



Ohio Revised Code

Section 5801.23 Termination of irrevocable trust as a result of trustee resignation or removal.

Effective: April 3, 2023

Legislation: Senate Bill 202 - 134th General Assembly

(A) When a trustee resigns or is removed from an irrevocable trust pursuant to the terms of the trust or otherwise and the departing trustee elects to use the provisions of this section, the departing trustee shall serve on the resignation or removal necessary parties the documents and information described in division (B) of this section. The trustee also may serve those documents and that information on other persons who the trustee reasonably believes may have an interest in the trust. Service shall be made within a reasonable period of time after such resignation or removal.

(B) The documents and information to be served include all of the following:

(1) A written notice, executed by or on behalf of the departing trustee, that includes all of the following information:

(a) The date of the notice, corresponding to the date the notice is being sent;

(b) A description of any terms of the trust or the Revised Code relevant to the resignation or removal of the departing trustee and the provisions, if applicable, regarding the appointment or designation of the successor trustee;

(c) A description of any actions taken by the departing trustee, the beneficiaries of the trust, or other required parties pertaining to the resignation or removal of the departing trustee and, if applicable, the appointment or designation of the successor trustee;

(d) The name and address of the successor trustee, if one has been appointed or designated;

(e) If applicable, a statement confirming the successor trustee's acceptance of the trusteeship;

(f) A description of the trustee succession objection period and the name, mailing address, electronic



mail address if available, and telephone number of the person or office associated with the departing trustee to which any written objections should be sent;

(g) A description of the process, described in division (C) of this section, that will be followed if the departing trustee receives no written objections within the trustee succession objection period;

(h) A description of the process, described in division (D) of this section, that will be followed if the departing trustee receives a written objection within the trustee succession objection period;

(i) A statement of the impending bar of claims against the departing trustee, as described in division (F) of this section, that will result if an objection is not timely made;

(j) A statement that the departing trustee may rely upon the written statement of a recipient of the notice that such person consents to the delivery of the net assets of the trust to the successor trustee, or to one or more co-trustees as applicable, and irrevocably waives the right to object to the delivery of the assets and any claim against the departing trustee for matters disclosed in the notice or the trustee's reports served with it and all other matters pertaining to the departing trustee's administration of the trust;

(k) A statement that the departing trustee may complete the delivery of the net assets of the trust to the successor trustee, or to one or more co-trustees as applicable, prior to the expiration of the trustee succession objection period if all of the persons on whom the notice was served deliver to the trustee written consents and irrevocable waivers of the kind described in division (E) of this section;

(l) An exhibit showing the assets on hand at the date the notice is prepared and their respective values as shown in the regularly kept records of the trustee;

(m) An estimate of any assets, income, taxes, fees, expenses, claims, or other items reasonably expected by the departing trustee to be received or disbursed before delivery of the net assets of the trust to the successor trustee, or to one or more co-trustees as applicable, but not yet received or disbursed, including trustee fees remaining to be paid.

(2) One or more trustee's reports covering the applicable reporting period.



(C) If no written objection is received by the departing trustee within the trustee succession objection period:

(1) The notice and trustee's reports served pursuant to division (A) of this section shall be considered approved by each recipient of the notice and reports.

(2) The departing trustee, within a reasonable period of time following the expiration of the trustee succession objection period, shall deliver the net trust assets to the successor trustee or to one or more co-trustees, as applicable.

(3) Any person who was served such notice and reports shall be barred from bringing a claim against the trustee, and from challenging the validity of the trust, as provided in division (F) of this section.

(D)(1) If, after being served the notice and trustee's reports described in division (B) of this section, a qualified beneficiary or any other recipient of the notice wishes to object to matters disclosed in the notice or reports or any other matter pertaining to the departing trustee's administration of the trust, the person shall provide written notice of the objection to the departing trustee within the trustee succession objection period. If the departing trustee receives a written objection within the trustee succession objection period, the departing trustee may do either of the following:

(a) Submit the written objection to the court for resolution. The expense of commencing, conducting, and concluding such a proceeding shall be charged as ordered by the court.

(b)(i) Resolve the objection with the objecting person by accepting a withdrawal of the person's objection or by written instrument, a written agreement as described in section 5801.10 of the Revised Code, or other means.

(ii) Any agreement or other written instrument executed by the objecting party pursuant to division (D)(1)(b)(i) of this section may include a release and a trustee indemnification clause, along with other terms agreed to by the parties. Reasonable expenses related to such written instrument or written agreement shall be charged to the trust.



(2) Within a reasonable time after resolution of all timely objections under division (D)(1) of this section, the departing trustee shall deliver the net trust assets to the successor trustee, or to one or more co-trustees as applicable, subject to any modifications provided for in the terms of the document setting forth the resolution of each such objection.

(E)(1) The departing trustee may rely upon the written statement of a recipient of the notice and trustee's reports served under this section that the recipient consents to, and irrevocably waives the right to object to:

(a) The departing trustee's resignation or removal;

(b) The appointment of the successor trustee, if applicable;

(c) Delivery of the net assets of the trust to the successor trustee or to one or more co-trustees, as applicable.

(2) The statement shall also irrevocably waive any claims against the departing trustee for breach of trust as to matters disclosed in the notice and trustee's reports and all other matters pertaining to the departing trustee's administration of the trust.

(3) The delivery of the net assets of the trust to the successor trustee, or to one or more co-trustees as applicable, may be completed prior to the expiration of the trustee succession objection period if all of the persons on whom the notice and trustee's reports were served have delivered to the departing trustee similar written consents and irrevocable waivers.

(F)(1) Any person who was served a notice and trustee's reports that comply with the requirements of this section and who either consented to the delivery of the net assets of the trust to the successor trustee or one or more co-trustees as applicable or failed to timely provide the departing trustee a written objection as described in this section is barred from:

(a) Bringing a claim against the departing trustee for breach of trust as to matters disclosed in the notice and trustee's reports and all other matters pertaining to the departing trustee's administration of the trust;



(b) Challenging the validity of the trust.

Such claims shall be barred as described in division (F)(3) of this section.

(2) If all of the resignation or removal necessary parties and all qualified beneficiaries of the trust have been served a notice and trustee's reports that comply with the requirements of this section and have either consented to the delivery of the net assets of the trust to the successor trustee or failed to timely provide the trustee a written objection as described in this section, all other beneficiaries of the trust, including persons who may succeed to the interests in the trust of the beneficiaries served, shall be barred as described in division (F)(3) of this section.

(3) The bar of claims under divisions (F)(1) and (2) of this section applies:

(a) To each person barred, the person's personal representatives and assigns, and the person's heirs who are not beneficiaries of the noticing trust;

(b) To the same extent and with the same preclusive effect as if the court had entered a final order approving and settling the departing trustee's full account of its entire administration of the trust, notwithstanding the limitations periods otherwise applicable under section 5810.05 of the Revised Code.

(c) To bar the person from bringing a claim against the successor trustee for failure to object to a matter that is subject to the bar of claims against the departing trustee to the same extent as the bar applies to claims against the departing trustee.