



Ohio Revised Code

Section 5816.10 Miscellaneous rules; conflicts, tacking, savings, migration.

Effective: August 17, 2021

Legislation: House Bill 7

(A) In the event of any conflict between any provision of this chapter and any provision of Chapter 1336. of the Revised Code or any other provision of law similar to any provision of Chapter 1336. of the Revised Code, including, but not limited to, any similar provision of law adopted, promulgated, or enacted by a jurisdiction other than this state, the provision of this chapter shall control and prevail to the maximum extent permitted by the Ohio Constitution and the United States Constitution. When determining whether a provision of law is similar to any provision of Chapter 1336. of the Revised Code, a court shall be liberal in finding that such similarity exists.

(B) A statement in a trust instrument stating that it "shall be governed by the laws of Ohio" or other statement to similar effect or of similar import is considered to expressly incorporate the laws of this state to govern the validity, construction, and administration of that trust instrument and to satisfy division (K)(1)(b) of section 5816.02 of the Revised Code.

(C) A disposition by a nonqualified trustee to a qualified trustee shall not be treated as other than a qualified disposition solely because the nonqualified trustee is a trustee of a nonlegacy trust.

(D) A disposition to any nonqualified trustee of a legacy trust shall be treated as a qualified disposition if at the time of the disposition any of the following applies:

- (1) There is at least one qualified trustee serving pursuant to the terms of that legacy trust.
- (2) There is no qualified trustee serving but the circumstances require the appointment or installation of a qualified trustee pursuant to division (A)(2) of section 5816.09 of the Revised Code.
- (3) There is no qualified trustee serving but within one hundred eighty days after the date of disposition a qualified trustee fills the vacancy in the qualified trusteeship or an application to appoint a qualified trustee is filed pursuant to division (B) of section 5816.09 of the Revised Code.



(E) If a disposition is made by a trustee of a nonlegacy trust to a trustee of a legacy trust, both of the following apply:

(1) Except to the extent expressly stated otherwise by the terms of that disposition, the disposition shall be considered a qualified disposition for the benefit of all of the persons who are the beneficiaries of both the nonlegacy trust and the legacy trust.

(2) The date of the disposition to the legacy trust shall be considered to be the date on which the property that was part of the nonlegacy trust was first continuously subject to any law of a jurisdiction other than this state that is similar to this chapter. When applying division (E)(2) of this section, a court shall be liberal in finding that such continuity and similarity exist.

(F) A legacy trust may contain any terms or conditions that provide for changes in or to the place of administration, situs, governing law, trustees or advisors, or the terms or conditions of the legacy trust or for other changes permitted by law.

(G) Any valid lien attaching to property before a disposition of that property to a trustee of a legacy trust shall survive the disposition, and the trustee shall take title to the property subject to the valid lien and subject to any agreements that created or perfected the valid lien. Nothing in this chapter shall be construed to authorize any disposition that is prohibited by the terms of any agreements, notes, guaranties, mortgages, indentures, instruments, undertakings, or other documents. In the event of any conflict between this division and any other provision of this chapter, this division shall control.

(H) To the maximum extent permitted by the Ohio Constitution and the United States Constitution, the courts of this state shall exercise jurisdiction over any legacy trust, any legacy trust matter, or any qualified disposition and shall adjudicate any case or controversy brought before them regarding, arising out of, or related to, any legacy trust, any legacy trust matter, or any qualified disposition if that case or controversy is otherwise within the subject matter jurisdiction of the court. Subject to the Ohio Constitution and the United States Constitution, no court of this state shall dismiss or otherwise decline to adjudicate any case or controversy described in this division on the ground that a court of another jurisdiction has acquired or may acquire proper jurisdiction over, or may provide proper venue for, that case or controversy or the parties to the case or controversy. Nothing in this division



shall be construed to do either of the following:

(1) Prohibit a transfer or other reassignment of any case or controversy from one court of this state to another court of this state;

(2) Expand or limit the subject matter jurisdiction of any court of this state.

(I)(1) If any disposition is made by a trustee of a legacy trust, referred to in division (I) of this section as the "first legacy trust," to a trustee of a second legacy trust, referred to in division (I) of this section as the "second legacy trust," whether pursuant to section 5808.18 of the Revised Code or any other applicable law, then all of the following apply to any property involved in such disposition:

(a) Except to the extent expressly stated otherwise by the terms of that disposition, the disposition shall be considered a qualified disposition for the benefit of all persons who are the beneficiaries of both the first legacy trust and the second legacy trust.

(b) An item of property shall be treated as having been transferred to a trustee of the second legacy trust on the earlier of any of the following:

(i) The date of the original qualified disposition of the item to a trustee of the first legacy trust;

(ii) If, before being held by the trustee of the first legacy trust, the item previously was held by a trustee of a predecessor legacy trust, or by one or more trustees of a consecutive and uninterrupted series of predecessor legacy trusts, then the date of the original qualified disposition to the first trustee to hold that item as part of any such predecessor legacy trust;

(iii) If, before being held by the trustee of the first legacy trust, that item was held by a trustee of a nonlegacy trust referred to in division (E)(2) of this section, then the date determined pursuant to that division;

(iv) The earliest date determined by any combination of divisions (I)(1)(b)(i) to (iii) of this section.

(2) For purposes of division (I)(1)(b) of this section, any reference to an item of property shall



include any proceeds of or substitutes for that item.

(3) Notwithstanding division (S) of section 5816.02 of the Revised Code, a qualified trustee of the first legacy trust may serve as a qualified trustee of the second legacy trust.

(4) The dispositions covered by division (I) of this section include, but are not limited to, any disposition that is made by a trustee of the first legacy trust acting pursuant to a direction issued by a person having the power to direct a distribution of trust property pursuant to the trust instrument governing the first legacy trust, including, but not limited to, a power to direct as provided in division (G) of section 5808.18 of the Revised Code.

(J) Any reference in this chapter to an "action" or a "proceeding" shall be broadly construed to encompass any suit or proceeding in any jurisdiction or before any judicial tribunal, administrative tribunal, or other adjudicative body or panel.

(K) This chapter and its provisions reflect and embody the strong public policy of this state.