

## ACT 76

H.B. NO. 1656

A Bill for an Act Relating to the Uniform Custodial Trust Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
UNIFORM CUSTODIAL TRUST ACT**

**§ -1 Definitions.** As used in this chapter:

“Adult” means an individual who has attained the age of 18 years.

“Beneficiary” means an individual for whom property has been delivered to a custodial trustee for the individual’s use and benefit under this chapter.

“Guardian of the property” means a person appointed or qualified by a court to manage the estate of an individual or a person legally authorized to perform substantially the same functions.

“Court” means the circuit court of the State.

“Custodial trust property” means an interest in property transferred to a custodial trustee under this chapter and the income from and proceeds of that interest.

“Custodial trustee” means a person designated as trustee of a custodial trust under this chapter and includes a substitute or successor custodial trustee.

“Guardian” means a person appointed or qualified by a court as a guardian of an individual and includes a limited guardian, but excludes a person who is merely a guardian ad litem.

“Incapacitated” means that an individual lacks the ability to manage property and business affairs effectively by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance, minority, or other cause. A beneficiary shall be treated as incapacitated for the purpose of this chapter if the transferor so directs in the instrument creating the custodial trust.

“Legal representative” means a personal representative or “guardian of the property”.

“Member of the beneficiary’s family” includes a beneficiary’s spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

“Person” means an individual, corporation, organization, or other legal entity.

“Personal representative” includes an executor, administrator, or special administrator of a decedent’s estate or a person legally authorized to perform substantially the same functions and includes a successor personal representative.

“State” means a state, commonwealth, territory, or possession of the United States, or the District of Columbia.

“Transferor” means a person who creates a custodial trust by transfer or declaration.

“Trust company” means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

**§ -2 Custodial trust; general.** (a) A person may create a custodial trust of property by transfer evidenced by registration or other written instrument of transfer to another in any manner consistent with law, naming an individual, who may be the transferor or another, as beneficiary, in which the transferee is designated, in substance, as custodial trustee under the Hawaii Uniform Custodial Trust Act.

(b) A person may create a custodial trust of property by declaration evidenced by registration or other written instrument of declaration in any manner consistent with law, naming an individual other than the declarant as beneficiary, in which the declarant as titleholder is designated, in substance, as custodial trustee under the Hawaii Uniform Custodial Trust Act. A trust registration or other declaration for the sole benefit of the declarant is not a custodial trust under this chapter.

(c) Title to custodial trust property is in the custodial trustee, and the beneficial interest in custodial trust property is in the beneficiary, subject to the provisions of this chapter.

(d) Except as provided in subsection (e), a custodial trust may not be terminated by the transferor.

(e) A custodial trust may be terminated by the beneficiary if not incapacitated, or by the guardian of the property of an incapacitated beneficiary, upon delivering to the custodial trustee a writing signed by the beneficiary or guardian of the property declaring the termination. The exercise of a durable power of attorney for an incapacitated beneficiary is not effective to terminate or direct the distribution or management of the trust. If not previously terminated, the custodial trust terminates on the death of the beneficiary, and the custodial trust property must be distributed as provided in section -17.

(f) Additional property may be placed in an existing custodial trust pursuant to this chapter.

(g) A successor custodial trustee may be designated, or the designation authorized, by the custodial trust instrument.

(h) This chapter does not restrict other means of creating trusts. A trust whose terms do not conform to this chapter may be valid and enforceable according to its terms under other law.

**§ -3 Custodial trustee for future payment or transfer.** A custodial trust may be created upon the occurrence of a future event. The person having the right to designate the recipient of property payable or transferable upon a future event may designate in writing a custodial trustee to receive and hold the property for a beneficiary of a custodial trust to be effective upon the occurrence of the event by designating the recipient, followed in substance by the words: "as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Hawaii Uniform Custodial Trust Act." Persons may be designated as substitute or successor custodial trustees to whom the property must be transferred in the order named if the first designated custodial trustee is unable or unwilling to serve. The designation may be made in a will, a trust, a deed, a multiple party account, an insurance policy, an instrument exercising a power of appointment, or other writing designating a beneficiary of contractual rights. The designation must be registered with or delivered to the fiduciary, payor, issuer, or obligor of the future right.

