

**386B.8-180 Duties of trustee upon termination or upon removal of trustee --
Objection.**

- (1) (a) When a trust terminates pursuant to the terms of the trust, the trustee may follow the requirements for distribution upon termination as provided in KRS 386B.8-170 or, if proceeding under this section, within a reasonable amount of time after such termination, the trustee shall provide to the qualified beneficiaries a statement showing the fair market value of the net assets to be distributed, a trust accounting for the prior five (5) years and an estimate for any items reasonably anticipated but not yet received or disbursed, the amount of any fees, including trustee fees, remaining to be paid, and notice that the trust is terminating. The trustee may also provide such statement and notice to any other person whom the trustee reasonably believes may have an interest in the trust.
 - (b) If, after receiving the notice and trust information described in paragraph (a) of this subsection, a qualified beneficiary objects to an action or omission disclosed, he or she shall provide written notice of the objection to the trustee within forty-five (45) days of the notice having been sent by the trustee. If no written objection is provided within the forty-five (45) day time period, the information provided pursuant to paragraph (a) of this subsection shall be considered approved by the recipient and the trustee shall, within a reasonable period of time following the expiration of such period, distribute the assets as provided in the trust. If the trustee receives a written objection within the applicable forty-five (45) day time period, the trustee may:
 1. Submit the written objection to the District Court for resolution and charge the expense of commencing such a proceeding to the trust; or
 2. Resolve the objection with the qualified beneficiary, whether by nonjudicial settlement agreement or otherwise. Any agreement entered into pursuant to this paragraph may include a release, an indemnity clause, or both on the part of the beneficiary against the trustee relating to the trust. If the parties agree to a nonjudicial settlement agreement, any related expenses shall be charged to the trust.

Upon a resolution of an objection pursuant to subparagraph 1. or 2. of this paragraph, within a reasonable period of time thereafter the trustee shall distribute the remaining trust assets as provided in the trust.
 - (c) The trustee may rely upon the written statement of a person receiving notice that such person does not object.
- (2) (a) When a trustee is removed or resigns pursuant to the terms of the trust, the trustee may follow the requirements for distribution upon termination as provided in KRS 386B.8-170 or, if proceeding under this section, the trustee, within a reasonable time after such removal or resignation, shall provide to the successor trustee a statement showing the net assets to be distributed, a trust accounting for the prior five (5) years, an estimate for any items reasonably anticipated but not yet received or disbursed, the amount of any fees, including trustee fees, remaining to be paid, and notice that the trustee has

resigned or been removed. The trustee may also provide such statement and notice to any other person whom trustee reasonably believes may have an interest in the trust.

- (b) Any person provided notice and trust information as described in paragraph (a) of this subsection who objects to an action or omission disclosed shall provide written notice of the objection to the trustee within forty-five (45) days of the notice having been sent by the trustee. If no written objection is provided within the forty-five (45) day time period, the information provided pursuant to paragraph (a) of this subsection will be considered approved, and the trustee shall, within a reasonable period following the expiration of such forty-five (45) day period, distribute the assets to the successor trustee. If the trustee receives a written objection within the applicable forty-five (45) day time period, the trustee may:
1. Submit the written objection to the District Court for resolution and charge the expense of commencing such a proceeding to the trust; or
 2. Resolve the objection with the opposing party, whether by nonjudicial settlement agreement or otherwise. Any agreement entered into pursuant to this paragraph may include a release, an indemnity clause, or both on the part of the opposing party against the trustee relating to the trust. If the parties agree to a nonjudicial settlement agreement, any related expenses shall be charged to the trust.

Upon a resolution of any objection raised by an opposing party pursuant to subparagraph 1. or 2. of this paragraph, within a reasonable period of time thereafter the trustee shall distribute the remaining trust assets as provided in the trust.

- (c) The trustee may rely upon the written statement of a person receiving notice that such person does not object.
- (3) When a trustee distributes assets of the trust pursuant to subsection (1) or (2) of this section, the limitations in KRS 386B.6-040 and 386B.10-050 are waived by each person who received notice and either consented or failed to object pursuant to this section, and any such person is barred from bringing a claim against the trustee for breach of trust or challenging the validity of the trust, to the same extent and with the same preclusive effect as if the court had entered a final order approving the trustee's final account.
- (4) Notice provided under subsection (1) or (2) of this section shall clearly warn of the impending bar of claims against a trustee under KRS 386B.6-040 and 386B.10-050 that will result if an objection is not timely made.
- (5) No trustee trust shall request that any beneficiary indemnify the trustee against loss in exchange for the trustee forgoing a request to the court to approve its accounts at the time the trust terminates or at the time the trustee is removed or resigns, except as agreed upon by the parties pursuant to paragraph (b)1. or 2. of subsections (1) and (2) of this section.
- (6) The District Court shall have exclusive jurisdiction over matters under this section.

Effective: June 24, 2015

History: Amended 2015 Ky. Acts ch. 121, sec. 2, effective June 24, 2015. -- Created 2014 Ky. Acts ch. 25, sec. 77, effective July 15, 2014.