



Ohio Revised Code

Section 5816.09 Automatic removal of trustees; general rules on successor.

Effective: March 27, 2013

Legislation: House Bill 479 - 129th General Assembly

Any successor or replacement trustees of a legacy trust shall be determined or selected in the following manners:

(A)(1) Division (A)(2) of this section applies if in any action involving a legacy trust or any trustee of the legacy trust a court takes an action in which the court declines to apply the law of this state in determining any of the following matters:

- (a) The validity, construction, or administration of the trust;
- (b) The effect of any term or condition of the trust, including, but not limited to, a spendthrift provision;
- (c) The rights and remedies of any creditor or other suitor in connection with a qualified disposition.

(2) Immediately upon the court's action under division (A)(1) of this section and without the need for any order of any court, any qualified trustee who is a party to that action shall cease in all respects to be a trustee of the legacy trust, and the position of trustee shall be occupied in accordance with the terms of the trust instrument that governed the legacy trust immediately before that cessation, or, if the terms of the trust instrument do not provide for another trustee and the trust would otherwise be without a trustee, any court of this state, upon the application of any beneficiary of the legacy trust, shall appoint a successor qualified trustee upon the terms and conditions that it determines to be consistent with the purposes of the trust and this chapter. Upon a qualified trustee ceasing to be a trustee pursuant to division (A)(2) of this section, that qualified trustee shall have no power or authority other than to convey trust property to any other trustee that is appointed, installed, or serving in accordance with that division.

(3) For purposes of division (A) of this section, "court" includes a judicial tribunal, an administrative tribunal, or other adjudicative body or panel.



(B) In all cases other than the situation described in division (A) of this section, both of the following apply:

(1) If a legacy trust ceases to have at least one qualified trustee, the vacancy in the qualified trusteeship shall be filled pursuant to section 5807.04 of the Revised Code except to the extent that the legacy trust expressly provides otherwise.

(2) If a legacy trust ceases to have at least one trustee, the vacancy in the trusteeship shall be filled pursuant to section 5807.04 of the Revised Code, and the successor trustee shall be a qualified trustee unless the legacy trust instrument expressly provides otherwise.