

75-7-607 Limitation on action contesting validity of revocable trust -- Distribution of trust property.

- (1) A person shall commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of:
 - (a) three years after the settlor's death; or
 - (b) 90 days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.
- (2) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for doing so unless:
 - (a) the trustee knows of a pending judicial proceeding contesting the validity of the trust; or
 - (b) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent the notification.
- (3) With respect to a potential contest, the trustee is only liable for actions taken two or more business days after the trustee has actual receipt of written notice from a potential contestant. The written notice shall include the name of the settlor or of the trust, the name of the potential contestant, and a description of the basis for the potential contest. The written notice shall be mailed to the trustee at the principal place of administration of the trust by registered or certified mail, return receipt requested, or served upon the trustee in the same manner as a summons in a civil action. Any other form or service of notice is not sufficient to impose liability on the trustee for actions taken pursuant to the terms of the trust.
- (4) A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

Enacted by Chapter 89, 2004 General Session