

[Article]	Section	Discussed	Approved	Changes to, or Selection of, UFIPA Language of 1/25/19	References to Colorado Law	Notes
1. General Provisions	101. Short Title	5/17/18	5/17/18			<p>The ULC promulgated the <i>Principal and Income Act</i> in 1931 [<i>1931 UPIA</i>.] Colorado enacted the <i>1931 UPIA</i> in 1955 [<i>1955 Act</i>.]</p> <p>The ULC promulgated a revised <i>Uniform and Principal Income Act</i> in 1962. Colorado did not adopt the <i>1962 UPIA</i>.</p> <p>The ULC revised and reorganized (into six parts) the 1931 and 1962 <i>Acts</i> in 1997 [<i>1997 UPIA</i>.] Colorado enacted the <i>1997 UPIA</i> in 2000 [<i>2000 Act</i>.] At the same time, Colorado repealed the <i>1955 Act (The 1931 UPIA)</i>.</p> <p>In 2009, Colorado reenacted the <i>1955 Act</i> as Part 7 of the <i>2000 Act</i>.</p>
	102. Definitions	UPIA = Uniform Principal & Income Act; CPC = CO Probate Code; CUTDA = CO Uniform Trust Decanting Act; CUTC = CO Uniform Trust Code; RUFADAA = Revised Uniform Fiduciary Access to Digital Assets Act; UDPIA = Uniform Disclaimer of Property Interests Act; UPOAA = Uniform Powers of Appointment Act				
	1. Accounting Period	5/17/18	5/17/18		§ 15-1-402(1)	UPIA
	2. Asset-backed Securities	10/18/18: Wait to Discuss and to Vote 3/4/20: Approved			§ 15-1-425(1)	UPIA
	3. Beneficiary	5/17/18: Wait to Vote. Committee favors retaining “legatee” because other states may use the term. UFIPA applies to more than Wills and Trusts (life estates). 4/1/20: Approved 8/5/20: 102(3)(B) changed to “for an estate, an heir, legatee, and devisee.” 102(3)(C) changed to “Reserved”			§ 15-1-402(2) § 15-10-201(5) § 15-16-902(4) § 15-5-103(4)	UPIA, CPC, CUTDA, CUTC
	4. Court	5/17/18: Wait to Vote. We need a definition of “court” in UFIPA because UFIPA will not be in the CPC. 3/4/20: Approved 8/5/20: changed to ““Court” means the court in this state having jurisdiction relating to a trust, OR estate.”			§ 15-10-201(10) § 15-16-902(8) § 15-1-502(7)	CPC, CUTDA, RUFADAA
	5. Current Income Beneficiary	5/17/18: Wait to Vote. CO’s definition in CUTC was drawn from UPIA. 4/1/20: Approved			§ 15-1-402 § 15-16-902(9)	UPIA, CUTDA

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	6. Distribution	5/17/18: Wait to Vote. "Distribution" is not defined in the UTC, and its definition in the CPC refers to testamentary trusts. 4/1/20: Approved			§ 15-10-201(15)	CPC
	7. Estate	5/17/18: Wait to Vote. 4/1/20: Approved			§ 15-10-201(17)	CPC
	8. Fiduciary	5/17/18: Wait to Vote. Discussion re: whether a life tenant is traditionally a fiduciary? <ul style="list-style-type: none"> Possibly, because intent of UFIPA is broad application to be able to allocate between income and principal. Perhaps cabin the definition of "fiduciary" to UFIPA? Appears to be consistent with C.R.S. 15-10-501 judicial toolbox to determine standing for fiduciary oversight. Possible definitions too in C.R.S. 15-10-601, C.R.S. 15-1-103(2). Possible relationship with UFIPA Section 102, para. 2, (D). 4/1/20: Approved 8/14/20: Approved without life tenant, holder of term interest			§ 15-1-103(2) § 15-10-201(19) § 15-1-402(3) § 15-10-501(3) § 15-10-601(2) § 15-16-902(3) § 15-1-1502(14) § 15-11-1202(4)	CPC, UPIA, CUTDA, RUFADAA, UDPIA
	9. Income	5/17/18: Wait to Vote. "Current return" includes proceeds from sale of something; may include mineral rights. 4/1/20: Approved			§ 15-1-402(4) § 15-1-453(1)(b)	UPIA & UPIA of 1955
	10. Income Interest	5/17/18: Wait to Vote. 4/1/20: Approved			§ 15-1-402	UPIA
	11. Independent Person	5/17/18: Wait to Vote. No issues with (A) or (B). Need to see what independent person can do under other UFIPA sections. 4/1/20: Approved			--	This section seems to track IRC §672 (c) and Treas. Regs.
	12. Mandatory Income Interest	5/17/18: Wait to Vote. 4/1/20: Approved			§ 15-1-402(7)	UPIA
	13. Net Income	5/17/18: Wait to vote until after Articles 2 and 3. There appears to be no adjustment from income to principal. 4/1/20: Approved			§ 15-1-402(8) § 15-1-453(1)(c)	UPIA & UPIA of 1955
	14. Person	5/17/18 8/16/18	8/16/18		§ 15-10-201(38) § 15-1-402(9) § 15-2.5-102(9) § 15-16-902(16) § 15-1-1502(17) § 15-5-103(13)	CPC, UPIA, UPOAA, CUTDA, RUFADAA, CUTC

