

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the  
Uniform Fiduciary Income and Principal Act**

UFIPA Section	Section 801
Section Title	<b>Uniformity of Application and Construction</b>
Statutory Language	SECTION 801  In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.
Uniform Law Commission Comments	No comment provided
Current Colorado Law	<u>Uniform Principal and Income Act:</u>  Verbatim provision contained in C.R.S. § 15-1-432.  <u>Colorado Uniform Trust Code:</u>  Slight difference to the above wording at § 15-5-1401:  “In applying and construing <b><u>the language of this article 5 that is consistent with uniform law</u></b> , consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.”
Colorado Subcommittee Comment	
Colorado Subcommittee Recommendation	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the  
Uniform Fiduciary Income and Principal Act**

UFIPA Section	Section 802
Section Title	<b>Relation to Electronic Signatures in Global and National Commerce Act</b>
Statutory Language	SECTION 802  This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).
Uniform Law Commission Comments	No comment provided
Current Colorado Law	<u>Uniform Principal and Income Act:</u>  No corresponding section in existing UPIA.  <u>Colorado Uniform Trust Code:</u>  C.R.S. § 15-5-1402 provides:  “The provisions of this article 5 governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of section 102 of the federal “Electronic Signatures in Global and National Commerce Act,” 15 U.S.C. Sec. 7002, and supersede, modify, and limit the requirements of the federal “Electronic Signatures in Global and National Commerce Act,” 15 U.S.C. sec. 7001 et seq.”  <u>Uniform Powers of Appointment Act</u>  C.R.S. § 15-2.5-602 provides:  “This article modifies, limits, or supersedes the federal “Electronic Signatures in Global and National Commerce Act,” 15 U.S.C. 7001 et seq., but does not modify, limit, or supersede section 101(c) if that act, 15 U.S.C. section 7001(c), or authorize

	<p>electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).</p>
<p>Colorado Subcommittee Comment</p>	<p>15 U.S.C. § 7001 et seq. sets forth the general rule that a document, contract, or other record relating to interstate or foreign commerce shall not be held invalid solely because such document or a signature thereto is in electronic form, as well as the exceptions to that general rule.</p> <p>Section 7001(c) relates to consumer disclosures:</p> <p><b>(c) CONSUMER DISCLOSURES</b></p> <p><b>(1) CONSENT TO ELECTRONIC RECORDS</b> Notwithstanding subsection (a), if a statute, regulation, or other rule of law requires that information relating to a transaction or transactions in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that such information be in writing if—</p> <p><b>(A)</b> the consumer has affirmatively consented to such use and has not withdrawn such consent;</p> <p><b>(B)</b> the consumer, prior to consenting, is provided with a clear and conspicuous statement—</p> <p><b>(i)</b> informing the consumer of <b>(I)</b> any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form, and <b>(II)</b> the right of the consumer to withdraw the consent to have the record provided or made available in an electronic form and of any conditions, consequences (which may include termination of the parties’ relationship), or fees in the event of such withdrawal;</p> <p><b>(ii)</b> informing the consumer of whether the consent applies <b>(I)</b> only to the particular transaction which gave rise to the obligation to provide the record, or <b>(II)</b> to identified categories of records that may be provided or made available during the course of the parties’ relationship;</p> <p><b>(iii)</b> describing the procedures the consumer must use to withdraw consent as provided in clause (i) and to update information needed to contact the consumer electronically; and</p> <p><b>(iv)</b> informing the consumer <b>(I)</b> how, after the consent, the consumer may, upon request, obtain a paper copy of an electronic record, and <b>(II)</b> whether any fee will be charged for such copy;</p> <p><b>(C)</b> the consumer—</p> <p><b>(i)</b> prior to consenting, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and</p> <p><b>(ii)</b> consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent; and</p> <p><b>(D)</b> after the consent of a consumer in accordance with subparagraph (A), if a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that</p>

