



Ohio Revised Code

Section 2109.303 Testamentary trustee rendering account.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

(A) Except as provided in division (B) of this section, every testamentary trustee shall, and every other fiduciary not subject to section 2109.301 or 2109.302 of the Revised Code may, render an account of the trustee's or other fiduciary's administration of the estate or trust at least once in each two years. Any testamentary trustee or other fiduciary shall render an account, subject to division (B) of this section, at any time other than a time otherwise mentioned in this section upon an order of the court issued for good cause shown either at its own instance or upon the motion of any person interested in the estate or trust. Every testamentary trustee shall, and every other fiduciary may, render a final account within thirty days after completing the administration of the estate or trust or shall file a final account within any other period of time that the court may order.

Every account shall include an itemized statement of all receipts of the testamentary trustee or other fiduciary during the accounting period and of all disbursements and distributions made by the testamentary trustee or other fiduciary during the accounting period. The itemized disbursements and distributions shall be verified by vouchers or proof, except in the case of an account rendered by a corporate fiduciary subject to section 1111.28 of the Revised Code. In addition, the account shall include an itemized statement of all funds, assets, and investments of the estate or trust known to or in the possession of the testamentary trustee or other fiduciary at the end of the accounting period and shall show any changes in investments since the last previous account. The accounts of testamentary trustees shall, and the accounts of other fiduciaries may, show receipts and disbursements separately identified as to principal and income.

Every account shall be upon the signature of the testamentary trustee or other fiduciary. When two or more testamentary trustees or other fiduciaries render an account, the court may allow the account upon the signature of one of them.

Upon the filing of every account, the testamentary trustee or other fiduciary, except a corporate fiduciary subject to section 1111.28 of the Revised Code, shall exhibit to the court for its examination both of the following: the securities shown in the account as being in the possession or



under the control of the testamentary trustee or other fiduciary, or the certificate of the person in possession of the securities, if held as collateral or pursuant to section 2109.13 or 2131.21 of the Revised Code; and a passbook or certified bank statement showing as to each depository the fund deposited to the credit of the estate or trust. The court may designate a deputy clerk, an agent of a corporate surety on the bond of the testamentary trustee or other fiduciary, or another suitable person whom the court appoints as commissioner to make the examination and to report the person's findings to the court. If securities are located outside the county, the court may appoint a commissioner or request another probate court to make the examination and to report its findings to the court. The court may examine the testamentary trustee or other fiduciary under oath concerning the account.

If a testamentary trustee or other fiduciary is authorized by law or by the instrument governing distribution to distribute the assets of the estate or trust, in whole or in part, the testamentary trustee or other fiduciary may do so and include a report of the distribution in the testamentary trustee's or fiduciary's succeeding account.

(B) If the assets of a testamentary charitable trust are held and managed by a testamentary trustee or other fiduciary who is an individual or by a corporate fiduciary and if the trust merges into a qualified community foundation, then, after the testamentary trustee or other fiduciary files with the court a final and distributive account pertaining to the trust and activities up to the effective date of the merger, the testamentary trustee or other fiduciary and any successors of the testamentary trustee or other fiduciary shall not be required to render any accounting to the court pertaining to the merged trust and activities that follow the effective date of the merger.

(C) As used in this section:

(1) "Charitable trust" has the same meaning as in section 109.23 of the Revised Code.

(2) "Qualified community foundation" means any foundation that is exempt from federal income taxation under sections 170(b)(1)(A)(vi) and 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 170(b)(1)(A)(vi) and 501 (c)(3), as amended; that is further described in section 1.170A-9(10) and (11) of Title 26 of the Code of Federal Regulations, 26 C.F.R. 1.170A-9(10) and (11), as amended; and that publishes at least annually and circulates widely within its



community an audited report of its fund balances, activities, and donors.

(3) "Testamentary charitable trust" means any charitable trust that is created by a will.

(4) "Other fiduciary" means a fiduciary other than an executor, administrator, guardian, conservator, or testamentary trustee.