

Hamilton County LAW LIBRARY NEWS

Professional legal information, resources, and services

A Monthly Newsletter from the Hamilton County Law Library

July 2014

Kentucky Adopts Uniform Trust Code

By Timothy W. Dunn and M. Todd Lewis of Frost, Brown, Todd LLC. Reprinted with permission.

On April 7, 2014, Governor Beshear signed into law HB 78, which caused Kentucky to join twenty-seven other states and the District of Columbia in the adoption of the Uniform Trust Code (the "UTC"). Kentucky's adoption of the UTC makes the rules related to trust administration more similar to those in surrounding states (e.g., Ohio, Tennessee, West Virginia and Indiana, which have adopted various portions of the UTC in recent years), and it represents a substantial change to the trust law in Kentucky. In general, the UTC, among other things, (i) contains specific in-court and out-of-court procedures for terminating/modifying outdated or inflexible irrevocable trusts, (ii) more specifically defines the respective rights and duties of trustees and beneficiaries, (iii) provides statutory authority for the principles of virtual representation, and (iv) provides an extensive list of definitions applicable to the new Chapter 386B of the Kentucky Revised Statutes.

Following are a few of the specific changes to Kentucky trust law that will occur when Kentucky's version of the UTC becomes effective on July 15, 2014:

The rules set forth in the UTC will apply to all types of express trusts – inter vivos, testamentary, written and oral – irrespective of when those trusts were created.

The District Court and Circuit Court will have concurrent jurisdiction with respect to all trust matters, unless a statute provides one court with exclusive jurisdiction.

The District Court will have specific statutory authority to adjust a trustee's compensation if (i) the duties of the trustee have changed significantly since the trust was created or

Inside this issue:

Kentucky Adopts Uniform Trust Code	1
Tech Tip: Westlaw Treatises with Forms	2
Junk Food Information Diet	3
Banking Law Resources	5
You and the Legal System: Bankruptcy	6
Contract Resources	7

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[www.http://www.hamilton-co.org/cinlawlib/](http://www.hamilton-co.org/cinlawlib/)

(Continued on page 4)

Tech Tip: Treatises Available in Westlaw with Forms

By: Julie Koehne, Assistant Law Librarian, Systems

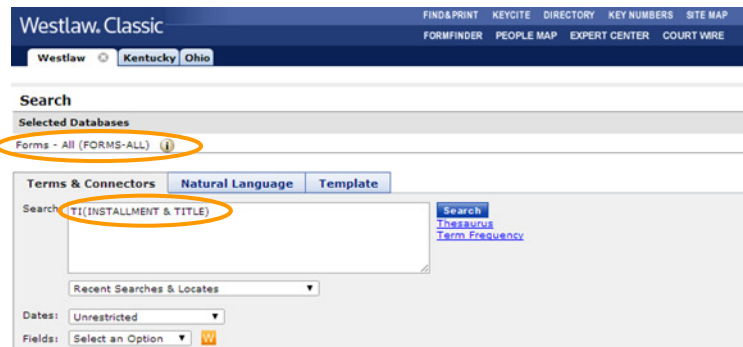
- | | |
|--|--|
| Advising Small Businesses: Forms | Municipal Legal Forms |
| Alternative Dispute Resolution | Nichol's Cyclopedic of Federal Procedure Forms |
| Am Jur Legal Forms 2d - Federal Tax Guide to Legal Forms | Nichols Cyclopedic of Legal Forms Annotated |
| American Jurisprudence Legal Forms 2d | Ohio Condominium Law |
| American Jurisprudence Pleading and Practice Forms Annotated | Ohio Forms and Transactions |
| Business Counselor's Law and Compliance Practice Manual | Ohio Forms Legal and Business |
| Commercial Real Estate Forms 3d | Ohio Forms: Business & Commercial |
| Drinking/Driving Trial Notebook | Ohio Jurisprudence Pleading and Practice Forms |
| Eckstrom's Licensing in Foreign and Domestic Operations | Ohio Legal & Business Forms - Real Property |
| Employment Law Checklists and Forms | Ohio Legal and Business & Pleading and Practice Forms Combined |
| Environmental Insurance Litigation: Practice Forms | Ohio Legal Forms - Estate Planning & Probate |
| Federal Postconviction Remedies and Relief Handbook with Forms | Ohio/National Transactional Forms |
| Federal Procedural Forms | Patent Law Practice Forms |
| Fletcher Corporation Forms Annotated | Patent Official Forms |
| Forms for Small Business Entities | Personal Injury Forms: Illinois |
| Handbook of Personal Injury Forms and Litigation Materials | Real Estate Leasing Practice Manual |
| Handling Motor Vehicle Accident Cases: Treatise and Forms, 2d | Real Estate Transactions - Structure and Analysis with Forms |
| Handling the Land Use Case Land Use Law, Practice & Forms | Securities Regulation Forms |
| Herzog's Bankruptcy Forms and Practice | Trademark Law Practice Forms, 2d |
| Housing Discrimination Practice Manual | UCC Legal Forms |
| Kentucky Forms & Transactions | UCC Pleading and Practice Forms |
| Kentucky/National Transactional Forms | Uniform Commercial Code Official National Forms |
| Lane's Goldstein Litigation Forms | West Legal Forms - Elder Law |
| Lindley on Entertainment, Publishing and the Arts, 3d | West's Federal Forms |
| McGaffey Legal Forms with Tax Analysis | West's Legal Forms |
| McKinney's Forms - Employment Law | West's McKinney's Forms |
| McKinney's Forms Multibase - Environmental Law | White Collar Crime |
| Multimedia and Technology Licensing Agreements | Williston on Contracts 4th - Forms |

