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Ohio Revised Code

Section 2109.62 Court termination of trust.

Effective: April 06, 2017
Legislation: House Bill 432 - 131st General Assembly

(A)(1) Upon the filing of a motion by a trustee with the court that has jurisdiction over the trust, upon the provision of reasonable notice to all beneficiaries who are known and in being and who have vested or contingent interests in the trust, and after holding a hearing, the court may terminate the trust, in whole or in part, if it determines that all of the following apply:

(a) It is no longer economically feasible to continue the trust.

(b) The termination of the trust is for the benefit of the beneficiaries.

(c) The termination of the trust is equitable and practical.

(d) The current value of the trust is less than one hundred thousand dollars.

(2) The existence of a spendthrift or similar provision in a trust instrument or will does not preclude the termination of a trust pursuant to this section.

(B) If property is to be distributed from an estate being probated to a trust and the termination of the trust pursuant to this section does not clearly defeat the intent of the testator, the probate court has jurisdiction to order the outright distribution of the property or to make the property custodial property under sections 5814.01 to 5814.10 of the Revised Code. A probate court may so order whether the motion for the order is made by an inter vivos trustee named in the will of the decedent or by a testamentary trustee.

(C) Upon the termination of a trust pursuant to this section, the probate court shall order the distribution of the trust estate in accordance with any provision specified in the trust instrument for the premature termination of the trust. If there is no provision of that nature in the trust instrument, the probate court shall order the distribution of the trust estate among the beneficiaries of the trust in accordance with their respective beneficial interests and in a manner that the court determines to be equitable. For purposes of ordering the distribution of the trust estate among the beneficiaries of the trust under this division, the court shall consider all of the following:

(1) The existence of any agreement among the beneficiaries with respect to their beneficial interests;

(2) The actuarial values of the separate beneficial interests of the beneficiaries;

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(3) Any expression of preference of the beneficiaries that is contained in the trust instrument.