

### **386A.4-100 Other claims against dissolved series.**

- (1) A dissolved series shall publish notice of its dissolution pursuant to this section.
- (2) The notice shall:
  - (a) Be published once in a newspaper of general circulation in the county where the statutory trust's principal office, or, if none in this Commonwealth, its registered office, is or was last located;
  - (b) Set forth the information required by KRS 386A.4-090(2)(a), (b), or (c); and
  - (c) State that the claim will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the publication of the notice.
- (3) If the dissolved series publishes a newspaper notice in accordance with subsection (2) of this section, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim against the series within two (2) years after the publication date of the newspaper notice:
  - (a) A claimant who did not receive written notice under KRS 386A.4-090;
  - (b) A claimant whose claim was timely sent to the series but not rejected; and
  - (c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.
- (4) A claim may be enforced under this section:
  - (a) Against the series, to the extent of the assets of or associated with the series that remain undistributed; and
  - (b) To the extent of the assets of or associated with the series that have been distributed in liquidation, against a beneficial owner or the statutory trust to the extent of a pro rata share of the claim, but the total liability of a beneficial owner for all claims under this section shall not exceed the total assets of or associated with the series distributed in liquidation to the beneficial owner.
- (5) A dissolved series that published a notice under this section may file an application with the appropriate court for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved series or that are based on an event occurring after the effective date of the dissolution of the series but that, based on the facts known to the dissolved series, are reasonably estimated to arise after the effective date of the dissolution of the series. Provision need not be made for any claim that is or is reasonably anticipated to be barred under subsection (3) of this section.
- (6) Within ten (10) days after the filing of the application provided for in subsection (5) of this section, notice of the proceeding shall be given by the dissolved series to each potential claimant as described in KRS 386A.4-090(2).
- (7) The appropriate court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section, including those claimants whose claims are contingent or based upon an event occurring after the effective date of dissolution. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, shall be paid by the dissolved series.

- (8) Provision by the dissolved series for security in the amount and form ordered by the appropriate court under subsection (5) of this section shall satisfy the dissolved series's obligation with respect to claims that are contingent, have not been made known to the dissolved series, or are based on an event occurring after the effective date of the dissolution of the series, and those claims may not be enforced against a beneficial owner to whom assets of or associated with a dissolved series have been distributed.

**Effective:** July 12, 2012

**History:** Created 2012 Ky. Acts ch. 81, sec. 31, effective July 12, 2012.