



## Ohio Revised Code

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

Effective: March 27, 2013

Legislation: House Bill 479 - 129th General Assembly

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(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, the provision of this chapter shall control and prevail.

(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. A court shall liberally construe and apply division (E)(2) of this section 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 or any qualified disposition and shall adjudicate any case or controversy brought before them regarding, arising out of, or related to, any legacy trust 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.