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	15. Personal Representative	8/16/18	8/16/18		§ 15-10-201 § 15-1-1502	CPC, RUFADAA
	16. Principal	8/16/18	8/16/18		§ 15-1-402(10)	UPIA
	17. Record	8/16/18	8/16/18		§ 15-10-201(44.5) § 15-2.5-102(16) § 15-16-902(22) § 15-1-1502(22)	CPC, UPOAA, CUTDA, RUFADAA
	18. Settlor	8/16/18: Wait to vote, but reserving approval. Wait to see how “part” is used in UFIPA, and revisit use of “portion.” 4/1/20: Approved			§ 15-16-501(1) § 15-16-902(25) § 15-1-103(18)	Insurable Interest of Trustee, CUTDA, CUTC
	19. Special Tax Benefit	10/18/18: Wait to discuss and vote. 4/1/20: Approved			§ 15-16-919(1)	CUTDA
	20. Successive Interest	10/18/18	10/18/18		§ 15-1-408(3)	UPIA
	21. Successor Beneficiary	8/16/18: Wait to vote, but reserving approval because UFIPA uses the word “entitled” rather than the term “eligible.” The issue is whether “eligible” would be a better word. 4/1/20: Approved			§ 15-1-402(11) § 15-1-453(1)(e)	UPIA & UPIA of 1955
	22. Terms of Trust	9/20/18	9/20/18 & 10/18/18 8/5/20	102(22)(B)(iii) adds “ <u>section 15-5-111 CRS;</u> ” 102(22)(B)(iv) adds “ <u>by alternative dispute resolution under section 15-5-113;</u> ” 102(22)(C) changed to “for an estate, or a will.” 102(22)(D) “Reserved”	§ 15-1-402(12) § 15-2.5-102(19) § 15-16-902(28) § 15-5-103(21)	UPIA, UPOAA, CUTDA, CUTC
	23. Trust	9/20/18	9/20/18		§ 15-10-201(56)	CPC
	24. Trustee	9/20/18	9/20/18		§ 15-10-201(57) § 15-1-402(13) § 15-1-453(1)(g) § 15-16-902(3) § 15-1-1502(25) § 15-5-103(23)	CPC, UPIA, UPIA of 1955, RUFADAA, CUTC
	25. Will	9/20/18	9/20/18		§ 15-10-201(59) § 15-1-1502(27)	CPC, RUFADAA

