

Article 8A.

Powers, Duties, and Liability of a Power Holder Other Than a Trustee; Duty and Liability of a Trustee With Respect to Power Holder's Actions.

§ 36C-8A-1. "Power holder" defined.

(a) For purposes of this Article:

- (1) The term "power holder" means a person described in subdivision (2) of this subsection that under the terms of a trust has the power to take certain actions with respect to a trust and that is not any of the following:
 - a. A trustee.
 - b. A settlor with a power to direct or consent pursuant to G.S. 36C-8-808.
 - c. A person in which a donor creates a power of appointment.
 - d. A person that has authority to consent to the exercise of a power of appointment.
 - e. A beneficiary with a power over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of the beneficiary or another beneficiary represented by a beneficiary under G.S. 36C-3-301 through G.S. 36C-3-305 with respect to the exercise or nonexercise of the power.
- (2) A power holder may be any of the following:
 - a. One or more individuals.
 - b. One or more other persons each of which is qualified to exercise trust powers in this State.
 - c. Any combination of the persons described in sub-subdivisions a. and b. of this subdivision.

(b) A person is a power holder whether or not the terms of a trust refer to the person as a power holder and, except as otherwise provided in sub-subdivisions (a)(1)b. and e. of this section, whether or not the person is a beneficiary or settlor of the trust. (2012-18, s. 3.4; 2021-85, s. 2(c).)