



Adam Damerow and Tye Klooster help draft Illinois' new trust code

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After almost 20 years, the new Illinois Trust Code was signed by Illinois Governor J.B. Pritzker and is set to go into effect on January 1, 2020. Two partners in Katten's Trusts and Estates practice, Adam Damerow and Tye Klooster, were members of the Chicago Bar Association (CBA) subcommittee that worked on drafting the code's new legislation.

"It's a modern, comprehensive trust code that will benefit individual and corporate trustees, practitioners like myself, writers and administrators, and beneficiaries. The current Trusts and Trustees Act is OK for what it does, but it doesn't do a lot," said Adam, who was quoted in a recent *Illinois Bar Journal* article about the new trust code. "It requires consulting a lot of case law that lacks regularity and really is at the mercy of common law rule here."

According to the *Illinois Bar Journal* article, Illinois's new trust law was adapted to be similar in structure to the Uniform Trust Code (UTC) and relied on the UTC to help codify trust matters that often relied on inconsistent case law and common law authorities.

Some highlights of the new trust law include mandatory and default provisions — such as the requirement that a trustee act in good faith and provide adequate information to beneficiaries — judicial modification, reform or termination of trusts based on circumstances such as administration problems or unforeseen events; a modified decanting statute that adopts much of the Uniform Trust Decanting Act and prevents beneficiaries from blocking a decanting without going to court; requiring trustees to provide more detailed information to beneficiaries; codifying the rights of creditors; providing a list of people who can represent a beneficiary; and changing the statute of limitations for contesting items disclosed on trust accountings to two years instead of three.

Passing Illinois' new trust law was a massive effort on the part of not only the CBA subcommittee assigned to draft its legislation, but also various other CBA committees, the Illinois State Bar Association (ISBA), attorneys, corporate fiduciaries and the Office of the Illinois Attorney General.

"The new law is the result of years of hard work by a number of attorneys, trust officers and other stakeholders. It really was a group effort," said Tye.

Both Adam and Tye will be featured speakers at an upcoming CLE seminar about the new Illinois Trust Code, which will be held on October 11 at the ISBA Chicago Regional Office. The seminar will also be available as a live webcast. To learn more, visit www.isba.org/cle.

Read, "[A Trustworthy Effort: After nearly two decades of work, the new Illinois Trust Code is signed by the governor](#)," in its entirety.

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



Adam M. Damerow

+1.312.902.5250

adam.damerow@katten.com



Tye J. Klooster

+1.312.902.5449

tye.klooster@katten.com

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