of administration of the**
9 **representative or a certified copy of certificate of clerk in connection with a small-estate**
10 **affidavit or court order; and**

11 **(4) If requested by the custodian for the purpose of identifying the correct account**
12 **of the correct user:**

13 **(a) A number, username, address, or other unique subscriber or account identifier**
14 **assigned by the custodian to identify the user's account;**

15 **(b) Evidence linking the account to the user;**

16 **(c) An affidavit stating that disclosure of the user's digital assets is reasonably**
17 **necessary for administration of the estate; or**

18 **(d) A finding by the court that:**

19 **a. The user had a specific account with the custodian, identifiable by the**
20 **information specified in paragraph (a) of this subdivision; or**

21 **b. Disclosure of the user's digital assets is reasonably necessary for administration**
22 **of the estate.**

472.440. To the extent a power of attorney expressly grants an agent authority over
2 **the content of an electronic communication sent or received by the principal and unless**
3 **directed otherwise by the principal or the court, a custodian shall disclose to the agent the**
4 **content if the agent gives the custodian:**

5 **(1) A written request for disclosure in physical or electronic form;**

6 **(2) An original or copy of the power of attorney expressly granting the agent**
7 **authority over the content of electronic communications of the principal;**

8 **(3) A certification by the agent, under penalty of perjury, that the power of**
9 **attorney is in effect; and**

10 **(4) If requested by the custodian for the purpose of identifying the correct account**
11 **of the correct user:**

12 **(a) A number, username, address, or other unique subscriber or account identifier**
13 **assigned by the custodian to identify the principal's account; or**

14 **(b) Evidence linking the account to the principal.**

472.445. Unless otherwise ordered by the court, directed by the principal, or
2 **provided by a power of attorney, a custodian shall disclose to an agent with specific**

3 authority over digital assets or general authority to act on behalf of a principal a catalogue
4 of electronic communications sent or received by the principal and digital assets, other
5 than the content of electronic communications, of the principal if the agent gives the
6 custodian:

7 (1) A written request for disclosure in physical or electronic form;

8 (2) An original or a copy of the power of attorney that gives the agent specific
9 authority over digital assets or general authority to act on behalf of the principal;

10 (3) A certification by the agent, under penalty of perjury, that the power of
11 attorney is in effect; and

12 (4) If requested by the custodian for the purpose of identifying the correct account
13 of the correct user:

14 (a) A number, username, address, or other unique subscriber or account identifier
15 assigned by the custodian to identify the principal's account; or

16 (b) Evidence linking the account to the principal.

472.450. Unless otherwise ordered by the court or provided in a trust, a custodian
2 shall disclose to a trustee that is an original user of an account any digital asset of the
3 account held in trust, including a catalogue of electronic communications of the trustee and
4 the content of the electronic communications.

472.455. Unless otherwise ordered by the court, directed by the user, or provided
2 in a trust, a custodian shall disclose to a trustee that is not an original user of an account
3 the content of an electronic communication sent or received by an original or successor
4 user and carried, maintained, processed, received, or stored by the custodian in the account
5 of the trust if the trustee gives the custodian:

6 (1) A written request for disclosure in physical or electronic form;

7 (2) A certified copy of the trust instrument or a certification of the trust under
8 section 456.10-1013 that includes consent to disclosure of the content of electronic
9 communications to the trustee;

10 (3) A certification by the trustee, under penalty of perjury, that the trust exists and
11 the trustee is a currently acting trustee of the trust; and

12 (4) If requested by the custodian for the purpose of identifying the correct account
13 of the correct user:

14 (a) A number, username, address, or other unique subscriber or account identifier
15 assigned by the custodian to identify the trust's account; or

16 (b) Evidence linking the account to the trust.

472.460. Unless otherwise ordered by the court, directed by the user, or provided
2 in a trust, a custodian shall disclose, to a trustee that is not an original user of an account,

3 a catalogue of electronic communications sent or received by an original or successor user
4 and stored, carried, or maintained by the custodian in an account of the trust and any
5 digital assets, other than the content of electronic communications, in which the trust has
6 a right or interest if the trustee gives the custodian:

7 (1) A written request for disclosure in physical or electronic form;

8 (2) A certified copy of the trust instrument or a certification of the trust under
9 section 456.10-1013;

10 (3) A certification by the trustee, under penalty of perjury, that the trust exists and
11 the trustee is a currently acting trustee of the trust; and

12 (4) If requested by the custodian for the purpose of identifying the correct account
13 of the correct user:

14 (a) A number, username, address, or other unique subscriber or account identifier
15 assigned by the custodian to identify the trust's account; or

16 (b) Evidence linking the account to the trust.

