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Nonprofit Newsletter Fall 2017 - New Jersey Reaffirms Commitment to Charitable Trusts with Passage of the UTC

The New Jersey Uniform Trust Code (UTC) applies to trusts in existence on or created after July 17, 2016. Generally speaking, the purpose of the UTC is to create a more streamlined, flexible and efficient system for administering trusts, in part by codifying many of the common law principles that have applied to New Jersey trusts for decades.

Among its provisions are those relating specifically to charitable trusts, which are defined as any trust "created for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purpose the achievement of which is beneficial to the community." These provisions are found largely in the section of the law addressing creation, validity, modification and termination of trusts.

For instance, where such a trust fails to state a particular charitable purpose or beneficiary, the court is permitted to designate a beneficiary or provide the trust with a charitable purpose consistent with the settlor's intention. A proceeding of this nature may be brought by the settlor, the attorney general, the trust's beneficiaries or other persons who have an interest, and thus "standing," to do so.

Additionally, a court may modify or terminate a charitable trust in a manner consistent with the settlor's intention if the trust becomes unlawful, impracticable, impossible to achieve or wasteful. Actions of this nature have occurred historically within the courts under the common law doctrine of *cy pres*. Codifying this doctrine, the UTC now affords express authority to the courts to modify or terminate charitable trusts, recognizing and reaffirming that charitable trusts serve a valid public interest that requires preservation to the maximum extent possible. This expansive grant of power now confirms the court's broad discretion when it comes to effectuating charitable intentions.