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	103. Scope	9/20/18	9/20/18 & 10/18/18 8/5/20	Except as otherwise provided in the terms of a trust, A WILL or this [act], this [act] applies to: (1) a trust or estate; and (2) RESERVED.	§ 15-1-434 § 15-1-454 § 15-1-455 § 15-16-903	1997 UPIA
	104. Governing law	9/20/18	9/20/18 & 8/5/20	Except as otherwise provided in the terms of a trust or this [act], this [act] applies when this state is the principal place of administration of a trust or estate. By accepting the trusteeship of a trust having its principal place of administration in this state or by moving the principal place of administration to this state, the trustee submits to the application of this [act] to any matter within the scope of this [act] involving the trust.	§ 15-16-905	CUTDA, Tentative Directed Trust Act
2. Fiduciary Duties and Judicial Review	201. Fiduciary Duties; General Principles	9/20/18 10/18/18	10/18/18		§ 15-1-403 § 15-1-402(12) § 15-5-105(2)(b) § 15-5-801 § 15-5-103(21)	See Santa Fe for Colorado Subcommittee Comments
	202. Judicial Review of Exercise of Discretionary Power[; Request for Instruction]	10/18/18 11/15/18	11/15/18: to add to 202(c) 12/20/18: Final	202(c) adds “including Uniform Trust Code Section 1001 and Part 5 of Article 10 of Title 15, C.R.S. ”	§ 15-1-403 § 15-1-404(7) § 15-1-404.5(7) § 15-5-201 § 15-5-814 § 15-5-1001	No counterpart of “fiduciary decision” in the current UPIA.
	203. Fiduciary’s Power to Adjust	11/15/18 12/20/18 2/6/19 4/3/19	2/6/19: 203(k)(1) & (2)	203(i) UFIPA wording 203(k)(1) changes “UTC Section 813(c)” to “ CUTC 813(1) ” 203(k)(2) changed to: “Communicated at least annually	§ 15-1-404	UPIA; See Santa Fe and minutes for discussion of “forbid,” “prohibit,” and

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			4/3/19 & 5/1/19: 203(i)	to the qualified beneficiaries determined under CUTC Section 103(16), including the Attorney General when applicable. ”		return to UFIPA wording for 203(i)
New	204. Notice of Action	5/6/20 8/5/20	8/14/20	See discussion of 602 & below	§ 15-1-405	
3. Unitrust	301. Definitions	2/6/19 3/6/19	3/6/19		§ 15-1-404.5(10) § 15-1-404.5(4.5) § 15-1-402(10.5)	
	302. Application; Duties and Remedies	3/6/19 4/3/19		3/6/19: Passed, subject to issue of consistency between 203(i) & 302(d) 4/3/19: Approved with consistency of 302(d) with CUTC language & 203(i)	§ 15-1-404.5(1) § 15-1-404.5(13)(b) § 15-1-404.5(9) § 15-1-404.5(14) § 15-1-404.5(3)(d)(ii) § 15-1-404.5(11) § 15-1-404.5(12)	
	303. Authority of Fiduciary	3/6/19 4/3/19	4/3/19		§ 15-1-404.5(1) § 15-1-404.5(2) § 15-1-404.5(3) § 15-1-404.5(5) § 15-1-404.5(10) § 15-1-404.5(6)	
	304. Notice	4/3/19 5/1/19 11/6/19	4/3/19	See p. 9 below for Section 304 as approved without brackets for optional text.	§ 15-1-404.5(1)	
	305. Unitrust Policy	4/3/19	Read 305 – 309 together.		§ 15-1-404.5(5)	
	306. Unitrust Rate	4/3/19 5/1/19			§ 15-1-404.5(2) § 15-1-404.5(4)	
	307. Applicable Value	4/3/19 5/1/19	5/1/19: Approved Article 3 subject to ordering rule		§ 15-1-404.5(5)	
	308. Period	4/3/19 5/1/19			§ 15-1-404.5(4.5)(b) § 15-1-404.5(5)	
	309. Special Tax Benefits; Other Rules	4/3/19 5/1/19 8/7/19		309 adds new (c):	§ 15.1.404.5(g)(iii)(B) § 15-1-404.5(5)	