472.465. 1. After an opportunity for a hearing under Missouri conservatorship law,
2 the court may grant a conservator access to the digital assets of a protected person.

3 2. Unless otherwise ordered by the court or directed by the user, a custodian shall
4 disclose to a conservator the catalogue of electronic communications sent or received by
5 a protected person and any digital assets, other than the content of electronic
6 communications, in which the protected person has a right or interest if the conservator
7 gives the custodian:

8 (1) A written request for disclosure in physical or electronic form;

9 (2) A certified copy of the court order that gives the conservator authority over the
10 digital assets of the protected person; and

11 (3) If requested by the custodian for the purpose of identifying the correct account
12 of the correct user:

13 (a) A number, username, address, or other unique subscriber or account identifier
14 assigned by the custodian to identify the account of the protected person; or

15 (b) Evidence linking the account to the protected person.

16 3. A conservator with general authority to manage the assets of a protected person
17 may request a custodian of the digital assets of the protected person to suspend or
18 terminate an account of the protected person for good cause. A request made under this
19 subsection shall be accompanied by a certified copy of the court order giving the
20 conservator authority over the protected person's property.

472.470. 1. The legal duties imposed on a fiduciary charged with managing
2 tangible property apply to the management of digital assets, including:

3 **(1) The duty of care;**

4 **(2) The duty of loyalty; and**

5 **(3) The duty of confidentiality.**

6 **2. A fiduciary's or designated recipient's authority with respect to a digital asset**
7 **of a user:**

8 **(1) Except as otherwise provided in section 472.415, is subject to the applicable**
9 **terms-of-service agreement;**

10 **(2) Is subject to other applicable law, including copyright law;**

11 **(3) In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and**

12 **(4) May not be used to impersonate the user.**

13 **3. A fiduciary with authority over the property of a decedent, protected person,**
14 **principal, or settlor has the right to access any digital asset in which the decedent,**
15 **protected person, principal, or settlor had a right or interest and that is not held by a**
16 **custodian or subject to a terms-of-service agreement.**

17 **4. A fiduciary acting within the scope of the fiduciary's duties is an authorized user**
18 **of the property of the decedent, protected person, principal, or settlor for the purpose of**
19 **applicable computer-fraud and unauthorized-computer-access laws, including Missouri**
20 **law on unauthorized computer access.**

21 **5. A fiduciary with authority over the tangible, personal property of a decedent,**
22 **protected person, principal, or settlor:**

23 **(1) Has the right to access the property and any digital asset stored in it; and**

24 **(2) Is an authorized user for the purpose of computer-fraud and**
25 **unauthorized-computer-access laws, including Missouri law on unauthorized computer**
26 **access.**

27 **6. A custodian may disclose information in an account to a fiduciary of the user**
28 **when the information is required to terminate an account used to access digital assets**
29 **licensed to the user.**

30 **7. A fiduciary of a user may request a custodian to terminate the user's account.**
31 **A request for termination shall be in writing, in either physical or electronic form, and**
32 **accompanied by:**

33 **(1) If the user is deceased, a certified copy of the death certificate of the user;**

34 **(2) A certified copy of the letter of testamentary or letters of administration of the**
35 **representative or a certified copy of the certificate of clerk in connection with a small-estate**
36 **affidavit or court order, power of attorney, or trust giving the fiduciary authority over the**
37 **account; and**

38 **(3) If requested by the custodian for the purpose of identifying the correct account**
39 **of the correct user:**

40 **(a) A number, username, address, or other unique subscriber or account identifier**
41 **assigned by the custodian to identify the user's account;**

42 **(b) Evidence linking the account to the user; or**

43 **(c) A finding by the court that the user had a specific account with the custodian,**
44 **identifiable by the information specified in paragraph (a) of this subdivision.**

472.475. 1. Not later than sixty days after receipt of the information required
2 **under sections 472.430 to 472.470, a custodian shall comply with a request under sections**
3 **472.400 to 472.490 from a fiduciary or designated recipient to disclose digital assets or**
4 **terminate an account. If the custodian fails to comply, the fiduciary or designated recipient**
5 **may apply to the court for an order directing compliance.**

