

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

PART 7
OFFICE OF TRUSTEE

700.7701 Acceptance or rejection of trusteeship.

Sec. 7701. (1) Except as otherwise provided in subsection (3), a person designated as trustee accepts the trusteeship by doing either of the following:

(a) Substantially complying with a method of acceptance provided in the terms of the trust.

(b) If the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

(2) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have rejected the trusteeship.

(3) A person designated as trustee, without accepting the trusteeship, may do all of the following:

(a) Act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified trust beneficiary.

(b) Exercise all powers set forth under section 7818(1)(a).

(c) Inspect or investigate trust property to determine potential liability under other law or for any other purpose.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7702 Trustee's bond.

Sec. 7702. (1) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the trust beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

(2) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

(3) A financial institution qualified to do trust business in this state need not give bond, even if required by the terms of the trust.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7703 Cotrustees; powers and duties.

Sec. 7703. (1) Cotrustees shall act by majority decision.

(2) If a vacancy occurs in a cotrusteeship, the remaining cotrustee or cotrustees may act for the trust.

(3) A cotrustee shall participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.

(4) If prompt action is necessary to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust if either of the following applies:

(a) A cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity.

(b) A cotrustee who is available fails or refuses to participate in the administration of the trust following notice from the remaining cotrustee or cotrustees.

(5) By agreement of the trustees, a trustee may delegate to a cotrustee 1 or both of the following:

(a) Any power that is permitted to be delegated pursuant to section 7817(v) to an agent who is not a trustee.

(b) Any power that can only be performed by a trustee, if notice of the delegation is provided to the qualified trust beneficiaries within 28 days.

(6) Unless a delegation under subsection (5) was irrevocable, a trustee may revoke the delegation previously made. A revocation under this subsection shall be in writing and shall be given to all of the remaining cotrustees. If notice of the delegation was required to be provided to the qualified trust beneficiaries, notice of the revocation shall be given to the qualified trust beneficiaries within 28 days after

the revocation.

(7) If 2 or more trustees own securities, their acts with respect to voting have 1 of the following effects:

(a) If only 1 trustee votes, in person or by proxy, that trustee's act binds all of the trustees.

(b) If more than 1 trustee votes, in person or by proxy, the act of the majority so voting binds all of the trustees.

(c) If more than 1 trustee votes, in person or by proxy, but the vote is evenly split on a particular matter, each faction is entitled to vote the securities proportionately.

(8) A trustee is not liable for the action or omission of a cotrustee if all of the following apply:

(a) The trustee is not unavailable to perform a trustee's function because of absence, illness, disqualification under other law, or other incapacity or has not properly delegated the performance of the function to a cotrustee.

(b) The trustee is aware of but does not join in the action or omission of the cotrustee.

(c) The trustee dissents in writing to each cotrustee at or before the time of the action or omission.

(9) A trustee who is not aware of an action by a cotrustee is not liable for that action unless the trustee should have known that the action would be taken and, if the trustee had known, would have had an affirmative duty to take action to prevent the action.

(10) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee in writing of the dissent at or before the time of the action is not liable for the action.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7704 Vacancy in trusteeship; manner of filling; priority; appointment by court of additional trustee or fiduciary.

Sec. 7704. (1) A vacancy in a trusteeship occurs if 1 or more of the following occur:

(a) A person designated as trustee rejects the trusteeship.

(b) A person designated as trustee cannot be identified or does not exist.

(c) A trustee resigns.

(d) A trustee is disqualified or removed.

(e) A trustee dies.

(f) A guardian or conservator is appointed for an individual serving as trustee.

(2) If 1 or more cotrustees remain in office, a vacancy in a trusteeship need not be filled. A vacancy in a trusteeship shall be filled if the trust has no remaining trustee.

(3) If a vacancy in a trusteeship of a noncharitable trust is to be filled, the vacancy shall be filled in the following order of priority:

(a) In the manner designated by the terms of the trust.

(b) By a person appointed by the court.

(4) If a vacancy in a trusteeship of a charitable trust is to be filled, the vacancy shall be filled in the following order of priority:

(a) In the manner designated by the terms of the trust.

(b) By a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust if the attorney general concurs in the selection.

(c) By a person appointed by the court.

(5) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary upon the showing of good cause.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7705 Resignation of trustee; circumstances; issuance of orders and conditions; liability.

Sec. 7705. (1) A trustee may resign in either of the following circumstances:

(a) Upon at least 28 days' notice to the qualified trust beneficiaries, the holders of powers of appointment, and all cotrustees.

(b) With the approval of the court.

(2) In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

(3) Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7706 Removal of trustee.

Sec. 7706. (1) The settlor, a cotrustee, or a qualified trust beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative.

(2) The court may remove a trustee if 1 or more of the following occur:

(a) The trustee commits a serious breach of trust.

(b) Lack of cooperation among cotrustees substantially impairs the administration of the trust.

(c) Because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the purposes of the trust.

(d) There has been a substantial change of circumstances, the court finds that removal of the trustee best serves the interests of the trust beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.

(3) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, to the extent it is not inconsistent with a material purpose of the trust, the court may order any appropriate relief under section 7901(2) that is necessary to protect the trust property or the interests of the trust beneficiaries.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7707 Delivery of property by former trustee.

Sec. 7707. (1) Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.

(2) A trustee who has resigned or been removed shall proceed expeditiously to deliver the trust property in the trustee's possession to the cotrustee, successor trustee, or other person entitled to it.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7708 Compensation of trustee.

Sec. 7708. (1) If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to compensation that is reasonable under the circumstances.

(2) If the terms of a trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, but the court may allow more or less compensation if either of the following apply:

(a) The duties of the trustee are substantially different from those contemplated when the trust was created.

(b) The compensation specified by the terms of the trust would be unreasonably low or high.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC

700.7709 Reimbursement of expenses; advance of money as lien; advances and reimbursement not as self-dealing or breach of fiduciary duty.

Sec. 7709. (1) A trustee is entitled to be reimbursed out of the trust property, with interest as appropriate, for both of the following:

(a) Expenses that were properly incurred in the administration of the trust.

(b) To the extent necessary to prevent unjust enrichment of the trust, expenses that were not properly incurred in the administration of the trust.

(2) An advance by the trustee of money for the protection of the trust gives rise to a lien against trust property to secure reimbursement with reasonable interest.

(3) Advances and reimbursement under this section are not considered self-dealing by the trustee and are not a breach of the trustee's fiduciary duty.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

Popular name: EPIC