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			11/6/19: Approved 309 with ordering rule in 309(c)	<p><u>“(c) Unless otherwise provided by the terms of unitrust policy or the terms of the trust, the distribution amount each year shall be deemed to be paid from the following sources for that year in the following order:</u></p> <p><u>(1) Net income determined as if the trust was not a unitrust;</u></p> <p><u>(2) Other ordinary income as determined for federal income tax purposes;</u></p> <p><u>(3) Net realized short-term capital gains as determined for federal income tax purposes;</u></p> <p><u>(4) Net realized long-term capital gains as determined for federal income tax purposes;</u></p> <p><u>(5) Trust principal comprising assets for which there is a readily available market value; and</u></p> <p><u>(6) Other trust principal.”</u></p>		
4. Allocation of Receipts: Part 1. Receipts from Entity	401. Character of Receipts from Entity	2/6/19 5/1/19	5/1/19		§ 15-1-411 § 15-1-456(2) § 15-1-458(3) & (6)	UPIA & UPIA of 1955 lack some UFIPA definitions
	402. Distribution from Trust or Estate	8/7/19	8/7/19		§ 15-1-412 § 15-1-467(4) § 15-1-453	UPIA & UPIA of 1955
	403. Business or Other Activity Conducted by Fiduciary	8/7/19	8/7/19		§ 15-1-413(2) § 15-1-460	UPIA & UPIA of 1955

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4. Allocation of Receipts: Part 2. Receipts Not Normally Apportioned	404. Principal Receipts	8/7/19	8/7/19		§ 15-1-414 § 15-1-456 § 15-1-457	UPIA & UPIA of 1955
	405. Rental Property	8/7/19	8/7/19		§ 15-1-415 § 15-1-456	UPIA & UPIA of 1955
	406. Receipt on Obligation to be Paid in Money	8/7/19	8/7/19		§ 15-1-416 § 15-1-456	UPIA & UPIA of 1955
	407. Insurance Policy or Contract	8/7/19	8/7/19		§ 15-1-417 § 15-1-456	UPIA & UPIA of 1955
4. Allocation of Receipts: Part 3. Receipts Normally Apportioned	408. Insubstantial Allocation Not Required	9/4/19	9/4/19		§ 15-1-418	UPIA
	409. Deferred Compensation, Annuity, or Similar Payment	9/4/19	9/4/19	use “ 26 U.S.C. Section 7520 as amended ” throughout, and 409(b)(2) set at 4 percent	§ 15-1-419	UPIA
	410. Liquidating Asset	9/4/19	9/4/19		§ 15-1-420	UPIA
	411. Minerals, Water, and Other Natural Resources	10/2/19 11/6/19	10/2/19: Tentative approval 11/6/19: Final approval		§ 15-1-420 § 15-1-421.5	UPIA
	412. Timber	9/4/19	9/4/19		§ 15-1-422	UPIA
	413. Marital Deduction Property Not Productive of Income	10/2/19	10/2/19		§ 15-1-423	UPIA
	414. Derivative or Option	11/6/19	11/6/19		§ 15-1-424	UPIA
	415. Asset-backed Security	11/6/19	11/6/19		§ 15-1-425	UPIA
	416. Other Financial Instrument or Arrangement	11/6/19	11/6/19		--	
5. Allocation of Disbursements	501. Disbursement from Income	11/6/19	11/6/19		§ 15-1-426	UPIA
	502. Disbursement from Principal	12/4/19	12/4/19		§ 15-1-427	UPIA
	503. Transfer from Income to Principal for Depreciation	12/4/19	12/4/19		§ 15-1-428	UPIA

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	504. Reimbursement of Income from Principal	12/4/19	12/4/19		--	
	505. Reimbursement of Principal from Income	12/4/19	12/4/19		§ 15-1-429	UPIA
	506. Income Taxes	12/4/19	12/4/19	506(c)(1): Latest UFIPA wording of 1/25/19 approved	§ 15-1-430	UPIA
	507. Adjustment Between Income and Principal Because of Taxes	12/4/19	12/4/19	507(a)(2): Latest UFIPA wording of 1/25/19 approved	§ 15-1-431	UPIA
6. Death of Individual or Termination of Income Interest	601. Determination and Distribution of Net Income	12/4/19 2/5/20 3/4/20 4/1/20 5/6/20	5/6/20	601(e) changed to "Reserved"	§ 15-12-904 § 15-1-406	CPC, UPIA
	602. Distribution to Successor Beneficiary	2/5/20 3/4/20 4/1/20 5/6/20	5/6/20	Add 204 Notice of Fiduciary Action	§ 15-1-407	UPIA
7. Apportionment at Beginning and End of Income Interest	701. When right to Income Begins and Ends	3/4/20	3/4/20			
	702. Apportionment of Receipts and Disbursement When Decedent Dies or Income Interest Begins	3/4/20	3/4/20			
	703. Apportionment When Income Interest Ends	3/4/20	3/4/20			
8. Miscellaneous Provisions	801. Uniformity of Application and Construction	2/5/20	2/5/20		§ 15-1-432 § 15-5-1401	UPIA, CUTC
	802. Relation to Electronic Signatures in Global and National Commerce Act	2/5/20	2/5/20		§ 15-5-1402 § 15-2.5-602	UPIA, CUTC, UPOAA