6 **2. An order under subsection 1 of this section directing compliance shall contain**
7 **a finding that compliance is not in violation of 18 U.S.C. Section 2702, as amended.**

8 **3. A custodian may notify the user that a request for disclosure or to terminate an**
9 **account was made under sections 472.400 to 472.490.**

10 **4. A custodian may deny a request under sections 472.400 to 472.490 from a**
11 **fiduciary or designated recipient for disclosure of digital assets or to terminate an account**
12 **if the custodian is aware of any lawful access to the account following the receipt of the**
13 **fiduciary's request.**

14 **5. Sections 472.400 to 472.490 do not limit a custodian's ability to obtain or require**
15 **a fiduciary or designated recipient requesting disclosure or termination under such**
16 **sections to obtain a court order which:**

17 **(1) Specifies that an account belongs to the protected person or principal;**

18 **(2) Specifies that there is sufficient consent from the protected person or principal**
19 **to support the requested disclosure; and**

20 **(3) Contains a finding required by law other than as provided under sections**
21 **472.400 to 472.490.**

22 **6. A custodian and its officers, employees, and agents are immune from liability for**
23 **an act or omission done in good faith in compliance with sections 472.400 to 472.490.**

472.480. In applying and construing sections 472.400 to 472.490, consideration may
2 **be given to the need to promote uniformity of the law with respect to its subject matter**
3 **among states that enact similar provisions.**

472.485. Sections 472.400 to 472.490 modify, limit, or supersede the Electronic
2 **Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but do**
3 **not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or**

4 **authorize electronic delivery of any of the notices described in Section 103(b) of that act,**
5 **15 U.S.C. Section 7003(b).**

2 **472.490. If any provision of sections 472.400 to 472.490 or the application of such**
3 **sections to any person or circumstance is held invalid, the invalidity does not affect other**
4 **provisions or application of sections 472.400 to 472.490 which can be given effect without**
5 **the invalid provision or application, and to this end the provisions of sections 472.400 to**
6 **472.490 are severable.**

7 474.150. 1. Any gift made by a **married** person, whether dying testate or intestate, in
8 fraud of the marital rights of ~~[his]~~ **the** surviving spouse ~~[to share in his estate]~~ **to whom the**
9 **decedent was married at the time of such gift and who may share in the decedent's estate,**
10 shall, at the election of ~~the~~ **such** surviving spouse, be treated as a testamentary disposition and
11 may be recovered from the donee and persons taking from ~~him~~ **the decedent** without adequate
12 consideration and applied to the payment of the spouse's share, as in case of his **or her** election
13 to take against the will.

14 2. Any conveyance of real estate made by a married person at any time without the
15 joinder or other written express assent of ~~his~~ **such** spouse, made at any time, duly
16 acknowledged, is deemed to be in fraud of the marital rights of ~~his~~ **such** spouse, if the spouse
17 becomes a surviving spouse, unless the contrary is shown.

18 3. Any conveyance of the property of the spouse of a disabled person is deemed not to
19 be in fraud of the marital rights of the disabled person if the probate division of the circuit court
20 authorizes the conservator of the disabled person to join in or assent to the conveyance after
21 finding that it is not made in fraud of the marital rights. Any conveyance of the property of a
22 minor or disabled person made by a conservator pursuant to an order of court is deemed not to
23 be in fraud of the marital rights of the spouse of the protectee.

24 515.575. 1. Except as otherwise ordered by the court, the entry of an order appointing
25 a general receiver shall operate as a stay, applicable to all persons, of:

26 (1) The commencement or continuation, including the issuance, employment, or service
27 of process, of a judicial, administrative, or other action or proceeding against the debtor that was
28 or could have been commenced before the entry of the order of appointment, or to recover a
29 claim against the debtor that arose before the entry of the order of appointment;

30 (2) The enforcement against the debtor or any estate property of a judgment obtained
31 before the order of appointment;

32 (3) Any act to obtain possession of estate property from the receiver, or to interfere with,
33 or exercise control over, estate property;

11 (4) Any act to create, perfect, or enforce any lien or claim against estate property except
12 by exercise of a right of setoff, to the extent that the lien secures a claim against the debtor that
13 arose before the entry of the order of appointment; or

14 (5) Any act to collect, assess, or recover a claim against the debtor that arose before the
15 entry of the order of appointment.