	<p>the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the person providing the electronic record—</p> <p>(i) provides the consumer with a statement of (I) the revised hardware and software requirements for access to and retention of the electronic records, and (II) the right to withdraw consent without the imposition of any fees for such withdrawal and without the imposition of any condition or consequence that was not disclosed under subparagraph (B)(i); and</p> <p>(ii) again complies with subparagraph (C).</p> <p><b>(2) OTHER RIGHTS</b></p> <p><b>(A) Preservation of consumer protections</b> Nothing in this subchapter affects the content or timing of any disclosure or other record required to be provided or made available to any consumer under any statute, regulation, or other rule of law.</p> <p><b>(B) Verification or acknowledgment</b> If a law that was enacted prior to this chapter expressly requires a record to be provided or made available by a specified method that requires verification or acknowledgment of receipt, the record may be provided or made available electronically only if the method used provides verification or acknowledgment of receipt (whichever is required).</p> <p><b>(3) EFFECT OF FAILURE TO OBTAIN ELECTRONIC CONSENT OR CONFIRMATION OF CONSENT</b> The legal effectiveness, validity, or enforceability of any contract executed by a consumer shall not be denied solely because of the failure to obtain electronic consent or confirmation of consent by that consumer in accordance with paragraph (1)(C)(ii).</p> <p><b>(4) PROSPECTIVE EFFECT</b> Withdrawal of consent by a consumer shall not affect the legal effectiveness, validity, or enforceability of electronic records provided or made available to that consumer in accordance with paragraph (1) prior to implementation of the consumer's withdrawal of consent. A consumer's withdrawal of consent shall be effective within a reasonable period of time after receipt of the withdrawal by the provider of the record. Failure to comply with paragraph (1)(D) may, at the election of the consumer, be treated as a withdrawal of consent for purposes of this paragraph.</p> <p><b>(5) PRIOR CONSENT</b> This subsection does not apply to any records that are provided or made available to a consumer who has consented prior to the effective date of this subchapter to receive such records in electronic form as permitted by any statute, regulation, or other rule of law.</p> <p><b>(6) ORAL COMMUNICATIONS</b> An oral communication or a recording of an oral communication shall not qualify as an electronic record for purposes of this subsection except as otherwise provided under applicable law.</p>
--	--

	<p>Section 7003(b) relates to further exceptions to the general rule respecting electronic signatures:</p> <p><b>(b) ADDITIONAL EXCEPTIONS</b> The provisions of section 7001 of this title shall not apply to—</p> <p><b>(1)</b> court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings;</p> <p><b>(2)</b> any notice of—</p> <p><b>(A)</b> the cancellation or termination of utility services (including water, heat, and power);</p> <p><b>(B)</b> default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;</p> <p><b>(C)</b> the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities); or</p> <p><b>(D)</b> recall of a product, or material failure of a product, that risks endangering health or safety; or</p> <p><b>(3)</b> any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.</p>
<p>Colorado Subcommittee Recommendation</p>	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the  
Uniform Fiduciary Income and Principal Act**

UFIPA Section	Section 803
Section Title	<b>Application to Trust or Estate</b>
Statutory Language	<p>SECTION 803</p> <p><del>This [act] applies to a trust or estate existing or created on or after [the effective date of this [act]], except as otherwise expressly provided in the terms of the trust or this [act].</del></p> <p>EXCEPT AS PROVIDED IN THE TERMS OF THE TRUST AND THIS SECTION 803, THIS ACT SHALL TAKE EFFECT ON THE EFFECTIVE DATE.</p> <p>(1) THIS [ACT] SHALL NOT APPLY TO A TRUST ESTABLISHED UNDER A WILL OR TRUST AGREEMENT EXISTING AND IRREVOCABLE ON JULY 1, 2001, IF A TRUSTEE OF THE TRUST HAS ELECTED TO APPLY THE "UNIFORM PRINCIPAL AND INCOME ACT" OF THIS STATE IN EFFECT ON JUNE 30, 2001.</p> <p>(2) THIS [ACT] SHALL NOT APPLY TO A TRUST EXISTING ON JULY 1, 2001, IN WHICH NO TRUSTEE HAD THE AUTHORITY TO ACT UNDER SECTION 15-1-404 OF THE UNIFORM PRINCIPAL AND INCOME ACT EFFECTIVE JULY 1, 2001, UNLESS A TRUSTEE OF THE TRUST ELECTED TO APPLY THE UNIFORM PRINCIPAL AND INCOME ACT AS IT EXISTED AFTER JULY 1, 2001, AS AMENDED.</p> <p>(3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THIS [ACT] SUBPARTS 1 THROUGH 6 OF THIS PART 4 SHALL NOT APPLY TO ANY TRUST OR DECEDENT'S ESTATE EXISTING ON THE EFFECTIVE DATE, IN WHICH NO FIDUCIARY HAS THE AUTHORITY TO ACT UNDER SECTION 203 SECTION 15-1-404 UNLESS A FIDUCIARY ELECTS TO APPLY SUBPARTS 1 THROUGH 7 OF THIS PART 4. THE LAW IN EFFECT IN COLORADO AS OF JUNE 30, 2001 WILL APPLY TO THIS THE TRUST OR ESTATE UNLESS A FIDUCIARY MAKES SUCH</p>