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	803. Application to Trust or Estate	2/5/20 4/1/20 5/6/20	8/14/20	See below	§ 15-1-435 § 15-1-436 § 15-5-1404	UPIA, CUTC
	[804. Severability]	2/5/20			§ 15-1-433 § 15-5-1403	UPIA, CUTC
	805. Repeals; Conforming Amendments	2/5/20 4/1/20	8/14/20	(a) This [act] repeals §§ 15-1-401 through 15-1-467, C.R.S.	--	
	806. Effective Date	2/5/20 4/1/20	8/14/20	This [act] takes effect July 1, 2021.	§ 15-1-434	UPIA

New 204 – NOTICE OF ACTION

(1) IN THIS SECTION, THE FOLLOWING DEFINITIONS APPLY:

(A) “QUALIFIED BENEFICIARY” HAS THE MEANING SET FORTH IN SUBSECTION 15-5-103(16).

(B) “OBJECTION PERIOD” HAS THE MEANING SET FORTH IN SECTION 304(D)(5).

(2) A FIDUCIARY MAY GIVE A NOTICE OF PROPOSED ACTION REGARDING A MATTER GOVERNED BY SUBPARTS 1 THROUGH 8 OF THIS PART [4] AS PROVIDED IN THIS SECTION. FOR THE PURPOSE OF THIS SECTION, A PROPOSED ACTION INCLUDES A COURSE OF ACTION AND A DECISION NOT TO TAKE ACTION.

(3) THE FIDUCIARY SHALL MAIL NOTICE OF THE PROPOSED ACTION TO ALL QUALIFIED BENEFICIARIES AND THE FIDUCIARY MAY GIVE NOTICE TO OTHER BENEFICIARIES. A BENEFICIARY SHALL BE BOUND UNDER THIS SECTION WITH RESPECT TO SUCH PROPOSED ACTION IF THE BENEFICIARY RECEIVES ACTUAL NOTICE OR IF THE BENEFICIARY WOULD BE BOUND UNDER THE PROVISIONS OF TITLE 15, ARTICLE 5, PART 3.

(4) NOTICE OF PROPOSED ACTION NEED NOT BE GIVEN TO ANY BENEFICIARY WHO CONSENTS IN WRITING TO THE PROPOSED ACTION. THE CONSENT MAY BE EXECUTED AT ANY TIME BEFORE OR AFTER THE PROPOSED ACTION IS TAKEN.

(5) THE NOTICE OF PROPOSED ACTION SHALL STATE THAT IT IS GIVEN PURSUANT TO THIS SECTION AND SHALL FOLLOW THE PROCEDURES SET OUT IN SECTION 304 REGARDING NOTICE.

(6) A BENEFICIARY MAY OBJECT TO THE PROPOSED ACTION BY MAILING A WRITTEN OBJECTION TO THE FIDUCIARY AT THE ADDRESS STATED IN THE NOTICE OF PROPOSED ACTION WITHIN THE OBJECTION PERIOD.

(7) A FIDUCIARY IS NOT LIABLE TO A BENEFICIARY TO WHOM NOTICE IS GIVEN FOR AN ACTION REGARDING A MATTER GOVERNED BY THIS PART IF THE FIDUCIARY DOES NOT RECEIVE A WRITTEN OBJECTION TO THE PROPOSED ACTION FROM THE BENEFICIARY WITHIN THE OBJECTION PERIOD AND THE OTHER REQUIREMENTS OF THIS SECTION ARE SATISFIED. IF NO BENEFICIARY WHO RECEIVES NOTICE OBJECTS UNDER THIS SECTION, THE FIDUCIARY IS NOT LIABLE TO THE BENEFICIARIES RECEIVING NOTICE WITH RESPECT TO THE PROPOSED ACTION.

