



Ohio Revised Code

Section 5801.04 Trustee powers, duties, and relations - beneficiaries' rights.

Effective: January 1, 2007

Legislation: House Bill 416 - 126th General Assembly

(A) Except as otherwise provided in the terms of the trust, Chapters 5801. to 5811. of the Revised Code govern the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(B) The terms of a trust prevail over any provision of Chapters 5801. to 5811. of the Revised Code except the following:

(1) The requirements for creating a trust;

(2) The duty of a trustee to act in good faith and in accordance with the purposes of the trust;

(3) The requirement that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve;

(4) The power of the court to modify or terminate a trust under sections 5804.10 to 5804.16 of the Revised Code;

(5) The effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in Chapter 5805. of the Revised Code;

(6) The power of the court under section 5807.02 of the Revised Code to require, dispense with, or modify or terminate a bond;

(7) The power of the court under division (B) of section 5807.08 of the Revised Code to adjust a trustee's compensation specified in the terms of the trust which is unreasonably low or high;

(8) Subject to division (C) of this section, the duty under divisions (B)(2) and (3) of section 5808.13 of the Revised Code to notify current beneficiaries of an irrevocable trust who have attained twenty-



five years of age of the existence of the trust, of the identity of the trustee, and of their right to request trustee's reports;

(9) Subject to division (C) of this section, the duty under division (A) of section 5808.13 of the Revised Code to respond to the request of a current beneficiary of an irrevocable trust for trustee's reports and other information reasonably related to the administration of a trust;

(10) The effect of an exculpatory term under section 5810.08 of the Revised Code;

(11) The rights under sections 5810.10 to 5810.13 of the Revised Code of a person other than a trustee or beneficiary;

(12) Periods of limitation for commencing a judicial proceeding;

(13) The power of the court to take any action and exercise any jurisdiction that may be necessary in the interests of justice;

(14) The subject-matter jurisdiction of the court for commencing a proceeding as provided in section 5802.03 of the Revised Code.

(C) With respect to one or more of the current beneficiaries, the settlor, in the trust instrument, may waive or modify the duties of the trustee described in divisions (B)(8) and (9) of this section. The waiver or modification may be made only by the settlor designating in the trust instrument one or more beneficiary surrogates to receive any notices, information, or reports otherwise required under those divisions to be provided to the current beneficiaries. If the settlor makes a waiver or modification pursuant to this division, the trustee shall provide the notices, information, and reports to the beneficiary surrogate or surrogates in lieu of providing them to the current beneficiaries. The beneficiary surrogate or surrogates shall act in good faith to protect the interests of the current beneficiaries for whom the notices, information, or reports are received. A waiver or modification made under this division shall be effective for so long as the beneficiary surrogate or surrogates, or their successor or successors designated in accordance with the terms of the trust instrument, act in that capacity.