

**NEWS ALERT****TRUSTS & ESTATES****With Great Power Comes Great Responsibility:  
Trustee Powers Under Connecticut's New Trust Code**

By Patrick D. Coughlin | December 17, 2019

On July 12, 2019, Governor Lamont signed Public Act 19-137, "An Act Concerning Adoption of the Connecticut Uniform Trust Code," which comprehensively updates the state's trust laws, including the Uniform Trust Code, the Directed Trust Act, and the Connecticut Qualified Dispositions in Trust Act. The Act is effective as of January 1, 2020.

One of the more notable innovations of the Trust Code is its automatic grant of trustee powers. Under current law, a trust agreement must either explicitly state the trustee's powers, or incorporate the (now outdated) Connecticut Fiduciary Powers Act by reference. Thus, if a particular power is omitted, the trustee simply does not have it.

Under the new Trust Code, trustees of both existing and future trusts will generally have much greater authority. Generally, unless the trust<sup>1</sup> says otherwise, a trustee will have all powers "which an unmarried competent owner has over individually owned property,"<sup>2</sup> as well as any power necessary to invest, manage, and distribute the trust property.<sup>3</sup> In addition, the Trust Code details specific powers given to the Trustee by default, meaning they are available, without specific reference in the instrument itself,<sup>4</sup> as long as they are not overridden or expressly excluded.<sup>5</sup>

The new trustee powers are not identical to the ones in the Fiduciary Powers Act, nor should they be, as that act has not been updated in many years. While these changes to fiduciary powers will undoubtedly receive less fanfare than other aspects of the Trust Code, they are important and noteworthy. After this year, a trustee will almost always, automatically, have the broad authority to do almost anything that a trustee might need to do. However, a client will still need to consider whether there are any specific powers that he or she wants to prohibit, or as is more likely, any other powers that need to be added or expanded.

*If you would like more information about the implications of the new Connecticut Uniform Trust Code, please contact one of our attorneys in the Trusts and Estates Department.*

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<sup>1</sup>Trustees of charitable trusts will not have any power that allows deviation from a charitable purpose or violates a restricted gift. Connecticut Public Act 19-37, Section 65(b).

<sup>2</sup>Connecticut Public Act 19-37, Section 65.

<sup>3</sup>Connecticut Public Act 19-37, Section 65.

<sup>4</sup>Connecticut Public Act 19-37, Section 66.

<sup>5</sup>Connecticut Public Act 19-37, Section 66(c).