**§ -4 Form and effect of receipt and acceptance by custodial trustee, jurisdiction.** (a) The obligations of a custodial trustee, including the obligation to follow directions of the beneficiary pursuant to section -7, arise under this chapter upon the custodial trustee's acceptance, express or implied, of the custodial trust property.

(b) The custodial trustee's acceptance may be evidenced by a writing stating in substance:

## CUSTODIAL TRUSTEE'S RECEIPT AND ACCEPTANCE

I, \_\_\_\_\_ (name of custodial trustee) acknowledge receipt of the custodial trust property described below or in the attached instrument and accept the custodial trust as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Hawaii Uniform Custodial Trust Act. I undertake to administer and distribute the custodial trust property pursuant to the Hawaii Uniform Custodial Trust Act. My obligations as custodial trustee are subject to the directions of the beneficiary unless the beneficiary is designated as, is, or becomes incapacitated. The custodial trust property consists of \_\_\_\_\_

Dated: \_\_\_\_\_

(Signature of Custodial Trustee)

(c) Upon acceptance of the custodial trust property, a person designated as custodial trustee under this chapter is subject to personal jurisdiction of the courts of this State with respect to any matter relating to the custodial trust.

**§ -5 Transfer to custodial trustee by fiduciary or obligor, facility of payment.** (a) Unless controlled by an instrument designating a custodial trustee under section -3, a person, including a fiduciary other than a custodial trustee, who holds property of or owes a debt to an incapacitated individual not having a guardian of the property may make a transfer to an adult member of the beneficiary's family or to a trust company as custodial trustee for the benefit of the incapacitated individual. If the property or obligation exceeds \$20,000 in value, the transfer must be authorized by the court.

(b) The written acknowledgment of delivery signed by a custodial trustee constitutes a sufficient receipt and discharge for property transferred to the custodial trustee pursuant to this section.

**§ -6 Multiple beneficiaries, separate custodial trusts, survivorship.** (a) Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate custodial trusts of equal undivided interests for each beneficiary. Except in transfers for benefit of husband and wife, for whom survivorship is presumed, no right of survivorship exists unless the writing creating the custodial trust specifically provides for survivorship. (Or as is required as to community property.)

(b) Custodial trust property held under this chapter by the same custodial trustee for the benefit of the same beneficiary may be administered as a single custodial trust.

(c) A custodial trustee of property held for more than one beneficiary shall separately account to each beneficiary as provided in sections -7 and -15 for the administration of the custodial trust.

**§ -7 General management duties of custodial trustee.** (a) A custodial trustee shall register or record the instrument transferring title to custodial trust property if appropriate.

(b) In the management, control, investment, or retention of custodial trust property, a custodial trustee shall follow the directions of the beneficiary if the beneficiary is not incapacitated. In the absence of effective contrary direction by the beneficiary while not incapacitated, the custodial trustee shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other law restricting investments by fiduciaries. However, a custodial trustee, in the custodial trustee's discretion, may retain any custodial trust property received from the transferor. If a trust company or other

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custodial trustee has a special skill or expertise or is named custodial trustee on the basis of representation of a special skill or expertise, the custodial trustee shall use that skill or expertise.

(c) Subject to subsection (b), a custodial trustee shall take control of and collect, hold, manage, invest, and reinvest custodial trust property.

(d) A custodial trustee at all times shall keep custodial trust property of which the custodial trustee has possession and control, separate and distinct from all other property in a manner sufficient to identify it clearly as custodial trust property of the beneficiary. Custodial trust property subject to recordation is so identified if it is recorded, and custodial trust property subject to registration is so identified if it is registered, or held in an account designated, in the name of the custodial trustee followed by words stating in substance: "as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Hawaii Uniform Custodial Trust Act."

(e) A custodial trustee shall keep records of all transactions with respect to custodial trust property, including information necessary for the preparation of tax returns, and shall make the records and information available at reasonable intervals to the beneficiary or legal representative of the beneficiary.

(f) The exercise of a durable power of attorney for an incapacitated beneficiary is not effective to terminate or direct the distribution or management of the custodial trust.

