

PART 2

JUDICIAL PROCEEDINGS

15-5-201. Role of court in administration of trust. (a) THE COURT MAY INTERVENE IN THE ADMINISTRATION OF A TRUST TO THE EXTENT ITS JURISDICTION IS INVOKED BY AN INTERESTED PERSON OR AS PROVIDED BY LAW.

(b) A TRUST IS NOT SUBJECT TO CONTINUING JUDICIAL SUPERVISION UNLESS ORDERED BY THE COURT.

(c) A JUDICIAL PROCEEDING INVOLVING A TRUST MAY RELATE TO ANY MATTER INVOLVING THE TRUST'S ADMINISTRATION, ~~INCLUDING A REQUEST FOR INSTRUCTIONS AND AN ACTION TO DECLARE RIGHTS.~~ SUCH MATTERS MAY INCLUDE, BUT ARE NOT LIMITED TO, PROCEEDINGS INVOLVING:

(1) THE APPOINTMENT OR REMOVAL OF A TRUSTEE;

(2) REVIEWING TRUSTEE'S FEES AND REVIEWING AND SETTLING INTERIM OR FINAL ACCOUNTINGS;

(3) REQUESTS FOR INSTRUCTIONS;

(4) DECLARATIONS OF RIGHTS;

(5) DETERMINATIONS AS TO THE CREATION, EXISTENCE, AND VALIDITY OF ALL OR A PART OF A TRUST;

(6) THE ASCERTAINMENT OF BENEFICIARIES, AND DETERMINATIONS OF ANY OTHER QUESTION ARISING IN THE ADMINISTRATION OR DISTRIBUTION OF ANY TRUST INCLUDING QUESTIONS OF CONSTRUCTION OF TRUST INSTRUMENTS, AND THE EXISTENCE OR NON-EXISTENCE OF ANY IMMUNITY, POWER, PRIVILEGE, DUTY, OR RIGHT;

(7) THE REGISTRATION OR RELEASE OF REGISTRATION OF A TRUST;

(8) A DIRECTION TO COMPEL OR REFRAIN FROM PERFORMING A PARTICULAR ACT;

(9) THE AMENDMENT, MODIFICATION, REVOCATION, OR TERMINATION OF A TRUST;

(10) THE COMBINATION OR DIVISION OF TRUSTS;

(11) EQUITABLE DOCTRINES OF CY PRES, EQUITABLE DEVIATION, AND OTHER PRINCIPLES OF EQUITY PERTAINING TO CHARITABLE AND OTHER TRUSTS.

15-5-202. Jurisdiction over trustee and beneficiary. (a) BY ACCEPTING THE TRUSTEESHIP OF A TRUST HAVING ITS PRINCIPAL PLACE OF ADMINISTRATION IN THIS STATE OR BY MOVING THE PRINCIPAL PLACE OF ADMINISTRATION TO THIS STATE, OR BY REGISTERING THE TRUST IN THIS STATE, THE TRUSTEE SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURTS OF THIS STATE REGARDING ANY MATTER INVOLVING THE TRUST.

(b) WITH RESPECT TO THEIR INTERESTS IN THE TRUST, THE BENEFICIARIES OF A TRUST HAVING ITS PRINCIPAL PLACE OF ADMINISTRATION IN THIS STATE OR THAT IS PROPERLY REGISTERED IN THIS STATE ARE SUBJECT TO THE JURISDICTION OF THE COURTS OF THIS STATE REGARDING ANY MATTER INVOLVING THE TRUST. BY ACCEPTING A DISTRIBUTION FROM SUCH A TRUST, THE RECIPIENT SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURTS OF THIS STATE REGARDING ANY MATTER INVOLVING THE TRUST.

(c) THIS SECTION DOES NOT PRECLUDE OTHER METHODS OF OBTAINING JURISDICTION OVER A TRUSTEE, BENEFICIARY, OR OTHER PERSON RECEIVING PROPERTY FROM THE TRUST.

15-5-203. Subject matter jurisdiction. (a) THE DISTRICT COURT (OR, IN THE CITY AND COUNTY OF DENVER, THE PROBATE COURT) HAS EXCLUSIVE JURISDICTION OF PROCEEDINGS IN THIS STATE BROUGHT BY A TRUSTEE OR BENEFICIARY CONCERNING THE ADMINISTRATION OF A TRUST.

(b) THE DISTRICT COURT (OR, IN THE CITY AND COUNTY OF DENVER, THE PROBATE COURT) HAS CONCURRENT JURISDICTION WITH OTHER DISTRICT COURTS OF THIS STATE OF OTHER PROCEEDINGS INVOLVING TRUSTS AND THIRD PARTIES, SUCH AS PROCEEDINGS BY OR AGAINST CREDITORS OR DEBTORS OF TRUSTS.