(8) IF THE FIDUCIARY RECEIVES A WRITTEN OBJECTION WITHIN THE OBJECTION PERIOD, EITHER THE FIDUCIARY OR A BENEFICIARY MAY PETITION THE COURT TO HAVE THE PROPOSED ACTION PERFORMED AS PROPOSED, PERFORMED WITH MODIFICATIONS, OR DENIED. IN THE PROCEEDING, A BENEFICIARY OBJECTING TO THE PROPOSED ACTION HAS THE BURDEN OF PROVING THAT THE FIDUCIARY'S PROPOSED ACTION SHOULD NOT BE PERFORMED. A BENEFICIARY WHO HAS NOT OBJECTED IS NOT ESTOPPED FROM OPPOSING THE PROPOSED ACTION IN THE PROCEEDING. IF THE FIDUCIARY DECIDES NOT TO IMPLEMENT THE PROPOSED ACTION, THE FIDUCIARY SHALL NOTIFY THE BENEFICIARIES OF THE DECISION NOT TO TAKE THE ACTION AND THE REASONS FOR THE DECISION, AND THE FIDUCIARY'S DECISION NOT TO IMPLEMENT THE PROPOSED ACTION DOES NOT ITSELF GIVE RISE TO LIABILITY TO ANY BENEFICIARY. A BENEFICIARY MAY PETITION THE COURT TO HAVE THE ACTION PERFORMED, AND HAS THE BURDEN OF PROVING THAT IT SHOULD BE PERFORMED.

SECTION 304. NOTICE.

(a) A notice required by Section 303(b)(2) must be sent in a manner authorized under CRS 15-5-1-109 to:

- (1) the qualified beneficiaries determined under CRS 15-5-103(16) other than the Attorney General; and
- (2) each person acting as trust director of the trust under the Colorado Uniform Directed Trust Act; and
- (3) each person that is granted a power by the terms of the trust to appoint or remove a trustee or person described in paragraph (2), to the

extent the power is exercisable when the person that exercises the power is not then serving as a trustee or person described in paragraph (2).

(b) The representation provisions of 15-5-301 through 15-5-305 apply to notice under this section.

(c) A person may consent in a record at any time to action proposed under Section 303(b)(2). A notice required by Section 303(b)(2) need not be sent to a person that consents under this subsection.

(d) A notice required by Section 303(b)(2) must include:

- (1) the action proposed under Section 303(b)(2);
- (2) for a conversion of an income trust to a unitrust, a copy of the unitrust policy adopted under Section 303(a)(1);
- (3) for a change in the percentage or method used to calculate the unitrust amount, a copy of the unitrust policy or amendment or

replacement of the unitrust policy adopted under Section 303(a)(2);

(4) a statement that the person to which the notice is sent may object to the proposed action by stating in a record the basis for the objection and sending or delivering the record to the fiduciary;

(5) the date by which an objection under paragraph (4) must be received by the fiduciary, which must be at least 30 days after the date the notice is sent;

(6) the date on which the action is proposed to be taken and the date on which the action is proposed to take effect;

(7) the name and contact information of the fiduciary; and

(8) the name and contact information of a person that may be contacted for additional information.

Legislative Note:

A United States Code citation (U.S.C.) follows a reference to the federal Internal Revenue Code in subsection (a)(2)(B)(iii). The United States Code citation is included as an aid to the reader. If the state's convention is to omit the United States Code citation, simply delete the United States Code citation. In states in which the constitution, or other law, does not permit the phrase "as amended" when federal statutes are incorporated into state law, the phrase should be omitted.

803, Application to Trust or Estate

EXCEPT AS PROVIDED IN THE TERMS OF THE TRUST AND THIS SECTION 803, THIS ACT SHALL TAKE EFFECT ON THE EFFECTIVE DATE.

(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.

(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.

(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 ELECTION. THE FIDUCIARY MAY MAKE THIS ELECTION AT ANY TIME.

(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.