

Trust Registration Statutes

as Amended by Proposed Colorado Trust Code

15-2-205. ~~15-16-101.~~ Duty to register Registration of trusts.

~~(a) (1) Subject to the provisions of section 15-10-108 and to subsections (2), (3), and (4) of this section, the~~ The trustee of a trust having its principal place of administration in this state ~~shall, within thirty days~~ may, after ~~his~~ its acceptance of the trust, register the trust in the court of this state at the principal place of administration. ~~Unless otherwise designated in the trust instrument, the principal place of administration of a trust is the trustee's usual place of business where the records pertaining to the trust are kept or at the trustee's residence, if he has no such place of business. In the case of cotrustees, the principal place of administration, if not otherwise designated in the trust instrument, is the usual place of business of the corporate trustee if there is but one corporate cotrustee or the usual place of business or residence of the individual trustee who is a professional fiduciary if there is but one such person and no corporate cotrustee, and otherwise the usual place of business or residence of any of the cotrustees as agreed upon by them. The duty to register does not apply to the trustee of a trust if~~ unless registration would be inconsistent with the retained jurisdiction of a foreign court from which the trustee cannot obtain release.

~~(2) Registration of a trust which has no asset other than the right to receive property upon the occurrence of some future event or a trust nominally funded with assets having a value of five hundred dollars or less shall not be required until the occurrence of such event or assets having a value in excess of five hundred dollars are deposited therein.~~

~~(b) (3) Registration of a fully and~~ presently currently revocable inter vivos trust shall not be ~~required~~ made until such a time as the ~~grantor's~~ settlor's power to revoke such a trust has terminated, ~~nor shall registration be required if all the assets of such a trust become then distributable outright to the beneficiaries.~~

~~(c) (4) A trust which is required to be registered and which divides the corpus into multiple trusts or a will which creates multiple trusts shall require~~ needs only one registration rather than a registration ~~for~~ of each separate trust.

~~(d) (5) The provisions of this part 1~~ Sections 15-5-205 to 15-5-209 shall not apply to any trust created under sections 15-14-412.5 and 15-14-412.6.

15-5-206. ~~15-16-102.~~ Registration procedures and content of statement.

~~(a) (1) Registration shall be accomplished by filing a~~ trust registration statement with the court described in section 15-5-205 indicating the name and address of the trustee in which it acknowledges the trusteeship. The statement shall indicate whether the trust has been registered elsewhere, if known

(b) ~~(2)~~ The statement shall identify the trust as follows:

(1) ~~(a)~~ In the case of a testamentary trust, by the name of the testator and the date and place of domiciliary probate;

(2) ~~(b)~~ In the case of a written inter vivos trust, by the name of each settlor and the original trustee and the date of the trust instrument;

(3) ~~(c)~~ In the case of an oral trust, by information identifying the settlor or other source of funds or assets and describing the time and manner of the ~~trust's~~ trust's creation and the terms of the trust, including the subject matter, beneficiaries, and time of performance.

(c) Within 60 days after filing the trust registration statement, the trustee shall notify in writing all co-trustees, qualified beneficiaries and other fiduciaries and persons having authority to act under the terms of the trust. For purposes of privacy, the names of qualified beneficiaries may be redacted from the the copy of the statement filed with the court or provided to other qualified beneficiaries.

(d) ~~(2.5)~~ The trust registration statement shall contain language indicating that, because a court will not routinely review or adjudicate matters unless it is specifically requested to do so by a beneficiary, creditor, or other interested person, all interested persons, including beneficiaries and creditors, have the responsibility to protect their own rights and interests in the trust estate. in ~~the~~ a manner provided by the provisions of ~~this code~~ 15-5-109 by filing an appropriate pleading with the court by which the trust estate is ~~being or could be~~ administered and serving it on all interested persons ~~pursuant to~~ as identified in section ~~15-10-401~~ 5-201.

(e) ~~(3)~~ If a trust has been registered ~~elsewhere~~ in a foreign court, registration in this state is ineffective to the extent it is inconsistent with the foreign registration until the earlier registration is released ~~by order of the court where prior registration occurred~~, or an instrument executed by the trustee and all qualified beneficiaries, is filed with the registration in this state.

~~15-16-103. Effect of registration~~

~~(1) By registering a trust, or accepting the trusteeship of a registered trust, the trustee submits personally to the jurisdiction of the court in any proceeding under section 15-16-201 relating to the trust that may be initiated by any interested person while the trust remains registered. Notice of any proceeding shall be provided pursuant to section 15-10-401.~~

~~(2) To the extent of their interests in the trust, all beneficiaries of a trust properly registered in this state are subject to the jurisdiction of the court of registration for the purposes of proceedings under section 15-16-201, provided notice is given pursuant to section 15-10-401.~~

15-5-207. ~~15-16-104.~~ Effect of failure to register.

A trustee who ~~fails to~~does not register a trust in a proper place, for purposes of any proceedings initiated by a beneficiary of the trust prior to registration, is subject to the personal jurisdiction of any court in which the trust could have been registered and otherwise as provided by ~~the Colorado rules of civil procedure, section 15-5-205 above.~~ In addition, any trustee who, within thirty days after receipt of a written demand by a settlor or ~~beneficiary of the trust, fails to register a trust as required is subject to removal and denial of compensation or to surcharge as the court may direct. A provision in the terms of the trust purporting to excuse the trustee from the duty to register, or directing that the trust or trustee shall not be subject to the jurisdiction of the court, is ineffective. If any trustee wrongfully and willfully fails to register prior to December 31, 1975, a trust which is in existence on July 1, 1975, and which is required to be registered, or wrongfully and willfully fails to register within thirty days of his acceptance of a trust which comes into existence thereafter and which is required to be registered, the court in which the trust should have been registered shall impose on the trustee a civil penalty of one hundred dollars per day for each day the trustee fails to register the trust, but not more than one thousand dollars. Such civil penalty shall not be paid from the corpus or income of the trust~~qualified beneficiary of the trust, fails to register a trust may be subject to removal or to surcharge as the court may direct.

15-5-208. ~~15-16-105.~~ Registration, qualification of foreign trustee.

A foreign corporate trustee is required to qualify as a foreign corporation doing business in this state if it maintains the principal place of administration of any trust within the state. A foreign ~~co-trustee~~co-trustee is not required to qualify in this state solely because its ~~co-trustee~~co-trustee maintains the principal place of administration in this state. Unless otherwise doing business in this state, local qualification by a foreign trustee, corporate or individual, is not required in order for the trustee to receive distribution from a local estate or to hold, invest in, manage, or acquire property located in this state, or maintain litigation. Nothing in this section affects a determination of what other acts require qualification as doing business in this state.

15-5-209 Release of Trust Registration Statement.

If a trust's principal place of administration changes after the trust has been registered in this state, the trustee may withdraw that registration by filing a Notice of Release of Trust Registration Statement in the same court in which the last registration statement was filed; and by serving the Notice of Release on all persons described in section 15-5-206(c). The trust registration shall be deemed released thirty-five (35) days after the filing of the Notice of Release with the court unless an objection to the release is filed with that court and the objector files a notice to set a hearing on the objection within said period, and serves the objection and the notice to set on those persons described in section 15-5-206(c).