

## **Session Law 2010-118 (Senate Bill 765)**

Effective July 20, 2010, Chapter 36D of the NC General Statutes, the “**North Carolina Community Third Party Trusts, Pooled Trusts and Special Needs Trusts Act**” was amended. The Department of Health and Human Services is authorized to administer and oversee compliance of these trusts. The Sections as they relate to the Secretary of State’s Office are as follows:

1. Changed type of trusts from “community trusts” to “Community Third Party Trusts, Pooled Trusts and Special Needs Trusts”
2. Formation in accordance with 42 U.S.C. §1396p(d)(4) and criteria set forth by statute and administered by the Secretary of State under Chapter 55A of the General Statutes.
3. The Chapter applies to every Community Third Party Trust, Medicaid Pooled Trust, or Special Needs Trust established in this State. In addition to meeting other requirements of this Chapter, every board that administers a Community Third Party Trust or Medicaid Pooled Trust shall incorporate as a nonprofit corporation under Chapter 55A of the General Statute.
4. Except as otherwise provided in this Chapter, Chapter 55A of the General Statutes applies to all trusts governed by this Chapter.

### **Community Third Party or Pooled Trusts Administration and Accountability**

5. The certificate of incorporation filed with the Secretary of State under Chapter 55A of the General Statutes shall, in addition to the requirements set forth in that Chapter, demonstrate that the requirements of this section of have been met.
6. For every Community Third Party or Pooled Trust incorporated under this Chapter, the corporation itself is considered the trustee of any funds administered by it.
7. The board shall file bylaws with the Secretary of State.
8. The Community Third Party or Pooled Trust shall file an itemized statement that shows the funds collected for the year, income earned, salaries, other expenses incurred, and the opening and final trust balances to the Secretary of State by the 15<sup>th</sup> day of the fourth month following fiscal year end.
9. At any time before the settlement of the final account, the Community Third Party or Pooled Trust, the Secretary of State, or the Attorney General may bring an action for the dissolution of a nonprofit corporation in the superior court for the purpose of terminating the trust or merging it with another charitable trust.

You may review the full text of Session Law 2010-118 by [clicking here](#).