We also have the **Baldwin's Ohio Series treatises** that have topic-specific forms.

Using the **Forms-ALL** or any specific database, you can quickly narrow your results by using the title search.

In the search box, type
TI(term AND term)

The search looks for your specific search terms within the title of the form.



The Junk Food Information Diet

Mary Jenkins, Law Librarian & Director

As people whose livelihood depends on information, we librarians and legal professionals spend a lot of time ingesting content, often online. Much of that is associated with our work, but most of us consume some online junk food, too. I recently stumbled upon two interesting takes on our society's consumption of information. Though not brand new, I will recommend them to you anyway, as the messages seem quite valid. First, Eli Pariser's TED Talk, "[Beware online filter bubbles](#)", reminds us that in their quest to provide us customized experiences, search engines and social media sites often serve up very different results from one person to the next. Google, for example, takes into account your past searching history, the location from which you are searching, which browser you are using, and many more factors to filter the results in ways that might satisfy you the most. You can test this yourself by asking friends or family members to search the exact same words and then compare results.

Mr. Pariser calls this phenomenon "the filter bubble" and warns of its limiting impact on the information we see and consider and act on. He says we can have our "information dessert" but we need our "information vegetables", too, for the common good, ultimately. Since there is no editorial judgment by humans, save those who write algorithms based on search history, trending or popular topics, and what they can discern about who we are, there is no one saying the social responsibility version of "Eat your vegetables. They're good for you." At the very least, we

consumers (or gluttons, some of us) of online information should be aware of the filter bubble and how it influences what we're exposed to. At best, online content providers would accept a role in civic responsibility and serve up a healthier information diet.

Coincidentally, I also came across Clay Johnson's related book, [*The Information Diet: A Case for Conscious Consumption*](#). This author has a particular political background and message, but his core message is about digital literacy. In his book, he argues that, just as we are exposed to excessive sweets and fats in our food choices, we also have to make a special effort to avoid the cloying sweetness of online information. He puts it bluntly: "...junk food can lead to obesity, too much junk information can lead to cluelessness." Mr. Johnson urges readers to be fully aware of our online experience, recognizing that the media provide sensationalism, entertainment, and affirmation because that is, after all, fun and what people want. He speaks to the damaging effect of limiting our exposure to world news and information and asks us to acknowledge the consequences of our clicks for us individually and for society.

Healthy habits of information consumption start with an awareness of the ingredients and the processing of the content. If you would like more (good) information about internet search engine filtering or would like to recommend other reading to me, just say the word.

(Continued from page 1)

(ii) the compensation specified in the terms of the trust would be unreasonably high or low.

A parent will be granted specific statutory authority to bind his or her minor and unborn children with respect to any trust matter if there is no conflict of interest between the parent and his or her children with respect to such matter.

Pet trusts created for the lifetime of a pet or the lifetimes of multiple pets will be specifically authorized.

The settlor of a trust and all of the beneficiaries will be able to terminate a noncharitable, irrevocable trust without court approval, even if the termination is not consistent with the purpose of the trust.

The District Court will be granted specific authority to terminate any trust if the continuance of the trust is not necessary to achieve any material purpose of the trust and either (i) all of the beneficiaries consent or (ii) the court is satisfied that the interest of a beneficiary who does not consent will be adequately protected.