	<p>ELECTION. THE FIDUCIARY MAY MAKE THIS ELECTION AT ANY TIME.</p> <p>(4) ONCE AN ELECTION IS MADE PURSUANT TO THIS SECTION, THE ELECTION SHALL BE IRREVOCABLE. THE FIDUCIARY SHALL GIVE NOTICE OF SUCH AN ELECTION TO THE BENEFICIARIES OF THE TRUST IN ACCORDANCE WITH SECTION 204. IF SUCH NOTICE COMPLIES WITH SECTION 204, THE PROVISIONS OF SAID SECTION SHALL APPLY TO SUCH ELECTION.</p>
<p>Uniform Law Commission Comments</p>	<p>No comment provided</p>
<p>Current Colorado Law</p>	<p><u>Uniform Principal and Income Act:</u></p> <p>C.R.S. § 15-1-435 provides:</p> <p>(1) Section 15-1-421.5 shall apply to all trusts and estates executed on or after July 1, 2009, unless the qualified beneficiaries elect not to apply said section.</p> <p>(2) The provisions of section 15-1-421.5 shall not apply to the determination of income from the disposition of natural resources in a trust or estate created before July 1, 2009, unless the qualified beneficiaries elect to apply section 15-1-421.5 as provided in this section.</p> <p>(3) If the qualified beneficiaries elect under subsection (1) or (2) of this section, notice of the election to apply or not to apply section 15-1-421.5 shall be given by the trustee in accordance with section 15-1-405, and the provisions of such section shall apply to the election.</p> <p>(4) An election to apply section 15-1-421.5 is irrevocable.</p> <p>C.R.S. § 15-1-436 provides:</p> <p>(1) Section 15-1-419, as amended by Senate Bill 09-139, enacted in 2009, applies to a trust described in section 15-1-419(4) on and after the following dates:</p> <p>(a) If the trust is not funded as of April 16, 2009, the date of the decedent's death;</p> <p>(b) If the trust is initially funded in the calendar year beginning January 1, 2009, the date of the decedent's death; or</p> <p>(c) If the trust is not described in either paragraph (a) or (b) of this subsection (1), January 1, 2009.</p> <p><u>Colorado Uniform Trust Code:</u></p>

	<p>C.R.S. § 15-5-1404 provides:</p> <p>(1) Except as otherwise provided in this article 5, on January 1, 2019:</p> <p>(a) This article 5 applies to all trusts created before, on, or after January 1, 2019;</p> <p>(b) This article 5 applies to all judicial proceedings concerning trusts commenced on or after January 1, 2019;</p> <p>(c) This article 5 applies to judicial proceedings concerning trusts commenced before January 1, 2019, unless the court finds that application of a particular provision of this article 5 would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of this article 5 does not apply and the superseded law applies;</p> <p>(d) Any rule of construction or presumption provided in this article 5 applies to trust instruments executed before January 1, 2019, unless there is a clear indication of a contrary intent in the terms of the trust; and</p> <p>(e) An act done before January 1, 2019, is not affected by this article 5.</p> <p>(2) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run pursuant to any other statute before January 1, 2019, then the period prescribed by that statute as it existed prior to January 1, 2019, continues to apply to the right, even if the statute has been repealed or suspended.</p>
<p>Colorado Subcommittee Comment</p>	
<p>Colorado Subcommittee Recommendation</p>	