**§ -8 General powers of custodial trustee.** (a) A custodial trustee, acting in a fiduciary capacity, has all the rights, powers, and authority over custodial trust property that an unmarried adult owner has over individually owned property, but a custodial trustee may exercise those rights, powers, and authority in a fiduciary capacity only.

(b) This section does not relieve a custodial trustee from liability for breach of section -7.

**§ -9 Use of custodial trust property.** (a) The custodial trustee shall pay to the beneficiary or expend for the beneficiary's benefit so much or all of the custodial trust property as the beneficiary while not incapacitated may direct from time to time.

(b) If the beneficiary is incapacitated, the custodial trustee shall expend so much or all of the custodial trust property as the custodial trustee determines advisable for the use and benefit of the beneficiary and individuals who were supported by the beneficiary at the time the beneficiary became incapacitated, or who are legally entitled to support by the beneficiary. Expenditures may be made in the manner, at the time, and to the extent that the custodial trustee determines suitable and proper, without court order and without regard to other support, income, or property of the beneficiary.

(c) A custodial trustee may establish checking, savings, or other similar accounts of reasonable amounts under which either the custodial trustee or the beneficiary may withdraw funds from, or draw checks against, the accounts. Funds withdrawn from or checks written against the account by the beneficiary are treated as distributions of custodial trust property by the custodial trustee to the beneficiary.

**§ -10 Determination of incapacity, proceeding and effect.** (a) A beneficiary is incapacitated for the purposes of this chapter and the custodial trustee shall administer and distribute the custodial trust as one for an incapacitated beneficiary: (1) if the custodial trust is created under section -5; (2) if the transferor has so directed in the writing creating the custodial trust; or (3) if the custodial trustee has determined that the beneficiary has become incapacitated.

(b) A custodial trustee may determine that the beneficiary has become incapacitated in reliance upon: (1) prior direction or authority given by the beneficiary while not incapacitated, including direction or authority pursuant to a durable power of attorney; (2) the certificate of the beneficiary's physician; or (3) other reasonable evidence.

(c) If a custodial trustee for an incapacitated beneficiary reasonably concludes that the beneficiary's incapacity has ceased, or that circumstances concerning the beneficiary's ability to manage assets have changed since the creation of a custodial trust directing administration as for an incapacitated beneficiary, the custodial trustee may administer and distribute the custodial trust as one for a beneficiary who is not incapacitated.

(d) On petition of the beneficiary, the custodial trustee, or other person interested in the welfare of the beneficiary or custodial trust property, the court shall determine and declare whether or not the beneficiary is incapacitated.

(e) Absent determination of incapacity of the beneficiary under subsection (b) or (d), a custodial trustee who has reason to believe that the beneficiary has become incapacitated shall hold and administer the custodial property in accordance with the provisions of this chapter applicable to incapacitated beneficiaries.

(f) Incapacity of a beneficiary does not terminate the custodial trust, any designation of a successor custodial trustee, any powers or authority of the custodial trustee, or any immunities of third persons acting on direction of the custodial trustee.

**§ -11 Exemption of third person from liability.** A third person in good faith and without a court order may act on instructions of, or otherwise deal with, a person purporting to make a transfer as, or purporting to act in the capacity of, a custodial trustee, and, in the absence of knowledge to the contrary, is not responsible for determining:

- (1) The validity of the purported custodial trustee's designation;
- (2) The propriety of, or the authority under this chapter for, any action of the purported custodial trustee;
- (3) The validity or propriety under this chapter of any instrument or instruction executed or given either by the person purporting to make a transfer or by the purported custodial trustee; or
- (4) The propriety of the application of any property delivered to the purported custodial trustee.

**§ -12 Liability to third persons.** (a) A claim based on a contract entered into by a custodial trustee acting in a fiduciary capacity, an obligation arising from the ownership or control of custodial trust property, or a tort committed in the course of administering the custodial trust may be asserted against the custodial trust property by proceeding against the custodial trustee in the fiduciary capacity, whether or not the custodial trustee or the beneficiary is personally liable.

