

(E) IF AUTHORIZED BY A COURT ORDER, IN ACCORDANCE WITH A PETITION FILED UNDER § 15-502.3 OF THIS SUBTITLE, THE CONVERTED UNITRUST MAY PROVIDE THAT:

- (1) THE PAYOUT PERCENTAGE IS DIFFERENT THAN 4%;
- (2) A DISTRIBUTION OF NET INCOME, AS WOULD BE DETERMINED IF THE TRUST WERE NOT A UNITRUST, SHALL BE MADE IF IN EXCESS OF THE UNITRUST DISTRIBUTION AND IF THAT DISTRIBUTION IS NECESSARY TO PRESERVE A TAX BENEFIT; OR
- (3) VALUATION OF THE TRUST'S NET ASSETS SHALL BE AVERAGED OVER A PERIOD OTHER THAN 3 YEARS.

(F) A TRUSTEE MAY NOT CONVERT A TRUST INTO A UNITRUST UNDER SUBSECTION (A) OF THIS SECTION IF:

(1) THE CONVERSION WOULD RESULT IN THE DISALLOWANCE OF AN ESTATE TAX OR GIFT TAX MARITAL DEDUCTION THAT WOULD BE ALLOWED, IN WHOLE OR IN PART, IF THE TRUSTEE DID NOT HAVE THE POWER TO CONVERT;

(2) PAYMENT OF THE UNITRUST DISTRIBUTION WOULD CHANGE THE AMOUNT PAYABLE TO A BENEFICIARY AS A FIXED ANNUITY OR A FIXED FRACTION OF THE VALUE OF THE TRUST ASSETS;

(3) THE UNITRUST DISTRIBUTION WOULD BE MADE FROM ANY AMOUNT THAT IS PERMANENTLY SET ASIDE FOR CHARITABLE PURPOSES UNDER THE GOVERNING INSTRUMENT AND FOR WHICH A FEDERAL ESTATE OR GIFT TAX DEDUCTION HAS BEEN TAKEN, UNLESS BOTH INCOME AND PRINCIPAL ARE SO SET ASIDE;

(4) POSSESSING OR EXERCISING THE POWER TO CONVERT WOULD CAUSE AN INDIVIDUAL TO BE TREATED AS THE OWNER OF ALL OR PART OF THE TRUST FOR FEDERAL INCOME TAX PURPOSES AND THE INDIVIDUAL WOULD NOT BE TREATED AS THE OWNER IF THE TRUSTEE DID NOT POSSESS THE POWER TO CONVERT;

(5) POSSESSING OR EXERCISING THE POWER TO CONVERT WOULD CAUSE ALL OR PART OF THE TRUST ASSETS TO BE SUBJECT TO ESTATE OR GIFT TAX WITH RESPECT TO AN INDIVIDUAL AND THE ASSETS WOULD NOT BE SUBJECT TO ESTATE OR GIFT TAX WITH RESPECT TO THE INDIVIDUAL IF THE TRUSTEE DID NOT POSSESS THE POWER TO CONVERT; OR

(6) THE TRUSTEE IS A BENEFICIARY OF THE TRUST.

(G) (1) IF SUBSECTION (F)(4), (5), OR (6) OF THIS SECTION APPLIES TO A TRUSTEE AND THERE IS MORE THAN ONE TRUSTEE, A COTRUSTEE TO WHOM THE PROVISION DOES NOT APPLY MAY CONVERT THE TRUST TO A UNITRUST UNDER SUBSECTION (A) OF THIS SECTION, UNLESS EXERCISE OF THE POWER BY THE REMAINING TRUSTEE OR TRUSTEES IS PROHIBITED BY THE GOVERNING INSTRUMENT.