16 2. The stay shall automatically expire as to the acts specified in subdivisions (1), (2), and
17 ~~[(3)]~~ (5) of subsection 1 of this section sixty days after the entry of the order of appointment
18 unless before the expiration of the sixty-day period the debtor or receiver, for good cause shown,
19 obtains an order of the court extending the stay, after notice and a hearing. A person whose
20 action or proceeding is stayed by motion to the court may seek relief from the stay for good cause
21 shown. Any judgment obtained against the debtor or estate property following the entry of the
22 order of appointment is not a lien against estate property unless the receivership is terminated
23 prior to a conveyance of the property against which the judgment would otherwise constitute a
24 lien.

25 3. The entry of an order appointing a receiver does not operate as a stay of:

26 (1) The commencement or continuation of a criminal proceeding against the debtor;

27 (2) The commencement or continuation of an action or proceeding to establish paternity,
28 or to establish or modify an order for alimony, maintenance, or support, or to collect alimony,
29 maintenance, or support under any order of a court;

30 (3) Any act to perfect or to maintain or continue the perfection of an interest in estate
31 property pursuant to any generally applicable Missouri law that permits perfection of an interest
32 in property to be effective against an entity that acquires rights in such property before the date
33 of perfection. Such right to perfect an interest in estate property includes any act to perfect an
34 interest in purchase money collateral pursuant to sections 400.9-301 to 400.9-339, perfection of
35 a lien that may be placed against real property under the provisions of chapter 429, or the
36 assertion of a right to continue in possession of any estate property that is in the possession of
37 a person entitled to retain possession of such property pending payment for work performed with
38 respect to such property. If perfection of an interest would otherwise require seizure of the
39 property involved or the commencement of an action, the perfection shall instead be
40 accomplished by filing, and by serving upon the receiver, or receiver's counsel, if any, notice of
41 the interest within the time fixed by law for seizure or commencement;

42 (4) The commencement or continuation of an action or proceeding by a governmental
43 unit to enforce its police or regulatory power;

44 (5) The enforcement of a judgment, other than a money judgment, obtained in an action
45 or proceeding by a governmental unit to enforce its police or regulatory power, or with respect
46 to any licensure of the debtor;

47 (6) The exercise of a right of setoff, including but not limited to, any right of a
48 commodity broker, forward contract merchant, stockbroker, financial institution, or securities
49 clearing agency to set off a claim for a margin payment or settlement payment arising out of a
50 commodity contract, forward contract, or securities contract against cash, securities, or other
51 property held or due from the commodity broker, forward contract merchant, stockbroker,
52 financial institution, or securities clearing agency to margin, guarantee, secure, or settle the
53 commodity contract, forward contract, or securities contract, and any right of a swap participant
54 to set off a claim for a payment due to the swap participant under or in connection with a swap
55 agreement against any payment due from the swap participant under or in connection with the
56 swap agreement or against cash, securities, or other property of the debtor held by or due from
57 the swap participant to guarantee, secure, or settle the swap agreement;

58 (7) The establishment by a governmental unit of any tax liability and any appeal thereof;
59 or

60 (8) Any action pending in a court other than that in which the receiver is appointed until
61 transcription of the order appointing the receiver or extending the stay is made to the other court
62 in which an action against the debtor is pending.

63 4. For the purposes of subdivision (8) of subsection 3 of this section, the receiver or any
64 party in interest is authorized to cause to be transcribed any order appointing a receiver or
65 extending the stay to any and all courts in which any action against a debtor is pending in this
66 state. A court that receives a transcript of an order of receivership or extension of stay may on
67 its own order sua sponte transfer the matter before the court to the court issuing an order of
68 receivership.

515.635. To the extent that funds are available in the estate for distribution to creditors
2 in a general receivership, the holder of an allowed noncontingent, liquidated claim is entitled to
3 receive interest at the legal rate or other applicable rate from the date of appointment of the
4 receiver or the date on which the claim became a noncontingent, liquidated claim. If there are
5 ~~sufficient~~ **insufficient** funds in the estate to fully pay all interest owing to all members of the
6 class, then interest shall be paid proportionately to each member of the class.

✓