(c) THIS SECTION DOES NOT PRECLUDE JUDICIAL OR NONJUDICIAL ALTERNATIVE DISPUTE RESOLUTION.

15-5-204. Venue. (a) A JUDICIAL PROCEEDING CONCERNING ~~A TRUST MAY BE COMMENCED IN~~ THE INTERNAL AFFAIRS OF TRUSTS, INVOLVING TRUSTEES, BENEFICIARIES OR PERSONS WITH AUTHORITY TO ACT UNDER THE TRUST INSTRUMENT MUST BE COMMENCED IN THE FOLLOWING ORDER OF PRIORITY: (i) THE COUNTY OF VENUE SPECIFIED BY THE TERMS OF THE TRUST IF THAT COUNTY HAS A SUBSTANTIAL RELATIONSHIP TO THE PRESENT ADMINISTRATION OF THE TRUST; (ii) THE COUNTY IN WHICH THE TRUST IS REGISTERED. ~~IF THE TRUST IS NOT REGISTERED, A JUDICIAL PROCEEDING CONCERNING A TRUST MAY BE COMMENCED IN;~~ (iii) EITHER (A) THE COUNTY IN WHICH THE TRUST'S PRINCIPAL PLACE OF ADMINISTRATION IS OR IS TO BE LOCATED ~~AND;~~ OR (B) IF THE TRUST IS CREATED BY WILL, ~~IN~~ THE COUNTY IN WHICH THE DECEDENT'S ESTATE IS BEING ADMINISTERED.

(b) IF A TRUST HAS NO TRUSTEE, A JUDICIAL PROCEEDING FOR THE APPOINTMENT OF A TRUSTEE MUST BE COMMENCED IN THE FOLLOWING ORDER OF PRIORITY: (i) THE COUNTY ~~IN WHICH THE TRUST IS REGISTERED OR, IF THE TRUST IS NOT REGISTERED, IN~~ REQUIRED UNDER SUBSECTION (a); (ii) EITHER (A) A COUNTY IN WHICH A BENEFICIARY RESIDES, ~~IN~~ OR (B) A COUNTY IN WHICH THE TRUST PROPERTY, OR SOME PORTION OF THE TRUST PROPERTY, IS LOCATED, ~~AND IF THE TRUST~~

~~IS CREATED BY WILL, IN THE COUNTY WHICH THE DECEDENT'S ESTATE WAS OR IS BEING ADMINISTERED.~~

(c) A JUDICIAL PROCEEDING OTHER THAN ONE DESCRIBED IN SUBSECTION (a) OR (b) OF THIS SECTION MUST BE COMMENCED IN ACCORDANCE WITH THE RULES OF VENUE APPLICABLE TO CIVIL ACTIONS.

15-5-205. Registration of trusts. (a) THE TRUSTEE OF A TRUST HAVING ITS PRINCIPAL PLACE OF ADMINISTRATION IN THIS STATE MAY, AFTER ITS ACCEPTANCE OF THE TRUST, REGISTER THE TRUST IN THE COURT OF THIS STATE AT THE PRINCIPAL PLACE OF ADMINISTRATION UNLESS REGISTRATION WOULD BE INCONSISTENT WITH THE RETAINED JURISDICTION OF A FOREIGN COURT FROM WHICH THE TRUSTEE CANNOT OBTAIN RELEASE.

(b) REGISTRATION OF A FULLY AND CURRENTLY REVOCABLE INTER VIVOS TRUST SHALL NOT BE MADE UNTIL SUCH A TIME AS THE SETTLOR'S POWER TO REVOKE SUCH A TRUST HAS TERMINATED.

(c) A TRUST WHICH DIVIDES THE CORPUS INTO MULTIPLE TRUSTS OR A WILL WHICH CREATES MULTIPLE TRUSTS NEEDS ONLY ONE REGISTRATION RATHER THAN A REGISTRATION OF EACH SEPARATE TRUST.

(d) 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. Registration procedures and content of statement. (a) 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) THE STATEMENT SHALL IDENTIFY THE TRUST AS FOLLOWS:

(1) IN THE CASE OF A TESTAMENTARY TRUST, BY THE NAME OF THE TESTATOR AND THE DATE AND PLACE OF DOMICILIARY PROBATE.

(2) 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) 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 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) 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.

(e) IF A TRUST HAS BEEN REGISTERED 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, OR AN INSTRUMENT EXECUTED BY THE TRUSTEE AND ALL QUALIFIED BENEFICIARIES, IS FILED WITH THE REGISTRATION IN THIS STATE.

15-5-207. Effect of failure to register. A TRUSTEE WHO 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 SECTION 15-5-205 ABOVE. IN ADDITION, ANY TRUSTEE WHO, WITHIN THIRTY DAYS AFTER RECEIPT OF A WRITTEN DEMAND BY A SETTLOR OR 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. 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 IS NOT REQUIRED TO QUALIFY IN THIS STATE SOLELY BECAUSE ITS 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).