(b) A custodial trustee is not personally liable:

- (1) On a contract properly entered into in a fiduciary capacity unless the custodial trustee fails to reveal that capacity and to identify the custodial trust in the contract; or
- (2) For an obligation arising from control of custodial trust property or for a tort committed in the course of the administration of the custodial trust unless the custodial trustee is personally at fault.

(c) A beneficiary is not personally liable for an obligation arising from ownership of custodial trust property or for a tort committed in the course of administration of the custodial trust unless the beneficiary is personally in possession of the custodial trust property giving rise to the liability or is personally at fault.

(d) Neither subsection (b) or (c) precludes any proceeding to establish liability of the custodial trustee or beneficiary to the extent that either is protected as the insured by liability insurance.

**§ -13 Declination, resignation, incapacity, death, or removal of custodial trustee; designation of successor custodial trustee.** (a) A person designated as custodial trustee, before accepting the custodial trust property, may decline to serve by notifying the person who made the designation, the transferor, or the transferor's legal representative. If the event giving rise to a transfer has not occurred, the substitute custodial trustee designated under section -3 becomes the custodial trustee, and, if a substitute custodial trustee has not been designated, the person who made the designation may designate a substitute custodial trustee under section -3. In other cases, the transferor or the transferor's legal representative may designate a substitute custodial trustee.

(b) A custodial trustee who has accepted the custodial trust property may resign by: (1) delivering written notice to the beneficiary and, if the beneficiary is incapacitated, to the beneficiary's guardian of the property, if any, and to the successor custodial trustee, if any, and (2) transferring, recording, or registering the custodial trust property in the name of and delivering the records to the successor custodial trustee identified under subsection (c).

(c) If a custodial trustee or successor custodial trustee is ineligible, resigns, dies, or becomes incapacitated, the successor designated under section -2 or -3 becomes custodial trustee. If there is no effective provision for a successor, the beneficiary, if not incapacitated, may designate a successor custodial trustee. If the beneficiary is incapacitated, or fails to act within ninety days after the ineligibility, resignation, death, or incapacity of the custodial trustee, the beneficiary's guardian of the property becomes successor custodial trustee; and, if the beneficiary does not have a guardian of the property or the guardian of the property declines to act, the resigning custodial trustee may designate a successor custodial trustee.

(d) If a successor custodial trustee is not designated by the foregoing procedure, the transferor, the legal representative of the transferor or of the custodial trustee, an adult member of the beneficiary's family, the guardian of the beneficiary, a person interested in the custodial trust property or as appropriate, another person interested in the welfare of the beneficiary may petition the court to designate a successor custodial trustee.

(e) A custodial trustee who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodial trustee, as soon as practicable, shall put the custodial trust property and records in the possession and control of the successor custodial trustee. A successor custodial trustee may enforce the obligation to deliver custodial trust property and records, and becomes responsible for each item as received.

(f) A beneficiary, the beneficiary's guardian of the property, an adult member of the beneficiary's family, a guardian of the person of the beneficiary, a person interested in the custodial trust property or as appropriate, another person interested in the welfare of the beneficiary, may petition the court to remove the custodial trustee for cause and designate a successor custodial trustee, to require the custodial trustee to give bond, or for other appropriate relief.

**§ -14 Expenses, compensation, and bond of custodial trustee.** Except as provided otherwise in the custodial trust instrument, in an agreement with the beneficiary, or by court order:

- (1) A custodial trustee is entitled to reimbursement from custodial trust property for reasonable expenses incurred in the performance of fiduciary services;

- (2) A custodial trustee has a noncumulative election to be made no later than six months following the end of each calendar year to charge a reasonable compensation for fiduciary services performed during that year; and
- (3) A custodial trustee need not post a bond for faithful performance of the custodial trust.

**§ -15 Reporting and accounting by custodial trustee; determination of liability of custodial trustee.** (a) Upon the acceptance of the custodial trust property, a custodial trustee shall provide a written statement describing the custodial trust property and shall thereafter provide a written statement of the administration of the custodial trust property: (i) once each year, (ii) upon request at a reasonable time by the beneficiary or the beneficiary's legal representative, (iii) upon resignation or removal of the custodial trustee, and (iv) on termination of the custodial trust. These statements must be provided to the beneficiary or to the beneficiary's legal representative, if any. On termination of the beneficiary's interest, a current statement must be provided to the person to whom the custodial trust property is to be delivered.

