



Ohio Revised Code

Section 2137.14 Fiduciary duty and authority.

Effective: April 6, 2017

Legislation: House Bill 432 - 131st General Assembly

(A) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including all of the following:

- (1) The duty of care;
- (2) The duty of loyalty;
- (3) The duty of confidentiality.

(B) All of the following apply to a fiduciary's or designated recipient's authority with respect to a digital asset of a user:

- (1) Except as otherwise provided in section 2137.03 of the Revised Code, it is subject to the applicable terms of service.
- (2) It is subject to other applicable laws, including copyright law.
- (3) In the case of a fiduciary, it is limited by the scope of the fiduciary's duties.
- (4) It may not be used to impersonate the user.

(C) A fiduciary with authority over the property of a decedent, ward, principal, or settlor has the right to access any digital asset in which the decedent, ward, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(D) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, ward, principal, or settlor for the purpose of applicable computer fraud and unauthorized computer access laws, including section 2913.04 of the Revised Code.



(E) Both of the following apply to a fiduciary with authority over the tangible, personal property of a decedent, ward, principal, or settlor:

(1) The fiduciary has the right to access the property and any digital asset stored in it.

(2) The fiduciary is an authorized user for the purpose of computer fraud and unauthorized computer access laws, including section 2913.04 of the Revised Code.

(F) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(G) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination shall be in writing, in either physical or electronic form, and accompanied by all of the following:

(1) If the user is deceased, a copy of the death certificate of the user;

(2) A copy of the instrument giving the fiduciary authority over the account, as follows:

(a) For a personal representative, a copy of the letter of appointment of the personal representative, the entry appointing a commissioner under division (E) of section 2113.03 of the Revised Code, or the entry granting summary release from administration under division (E) of section 2113.031 of the Revised Code;

(b) For an agent, a copy of the power of attorney;

(c) For a trustee, either a copy of the trust instrument and a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust or a certification of the trust under section 5810.13 of the Revised Code; or

(d) For a guardian, a copy of the court order giving the guardian authority over the ward.



(3) If requested by the custodian, any of the following:

(a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) Evidence linking the account to the user;

(c) A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in division (G)(3)(a) of this section.