15-5-210. Judicially approved settlements. (a) A SETTLEMENT OF ANY CONTROVERSY AS TO THE ADMINISTRATION OF A TRUST; THE CONSTRUCTION, VALIDITY, OR EFFECT OF ANY TRUST; OR THE RIGHTS OR INTERESTS OF THE BENEFICIARIES OR PERSONS HAVING CLAIMS AGAINST THE TRUST, IF APPROVED IN A FORMAL PROCEEDING IN THE COURT FOR THAT PURPOSE, IS BINDING ON ALL PARTIES THERETO, INCLUDING AN UNBORN INDIVIDUAL, AN UNASCERTAINED INDIVIDUAL, OR A PERSON WHO COULD NOT BE LOCATED. AN APPROVED SETTLEMENT DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR TAXING AUTHORITIES WHO ARE NOT PARTIES TO IT.

(b) NOTICE OF A JUDICIALLY APPROVED SETTLEMENT MUST BE GIVEN TO EVERY INTERESTED PERSON OR TO ONE WHO CAN BIND AN INTERESTED PERSON AS PROVIDED IN THIS PART 3.

(c) THE PROCEDURE FOR SECURING COURT APPROVAL OF A SETTLEMENT IS AS FOLLOWS:

(1) THE TERMS OF THE SETTLEMENT MUST BE SET FORTH IN AN AGREEMENT IN WRITING, WHICH SHALL BE EXECUTED BY ALL COMPETENT PERSONS AND PARENTS OF ANY MINOR CHILD HAVING A BENEFICIAL INTEREST OR HAVING CLAIMS THAT WILL OR MAY BE AFFECTED BY THE SETTLEMENT. EXECUTION IS NOT REQUIRED BY ANY PERSON WHOSE IDENTITY CANNOT BE ASCERTAINED OR WHOSE WHEREABOUTS ARE UNKNOWN AND CANNOT BE ASCERTAINED.

(2) ANY INTERESTED PERSON, INCLUDING A TRUSTEE, THEN MAY SUBMIT THE SETTLEMENT TO THE COURT FOR ITS APPROVAL AND FOR EXECUTION BY THE TRUSTEE, THE TRUSTEE OF EVERY AFFECTED TESTAMENTARY TRUST, OTHER FIDUCIARIES, AND REPRESENTATIVES.

(3) AFTER NOTICE TO ALL INTERESTED PERSONS OR THEIR REPRESENTATIVES, THE COURT, IF IT FINDS THAT THE CONTEST OR CONTROVERSY IS IN GOOD FAITH AND THAT THE EFFECT OF THE SETTLEMENT UPON THE INTERESTS OF THE PERSONS REPRESENTED BY THE FIDUCIARIES OR REPRESENTATIVES IS JUST AND REASONABLE, SHALL MAKE AN ORDER APPROVING THE SETTLEMENT AND DIRECTING ALL FIDUCIARIES UNDER ITS SUPERVISION TO EXECUTE THE AGREEMENT. A MINOR CHILD REPRESENTED ONLY BY HIS OR HER PARENTS MAY BE BOUND ONLY IF THERE IS NO CONFLICT OF INTEREST BETWEEN THE PARENT AND CHILD. UPON THE MAKING OF THE ORDER AND THE EXECUTION OF THE SETTLEMENT, ALL FURTHER DISPOSITION OF TRUST PROPERTY AFFECTED BY THE SETTLEMENT MUST BE IN ACCORDANCE WITH THE TERMS OF THE SETTLEMENT.

(d) NOTICE TO A PERSON WHO MAY BE REPRESENTED AND BOUND UNDER THIS PART 3 OF AN AGREEMENT TO BE APPROVED BY THE COURT MUST BE GIVEN:

(1) DIRECTLY TO THE PERSON OR TO ONE WHO MAY BIND THE PERSON IF THE PERSON MAY BE REPRESENTED AND BOUND UNDER SECTION 15-5-302 OR 15-5-303; OR

(2) IN THE CASE OF A PERSON WHO MAY BE REPRESENTED AND BOUND UNDER SECTION 15-5-304 AND WHO IS UNBORN OR WHOSE IDENTITY OR LOCATION IS UNKNOWN AND NOT REASONABLY ASCERTAINABLE, TO ALL PERSONS WHOSE INTERESTS IN THE JUDICIAL PROCEEDINGS ARE SUBSTANTIALLY IDENTICAL AND WHOSE IDENTITIES AND LOCATIONS ARE KNOWN.

(3) IN THE CASE OF OTHER PERSONS WHO MAY BE REPRESENTED AND BOUND UNDER SECTION 15-5-304, DIRECTLY TO THE PERSON.