

As edited by Committee:

**15-5-109. Methods and waiver of notice in matters other than judicial proceedings.** (a) NOTICE TO A PERSON UNDER THIS ARTICLE OR THE SENDING OF A DOCUMENT TO A PERSON UNDER THIS ARTICLE MUST BE ACCOMPLISHED IN A MANNER REASONABLY SUITABLE UNDER THE CIRCUMSTANCES AND LIKELY TO RESULT IN RECEIPT OF THE NOTICE OR DOCUMENT. PERMISSIBLE METHODS OF NOTICE OR FOR SENDING A DOCUMENT INCLUDE FIRST-CLASS MAIL, PERSONAL DELIVERY, DELIVERY TO THE PERSON'S LAST-KNOWN PLACE OF RESIDENCE OR PLACE OF BUSINESS, OR A PROPERLY DIRECTED ELECTRONIC MESSAGE.

(b) ~~Reserved.~~ NOTICE OTHERWISE REQUIRED UNDER THIS CODE OR A DOCUMENT OTHERWISE REQUIRED TO BE SENT UNDER THIS CODE NEED NOT BE PROVIDED TO A PERSON WHOSE IDENTITY OR LOCATION IS UNKNOWN TO AND NOT REASONABLY ASCERTAINABLE BY THE TRUSTEE. THE TRUSTEE SHALL KEEP A RECORD OF DOCUMENTATION OF THE TRUSTEE'S REASONABLE EFFORTS TO DETERMINE THE LOCATION AND/OR IDENTITY OF A BENEFICIARY WHOSE IDENTITY OR WHEREABOUTS ARE UNKNOWN.

(c) NOTICE UNDER THIS CODE OR THE SENDING OF A DOCUMENT UNDER THIS CODE MAY BE WAIVED BY THE PERSON TO BE NOTIFIED OR SENT THE DOCUMENT.

(d) NOTICE OF A JUDICIAL PROCEEDING MUST BE GIVEN AS PROVIDED IN THE ~~APPLICABLE RULES OF CIVIL PROCEDURE~~. COLORADO RULES OF PROBATE PROCEDURE, THE COLORADO PROBATE CODE, AND IF APPLICABLE, THE COLORADO RULES OF CIVIL PROCEDURE.

Proposed further editing of SMB:

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(b) ~~Reserved.~~ A TRUSTEE NEED NOT PROVIDE A NOTICE OR DOCUMENT OTHERWISE REQUIRED UNDER THIS CODE OR A DOCUMENT OTHERWISE REQUIRED TO BE SENT UNDER THIS CODE NEED NOT BE PROVIDED TO A PERSON WHOSE IDENTITY OR LOCATION IS UNKNOWN TO AND NOT REASONABLY ASCERTAINABLE BY THE TRUSTEE. THE TRUSTEE SHALL ~~KEEP A RECORD OF~~ MAINTAIN DOCUMENTATION OF THE TRUSTEE'S REASONABLE EFFORTS TO ~~DETERMINE ASCERTAIN~~ THE ~~LOCATION-IDENTITY~~ AND/OR ~~IDENTITY-LOCATION~~ OF A BENEFICIARY WHOSE IDENTITY OR WHEREABOUTS ARE UNKNOWN SUCH A PERSON.

(c) NOTICE UNDER THIS CODE OR THE SENDING OF A DOCUMENT UNDER THIS CODE MAY BE WAIVED BY THE PERSON TO BE NOTIFIED OR SENT THE DOCUMENT.

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Apart from the language tidying in (b), my concern is that these provisions are intended to cover all of the notices that need to be provided by any party . . . But I understood that our effort in (b) is designed to relieve only a trustee from the burden of tracking down missing/unknown persons. (. . . Otherwise we shouldn't be basing this exception on the knowledge/efforts of just the trustee.)