



## **New Legislation Continues Tennessee’s Leadership in Modern Trust and Estate Law**

### **Overview**

The 2025 legislative session produced another meaningful update to Tennessee’s trust and estate statutes with the passage of SB 1910/HB 2454 (Public Chapter 616), effective July 1, 2026. This legislation continues Tennessee’s deliberate effort to refine and modernize its trust laws, emphasizing flexibility, privacy, and administrative efficiency.

### **Confidential Treatment of Trust Information**

The legislation significantly enhances trust privacy by establishing a presumption of confidentiality for trust-related court filings. Under the new framework, filings involving internal trust administration—where disputes are limited to the trustee and qualified beneficiaries—may be redacted or filed under seal without prior court approval, provided unredacted copies are supplied to the court and beneficiaries.

This presumption of confidentiality reflects the inherently private nature of trust administration and reduces the risk of public disclosure of sensitive financial and family information. It also aligns with Tennessee’s broader privacy-oriented trust framework, including its recognition of silent trusts, which may limit the information a beneficiary is otherwise entitled to receive concerning the trust, including its existence, assets and distribution history.

This update represents a meaningful shift toward default privacy in judicial proceedings involving trusts, reinforcing Tennessee’s attractiveness for families prioritizing discretion.

### **Revisions to TCA § 67-4-2008 (Family-Owned Entity Rules)**

The legislation updates the definition of “family-owned” for purposes of the franchise and excise tax exemption applicable to family-owned noncorporate entities (FONCEs). While the statute previously allowed such entities to claim exemption from the tax, trust ownership was only considered in the context of testamentary trusts. The revised statute now clarifies that ownership by trusts established during the grantor’s lifetime (referred to as “inter-vivos trusts”) may also be included in the analysis for the FONCE exemption that

requires at least 95% ownership be held by qualifying relatives, trusts or estates of such individuals.

This change expands and better accommodates modern estate planning structures by recognizing trust and estate ownership in multi-generational family arrangements. As a result, more FONCEs should qualify for favorable tax treatment, particularly those generating passive investment income such as rents, dividends, and interest.

For practitioners, this adjustment reduces the likelihood of technical disqualification and enhances planning flexibility for family-owned investment entities.

### **Increase to Small Trust Termination Threshold**

The legislation raises the threshold for termination of uneconomic trusts from \$100,000 to \$250,000. Trustees may terminate trusts the aggregate net asset value of which is below this threshold, or where administrative costs are disproportionately high, without court involvement after providing notice to qualified beneficiaries.

This change reflects modern economic realities, recognizing increased costs in professional trust administration and investment management (both direct and indirect), that can begin to erode a trust's value for moderately sized and smaller trusts. The higher threshold allows trustees to streamline administration, eliminate unnecessary expenses, and preserve value for beneficiaries.

### **Clarifications to Decanting Statute (TCA § 35-15-818)**

The legislation includes important technical corrections and clarifications to Tennessee's decanting statute, which permits trustees to modify irrevocable trusts by appointing assets to a new or restated trust agreement.

Key enhancements include express authority to implement changes through modification or restatement of the existing trust instrument, expanded clarity around the definition of a "second trust," and confirmation that retitling of assets is not required when a trust instrument is modified or restated under the statute.

The statute continues to preserve key safeguards, ensuring that decanting does not impair tax benefits, violate perpetuities rules, or improperly alter beneficiary interests. These updates improve both the usability and reliability of decanting as a tool for long-term trust administration.



**About the author:** Derek is President & Chief Operating Officer of Pendleton Square, as well as a member of its Board of Directors. He is responsible for overseeing corporate administration, trust operations and the Company's legal and compliance areas. Derek is currently licensed to practice law in Tennessee. He is a member of the Estate Planning Council of Middle Tennessee, the Private Directors Association and the Exit Planning Exchange. He is also an active member of the Tennessee Bankers Association (TBA) Trust Committee and previously served as the Committee Chair and as a Director on the TBA's Board.