The Circuit Court will be granted statutory authority to apply cy pres to modify or terminate a charitable trust if the charitable purpose of the trust becomes unlawful, impracticable, impossible to achieve, or wasteful.

Upon notice to the "qualified beneficiaries," the trustee of a trust that contains property having a total value less than \$100,000 will be able to terminate the trust if the trustee determines the value of the trust property is

insufficient to justify the cost of administration.

The District Court will be granted exclusive jurisdiction to modify or terminate a trust or remove the trustee and appoint a new trustee, if the court determines the value of the trust property is insufficient to justify the cost of administration.

Upon notice to the "qualified beneficiaries," the trustee will be able to separate or combine trusts if such action doesn't impair the rights of a beneficiary or adversely affect achievement of the purposes of the trust.

Although the statutory exceptions to spendthrift protection with respect to a beneficiary's spouse, children and certain creditors will be retained, a creditor of a beneficiary will not be able to compel a distribution from the trust if the distribution is subject to the trustee's discretion and the trustee has complied with the standard of distribution and has not abused the discretion.

A beneficiary will have to bring an action to contest the validity of a revocable trust within the earlier of (i) two years of the settlor's death or (ii) ninety days of receiving proper notice from the trustee.

Upon the termination or partial termination of a trust, a beneficiary will lose the right to object to a proposed distribution if the beneficiary does not object within thirty days of receiving proper notice of the proposed distribution from the trustee.

As a general rule, a beneficiary will not be able to bring a claim for breach of trust against a trustee (i) more than one year after

receiving a report that adequately discloses the existence of a potential claim and informs the beneficiary of the time allowed for commencing the proceeding, or (ii) if the beneficiary is not properly notified, more than five years after the first to occur of the (A) removal, resignation or death of the trustee, (B) the termination of the beneficiary's interest, or (C) the termination of the trust.

If a trustee provides proper notice to a beneficiary upon the termination of a trust or a transfer of assets to a successor trustee, the beneficiary will lose the right to contest the validity of the trust agreement and bring a claim against the trustee for breach of trust, unless the beneficiary provides the trustee with a written objection or brings such a claim within forty-five days of the notice being sent to the beneficiary.

Please contact Timothy W. Dunn (tdunn@fbtlaw.com), M. Todd Lewis (tlewis@fbtlaw.com), or any other member of FBT's Estates, Trusts and Wills service team with any questions regarding Kentucky's adoption of the UTC.

Banking Law Info Resources

We have a range of print and online materials on banking law, a topic of interest to a number of library users. Have you checked the shelves lately? That KF 900 area in the Main Room represents just part of the collection. Please consider the breadth of material available to you through our Wolters Kluwer (CCH) IntelliConnect license, too. We would appreciate your suggestions, for titles on this and other areas of law.

Here are some potentially useful titles. Please ask a librarian for more information as needed about accessing and searching in the online material if it's new to you. IntelliConnect is accessible off-site by our subscribers who are in solo practice or with law firms that maintain a subscription here for 100% of their attorneys. Other subscribers are welcome to use IntelliConnect on-site. All subscribers are welcome to call us if you'd like a particular article, case, or section sent to you via email.

Online via IntelliConnect

Bank compliance guide
CCH Internet research network. Banking
Federal banking law reporter
Financial privacy law guide

Books

Banking and lending institution forms : with commentary and checklist / [edited by] Jacob W. Reby. KF972 .B26

Consumer banking and payments law : bank accounts ; remittances ; money orders ; pre-paid cards ; electronic benefit payments ; electronic records and signatures / Lauren K. Saunders ... [et al.]. National Consumer Law Center KF1040.Z9 .S25 2013

Dodd-Frank Wall Street Reform and Consumer Protection Act : law, explanation and analysis / [by CCH attorney-editor staff]. KF974 .D63 2010

We also have BNA's Tax Management Portfolios, which address many banking and finance-related topics.

Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to 6 weeks at a time

Access to extensive electronic databases from the Law Library, including LexisNexis, Shepards', CCH Omnitax, CCH Human Resources Group, and CCH Business Group resources, Hein Online Law Journals and Federal Register, and over 70 Aspen / LOISLaw treatises in 16 substantive areas

Wireless network throughout the Law Library

Polycom videoconferencing

5 meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

Inexpensive CLE seminars throughout the year, on legal research and substantive topics

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/ LOISLaw treatises and CCH Newsletters

You and the Legal System: Bankruptcy-The Taboo Topic

Attorney Amanda Burgess is our next speaker in the *You and the Legal System* series for the public. Ms. Burgess will discuss Bankruptcy on Friday, July 18 at noon in the Law Library. The discussion will focus on:

- Differences between Chapter 7 and Chapter 13 Bankruptcy
- Advantages and disadvantages and misconceptions about bankruptcy

The program is free to the public. To register, call 513.946.5300.