**Colorado T&E Section Statutory Revisions Committee Subcommittee on the  
Uniform Fiduciary Income and Principal Act**

UFIPA Section	Section 804
Section Title	<b>Severability</b>
Statutory Language	SECTION 804  [If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]
Uniform Law Commission Comments	No comment provided; Legislative note provides:  Include this section only if the state lacks a general severability statute or a decision by the highest court of the state stating a general rule of severability.
Current Colorado Law	Colorado’s uniform laws tend to include severability language.  <u>Uniform Principal and Income Act:</u>  C.R.S. § 15-1-433: “If any provision of subparts 1 through 6 of this part 4 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of subparts 1 through 6 of this part 4 that can be given effect without the invalid provision or application, and to this end the provisions of subparts 1 through 6 of this part 4 are severable.”  <u>Colorado Uniform Trust Code:</u>  C.R.S. § 15-5-1403: “If any provision of this article 5 or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions of applications of this article 5 that can be given effect without the invalid provision or application, and to this end the provisions of this article 5 are severable.”
Colorado Subcommittee Comment	
Colorado Subcommittee Recommendation	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the  
Uniform Fiduciary Income and Principal Act**

UFIPA Section	Section 805
Section Title	<b>Repeals; Conforming Amendments</b>
Statutory Language	SECTION 805  THIS [ACT] REPEALS §§ 15-1-401 THROUGH 15-1-467, C.R.S.
Uniform Law Commission Comments	No comment provided; Legislative note provides:  A state that has enacted a previous version of the Uniform Principal and Income Act or another statute addressing principal and income should consider repealing that statute or amending that statute to make it effective only before the effective date of this act. A state that has enacted a separate statute permitting conversion of trusts to unitrusts or otherwise addressing unitrusts as in Article 3 of this act, or has enacted other statutes addressing the issues addressed by this act, should consider repealing those statutes or amending those statutes to make them effective only before the effective date of this act.
Current Colorado Law	
Colorado Subcommittee Comment	
Colorado Subcommittee Recommendation	

**Colorado T&E Section Statutory Revisions Committee Subcommittee on the  
Uniform Fiduciary Income and Principal Act**

UFIPA Section	Section 806
Section Title	<b>Effective Date</b>
Statutory Language	SECTION 806  This [act] takes effect on <u>JULY 21, 2021</u> .
Uniform Law Commission Comments	No comment provided
Current Colorado Law	<u><i>Uniform Principal and Income Act:</i></u>  UPIA has an assortment of effective dates (C.R.S. § 15-1-434): 1) Subparts 1 through 6 of this part 4 shall take effect July 1, 2001. (2) Subparts 1 through 6 of this part 4 shall apply to every trust or decedent's estate existing on and after July 1, 2001, except as otherwise expressly provided in the will or terms of the trust or in subparts 1 through 6 of this part 4. For each trust established under a will or trust agreement existing and irrevocable on July 1, 2001, the trustee may elect to apply the “Uniform Principal and Income Act” of this state in effect on June 30, 2001. The trustee shall make such election by July 1, 2002. (3) Notwithstanding the provisions of subsection (2) of this section, subparts 1 through 6 of this part 4 shall not apply to any trust or decedent's estate existing on July 1, 2001, in which no trustee has the authority to act under section 15-1-404 unless the trustees elect to apply subparts 1 through 6 of this part 4. The trustees may make this election at any time. (4) Once an election is made pursuant to this section, the election shall be irrevocable. The trustee shall give notice of such an election to the beneficiaries of the trust in accordance with section 15-1-405. If such notice complies with section 15-1-405, the provisions of said section shall apply to such election.  <u><i>Colorado Uniform Trust Code:</i></u>  The CUTC does not contain an “effective date” provision.
Colorado Subcommittee Comment	
Colorado Subcommittee Recommendation	