



## Ohio Revised Code

### Section 5808.17 Powers and duties of trustee on termination; protection from liability.

Effective: March 22, 2012

Legislation: Senate Bill 117 - 129th General Assembly

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(A) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within thirty days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

(B) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

(C) A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent that it was induced by improper conduct of the trustee or that the beneficiary, at the time of the release, did not know of the beneficiary's rights or of the material facts relating to the breach.

(D) If a beneficiary who was entitled to receive a distribution is deceased, the beneficiary's death did not terminate the beneficiary's right to receive the distribution, and an administration of the beneficiary's estate is open, the trustee shall make the distribution to the personal representative of the beneficiary's estate. If a beneficiary who was entitled to receive a distribution is deceased, the beneficiary's death did not terminate the beneficiary's right to receive the distribution, and an administration of the beneficiary's estate is not open, the trustee, without liability, may make the distribution directly to the beneficiary's heirs or devisees without requiring the opening or re-opening of estate administration proceedings if the trustee does not know of an adverse claim to the distribution and one of the following applies:

(1) The beneficiary's estate was administered as an intestate estate in the jurisdiction in which the beneficiary was domiciled at death, and the trustee does both of the following:



(a) Distributes the personal property included in the distribution to the person or persons who were determined to be the heirs of the beneficiary in that administration, in the same manner as the personal property would have been distributed if it had been part of the beneficiary's intestate estate;

(b) Distributes the real property included in the distribution to the person or persons the trustee reasonably determines were the beneficiary's heirs under the statutes of descent and distribution, in effect at the time of the beneficiary's death, of the jurisdiction or jurisdictions in which the real property is located.

(2) The beneficiary's estate was administered as a testate estate in the jurisdiction in which the deceased beneficiary was domiciled at death, and the trustee does both of the following:

(a) Distributes the personal property included in the distribution to the residuary devisee or devisees under the beneficiary's will, in the same manner as the personal property would have been distributed in that administration if it had been part of the beneficiary's testate estate;

(b) Distributes the real property included in the distribution to the person or persons the trustee reasonably determines would have received the real property under the law of the jurisdiction or jurisdictions in which the real property is located.

(3) Division (D)(1) or (2) of this section does not apply, the beneficiary's death occurred at least six months before the trustee makes the distribution, and all of the following apply:

(a) The trustee determines that the beneficiary had created a trust during the beneficiary's life that remained in existence at the beneficiary's death.

(b) The beneficiary had executed a will that the trustee reasonably determines would have been admitted to probate if it had been offered for probate.

(c) The beneficiary's will described in division (D)(3)(b) of this section devised the residue of the beneficiary's estate to the trustee of the trust described in division (D)(3)(a) of this section to be held under the terms of that trust.



(d) The trustee makes the distribution to the trustee of the trust described in division (D)(3)(a) of this section.

(4) Division (D)(1), (2), or (3) of this section does not apply, the beneficiary's death occurred at least six months before the trustee makes the distribution, and all of the following apply:

(a) The trustee, exercising reasonable diligence, determines that an administration of the beneficiary's estate has not been commenced in the jurisdiction in which the trustee reasonably determines the beneficiary was domiciled at death.

(b) The trustee does not know of an administration of the beneficiary's estate having been commenced in any other jurisdiction.

(c) The trustee does not know of a purported last will and testament of the beneficiary.

(d) The trustee does both of the following:

(i) Distributes the personal property included in the distribution to the person or persons the trustee reasonably determines were the beneficiary's heirs under the statutes of descent and distribution, in effect at the time of the beneficiary's death, of the jurisdiction in which the trustee reasonably determines the beneficiary was domiciled at death;

(ii) Distributes the real property included in the distribution to the person or persons the trustee reasonably determines were the beneficiary's heirs under the statutes of descent and distribution, in effect at the time of the beneficiary's death, of the jurisdiction or jurisdictions in which the real property is located.

(E) The trustee's protection from liability for making distributions under division (D) of this section has no effect on the ability of third parties to pursue claims against the recipients of those distributions.