

75-7-703 Cotrustees.

- (1) Cotrustees who are unable to reach a unanimous decision may act by majority decision.
- (2) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.
- (3) A cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity, or the cotrustee has properly delegated the performance of the function to another trustee.
- (4) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, or if a cotrustee fails or refuses to act after reasonable notice, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.
- (5) A trustee may not delegate to a cotrustee the performance of a function the settlor intended the trustees to perform jointly as determined from the terms of the trust. If one of the cotrustees is a regulated financial service institution qualified to do trust business in this state and the remaining cotrustees are individuals, a delegation by the individual cotrustees to the regulated financial service institution of the performance of trust investment functions shall be presumed to be in accordance with the settlor's intent unless the terms of the trust specifically provide otherwise. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.
- (6) Except as otherwise provided in Subsection (7), a trustee who does not join in an action of another trustee is not liable for the action.
- (7) Each trustee shall exercise reasonable care to:
 - (a) prevent a cotrustee from committing a serious breach of trust; and
 - (b) compel a cotrustee to redress a serious breach of trust.
- (8) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

Enacted by Chapter 89, 2004 General Session