

386B.13-060 Notice -- Exercise of decanting power.

- (1) A notice period in this section begins on the day notice is given under subsection (3) of this section and ends fifty-nine (59) days after the day notice is given.
- (2) Except as otherwise provided in KRS 386B.13-010 to 386B.13-280, an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.
- (3) Except as otherwise provided in subsection (6) of this section, an authorized fiduciary shall give notice in a record of the intended exercise of the decanting power not less than sixty (60) days before the exercise to:
 - (a) Each settlor of the first trust, if living or then in existence;
 - (b) Each qualified beneficiary of the first trust;
 - (c) Each holder of a presently exercisable power of appointment over any part or all of the first trust;
 - (d) Each person that currently has the right to remove or replace the authorized fiduciary;
 - (e) Each other fiduciary of the first trust;
 - (f) Each fiduciary of the second trust; and
 - (g) The Attorney General, if KRS 386B.13-130(2) applies.
- (4) An authorized fiduciary is not required to give notice under subsection (3) of this section to a person that is not known to the fiduciary or is known to the fiduciary but cannot be located by the fiduciary after reasonable diligence.
- (5) A notice under subsection (3) of this section shall:
 - (a) Specify the manner in which the authorized fiduciary intends to exercise the decanting power;
 - (b) Specify the proposed effective date for exercise of the power; and
 - (c) Include a copy of:
 1. The first-trust instrument; or
 2. All second-trust instruments.
- (6) The decanting power may be exercised before the expiration of the notice period under subsection (1) of this section if all persons entitled to receive notice waive the period in a signed record.
- (7) The receipt of notice, waiver of the notice period, or expiration of the notice period does not affect the right of a person to file an application under KRS 386B.13-080 asserting that:
 - (a) An attempted exercise of the decanting power is ineffective because it did not comply with the provisions of KRS 386B.13-010 to 386B.13-280 or was an abuse of discretion or breach of fiduciary duty; or
 - (b) KRS 386B.13-210 applies to the exercise of the decanting power.
- (8) An exercise of the decanting power is not ineffective because of the failure to give notice to one (1) or more persons under subsection (3) of this section if the authorized fiduciary acted with reasonable care to comply with subsection (3) of

this section.

Effective: July 15, 2026

History: Created 2026 Ky. Acts ch. 134, sec. 92, effective July 15, 2026.