(b) A beneficiary, the beneficiary's legal representative, an adult member of the beneficiary's family, or a person interested in the custodial trust property or as appropriate, another person interested in the welfare of the beneficiary may petition the court for an accounting by the custodial trustee or the custodial trustee's legal representative.

(c) A successor custodial trustee may petition the court for an accounting by a predecessor custodial trustee.

(d) The court, in a proceeding under this chapter or in any other proceeding, may require or permit the custodial trustee or the custodial trustee's legal representative to account; or the custodial trustee or the custodial trustee's legal representative may petition the court for approval of final accounts.

(e) If a custodial trustee is removed, the court shall require an accounting and order delivery of the custodial trust property and records to the successor custodial trustee and the execution of all instruments required for transfer of the custodial trust property.

(f) On petition of the custodial trustee, or any person who could petition for an accounting, the court, after notice to interested persons, may issue instructions to the custodial trustee or review the propriety of the acts of a custodial trustee or the reasonableness of compensation determined by the custodial trustee for the services of the custodial trustee or others.

**§ -16 Limitations of action against custodial trustee.** (a) Except as provided in subsection (c), unless previously barred by adjudication, consent, or limitation, a claim for relief against a custodial trustee for accounting or breach of duty is barred as to a beneficiary, a person to whom the custodial trust property is to be paid or delivered, or the legal representative of an incapacitated or deceased beneficiary or payee:

- (1) Who has received a final account or statement fully disclosing the matter unless an action or proceeding to assert the claim is commenced within two years after receipt of the final account or statement; or
- (2) Who has not received a final account or statement fully disclosing the matter unless an action or proceeding to assert the claim is commenced within three years after the termination of the custodial trust.

(b) Except as provided in subsection (c), a claim for relief to recover from a custodial trustee for fraud, misrepresentation, or concealment related to the final settlement of the custodial trust or concealment of the existence of the custodial

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trust is barred unless an action or proceeding to assert the claim is commenced within five years after the termination of the custodial trust.

(c) A claim for relief is not barred by this section if the claimant:

- (1) Is a minor, until the earlier of two years after (i) attaining majority or (ii) the claimant's death;
- (2) Is an incapacitated adult, until the earliest of two years after (i) the appointment of a guardian of the property, (ii) the removal of the incapacity, or (iii) the death of the claimant; or
- (3) Was an adult, now deceased, who was not incapacitated, until two years after death.

**§ -17 Termination and distribution.** (a) A custodial trust terminates on the custodial trustee's receipt of a signed written direction of the beneficiary, if not incapacitated within section -10, or of the beneficiary's guardian of the property, if any, or upon the beneficiary's death. Upon termination, the custodial trustee shall transfer the unexpended custodial trust property:

- (1) To the beneficiary, if not incapacitated;
- (2) To the guardian of the property or other court-designated recipient for an incapacitated beneficiary; or
- (3) Upon the beneficiary's death, in the following order:
  - (A) As last directed in a writing signed by the deceased beneficiary who was at the time not incapacitated and received by the custodial trustee during the life of the deceased beneficiary;
  - (B) To the survivor of multiple beneficiaries when survivorship is provided pursuant to section -6;
  - (C) As designated in the custodial trust instrument; or
  - (D) To the estate of the deceased beneficiary.

(b) If, when the custodial trust would otherwise terminate, the distributee is incapacitated, the custodial trust continues for the benefit of the distributee as beneficiary until the incapacity is removed or the custodial trust is terminated by the distributee's guardian of the property.

(c) The death of a beneficiary does not terminate the power of the custodial trustee to discharge obligations of the custodial trustee or beneficiary incurred before the termination of the custodial trust.

**§ -18 Implementation, methods, and forms for creating custodial trusts.**

(a) If a transaction otherwise satisfies applicable law,

- (1) The execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form satisfies the requirements of section -2:

**TRANSFER UNDER THE HAWAII  
UNIFORM CUSTODIAL TRUST ACT**

I, \_\_\_\_\_ (name of transferor or name representative capacity if a fiduciary), transfer to \_\_\_\_\_ (name of trustee other than transferor), as custodial trustee for \_\_\_\_\_ (name of beneficiary) as beneficiary and \_\_\_\_\_ as distributee on termination of the trust in absence of direction by the beneficiary under the Hawaii Uniform Custodial Trust Act, the following: (insert a description of the custodial trust property sufficient to identify each asset).