Please note that this is not a CLE event; it is intended for the general public. However, attorneys are welcome to attend and may want to pass along the program announcement to clients, staff and community organizations. If you would like more information, please contact Laura Dixon-Caldwell at 513.946.5302.

You and the Legal System is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service.

July Meeting of the Law Library's Board

The Hamilton County Law Library Resources Board is scheduled to meet at 12 noon on Thursday, July 10th in the Robert S. Kraft Board Room in the Law Library. Meetings of the board are open to the public. Minutes of previous meetings are available at

<http://www.hamilton-co.org/cinlawlib/about/trustees.html>.

Contract Resources

The Law Library offers a variety of print and electronic resources on Contracts. If you have questions about access to any of these resources, just call us at 513.946.5300.

Alternative clauses to standard construction contracts
KF902 .A478 2009

Contract drafting: powerful prose in transactional practice
KF807 .E84 2010

Contracts of the rich and famous
KF801.A75 C651 2011

Corbin on contracts
KF801.A75 C651

Entertainment Industry Contracts
KF2992 .E57 2014

Friedman on contracts and conveyances of real property
KF670 .F72 2014

Government contracts guidebook
KF849 .A87 2014

Introduction to commercial law: problems, cases and materials
KF889 .F58 2009

Legal forms for starting and running a small business
KF1659.A65 S74 2014

Letters for small business lawyers
KF1659.A65 B38 2011

A manual of style for contract drafting
KF807 .A33 2008

Nuts and bolts of contract drafting
KFO150.A25 N88 2013

Small business start up kit
KF1659 .P35 2014

Understanding contracts
KF801.Z9 F46 2009

Working with contracts: what law school doesn't teach you
KF801.Z9 F69 2008

Online Resources/Remote Access*

Aspen/LoisLaw

Construction Law Library:

Construction Law Handbook
Alternative Clauses to Standard Construction Contracts

CCH Intelliconnect:

Government Contracts Library:

Government Contract Report Letter
BCA Report Letter
CAS Report Letter
Contract Appeals Board Decisions
Administration of Government Contracts
Formation of Government Contracts
Government Contracts Reference Book

EBSCO

Consultant & Independent Contractor Agreements
Legal Forms for Starting & Running a Small Business

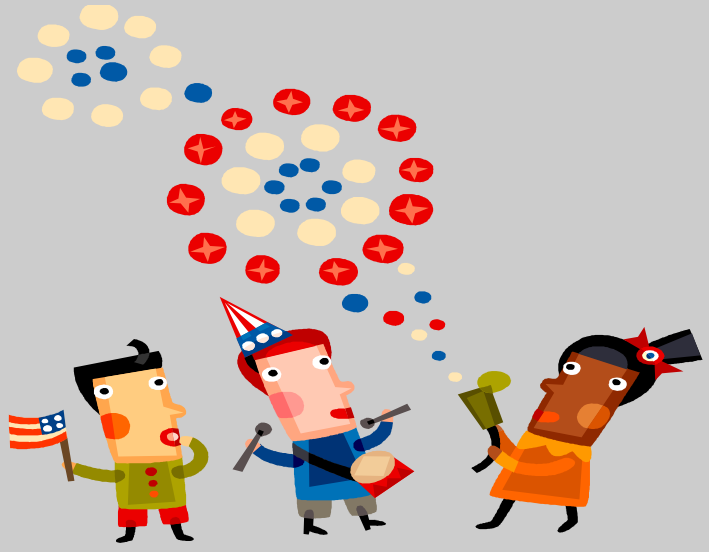
*Remote access is available to subscribers who are solos or firm attorneys whose entire firm has a subscription to the Law Library.

Upcoming Events:

July 10: Law Library Board Meeting
July 18: You and the Legal System: Bankruptcy

Law Library Holidays:

The Law Library will be closed on Friday,
July 4 in honor of Independence Day.



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INSIDE THIS MONTH

- Kentucky Uniform Trust Code
- Tech Tip: Westlaw Forms with Treatises
- Banking Law Resources
- Contract Resources

ADDRESS CORRECTION REQUESTED

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