



Ohio Revised Code

Section 5806.04 Actions concerning certain revocable trusts.

Effective: March 22, 2019

Legislation: House Bill 595 - 132nd General Assembly

(A) Subject to division (E) of this section, any of the following actions pertaining to a revocable trust that is made irrevocable by the death of the settlor of the trust shall be commenced by the earlier of the date that is two years after the date of the death of the settlor of the trust or that is six months from the date on which the trustee sends the person bringing the action a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed under this division for commencing an action:

- (1) An action to contest the validity of the trust;
- (2) An action to contest the validity of any amendment to the trust that was made during the lifetime of the settlor of the trust;
- (3) An action to contest the revocation of the trust during the lifetime of the settlor of the trust;
- (4) An action to contest the validity of any transfer made to the trust during the lifetime of the settlor of the trust.

(B) Upon the death of the settlor of a revocable trust that was made irrevocable by the death of the settlor, the trustee, without liability, may proceed to distribute the trust property in accordance with the terms of the trust unless either of the following applies:

- (1) The trustee has actual knowledge of a pending action to contest the validity of the trust, any amendment to the trust, the revocation of the trust, or any transfer made to the trust during the lifetime of the settlor of the trust.
- (2) The trustee receives written notification from a potential contestant of a potential action to contest the validity of the trust, any amendment to the trust, the revocation of the trust, or any transfer made to the trust during the lifetime of the settlor of the trust, and the action is actually filed



within ninety days after the written notification was given to the trustee.

(C) If a distribution of trust property is made pursuant to division (B) of this section, a beneficiary of the trust shall return any distribution to the extent that it exceeds the distribution to which the beneficiary is entitled if the trust, an amendment to the trust, or a transfer made to the trust later is determined to be invalid.

(D) This section applies only to revocable trusts that are made irrevocable by the death of the settlor of the trust if the grantor dies on or after July 23, 2002.

(E) Except as otherwise provided in this division, no person may contest the validity of any trust as to facts decided if the trust was submitted to a probate court by the settlor during the settlor's lifetime and declared valid by the judgment of a court pursuant to division (B)(1) of section 5817.10 of the Revised Code. A person may contest the validity of that trust as to those facts if the person is one who should have been named a party defendant in the action in which the trust was declared valid, pursuant to division (A) of section 5817.06 of the Revised Code, and if the person was not named a defendant and properly served in that action.