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

- (2) The execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form satisfies the requirements of section -2:

DECLARATION OF TRUST UNDER THE HAWAII  
UNIFORM CUSTODIAL TRUST ACT

I, \_\_\_\_\_(name of owner or property),  
 declare that henceforth I hold as custodial trustee for \_\_\_\_\_  
 (name of beneficiary other than transferor) as beneficiary and \_\_\_\_\_  
 as distributee on termination of the trust in absence of direction by the beneficiary  
 under the Hawaii Uniform Custodial Trust Act, the following: (Insert a description  
 of the custodial trust property sufficient to identify each asset).  
 Dated: \_\_\_\_\_

\_\_\_\_\_  
 (Signature)

(b) Customary methods of transferring or evidencing ownership of assets may be used to create a custodial trust and include the following:

- (1) Registration of a security in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, followed in substance by the words "as custodial trustee for \_\_\_\_\_(name of beneficiary) under the Hawaii Uniform Custodial Trust Act";
- (2) Delivery of a certificated security, or a document necessary for the transfer of an uncertificated security, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodial trustee, accompanied by an instrument in substantially the form prescribed in subsection (a)(1);
- (3) Payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, followed in substance by the words: "as custodial trustee for \_\_\_\_\_(name of beneficiary) under the Hawaii Uniform Custodial Trust Act";
- (4) Registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, followed in substance by the words: "as custodial trustee for \_\_\_\_\_(name of beneficiary) under the Hawaii Uniform Custodial Trust Act";
- (5) Delivery of a written assignment to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodial trustee for \_\_\_\_\_(name of beneficiary) under the Hawaii Uniform Custodial Trust Act";
- (6) Irrevocable exercise of a power of appointment, pursuant to its terms, in favor of a trust company, an adult other than the donee of the power, or the donee who holds the power if the beneficiary is other than the donee, whose name in the appointment is followed in substance by the words: "as custodial trustee for \_\_\_\_\_(name of beneficiary) under the Hawaii Uniform Custodial Trust Act";
- (7) Delivery of a written notification or assignment of a right to future payment under a contract to an obligor which transfers the right under the contract to a trust company, an adult other than the transferor, or

- the transferor if the beneficiary is other than the transferor, whose name in the notification or assignment is followed in substance by the words: "as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Hawaii Uniform Custodial Trust Act";
- (8) Execution, delivery, and recordation of a conveyance of an interest in real property in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, followed in substance by the words: "as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Hawaii Uniform Custodial Trust Act";
  - (9) Issuance of a certificate of title by an agency of a state or of the United States which evidences title to tangible personal property:
    - (A) Issued in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, followed in substance by the words: "as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Hawaii Uniform Custodial Trust Act"; or
    - (B) Delivered to a trust company or an adult other than the transferor or endorsed by the transferor to that person, followed in substance by the words: "as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Hawaii Uniform Custodial Trust Act"; or
  - (10) Execution and delivery of an instrument of gift to a trust company or an adult other than the transferor, followed in substance by the words: "as custodial trustee for \_\_\_\_\_ (name of beneficiary) under the Hawaii Uniform Custodial Trust Act".

§ -19 **Applicable law.** (a) This chapter applies to a registration, transfer, or declaration that refers to this chapter as provided in section -2 if, at the time of the registration, transfer, or declaration, the transferor, beneficiary, or custodial trustee is a resident of this State or the custodial trust property is located in this State. The custodial trust remains subject to this chapter despite a subsequent change in residence of the transferor, beneficiary, or custodial trustee, or removal of the custodial trust property from this State.

(b) A transfer made under a substantially similar act of another state is governed by the law of that state and may be executed or enforced in this State.

§ -20 **Uniformity of application and construction.** This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

§ -21 **Short title.** This chapter may be cited as the "Hawaii Uniform Custodial Trust Act."

§ -22 **Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 8, 1989.)