

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.7105 Duties and powers of trustee; provisions of law prevailing over terms of trust.

Sec. 7105. (1) Except as otherwise provided in the terms of the trust, this article governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a trust beneficiary.

(2) The terms of a trust prevail over any provision of this article except the following:

- (a) The requirements under section 7401 for creating a trust.
- (b) The duty of a trustee to administer a trust in accordance with section 7801.
- (c) The requirement under section 7404 that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve.
- (d) The power of the court to modify or terminate a trust under sections 7410, 7412(1) to (3), 7414(2), 7415, and 7416.
- (e) The effect of a spendthrift provision, a support provision, and a discretionary trust provision on the rights of certain creditors and assignees to reach a trust as provided in part 5.
- (f) The power of the court under section 7702 to require, dispense with, or modify or terminate a bond.
- (g) The power of the court under section 7708(2) to adjust a trustee's compensation specified in the terms of the trust that is unreasonably low or high.
- (h) Except as permitted under section 7809(2), the obligations imposed on a trust protector in section 7809(1).
- (i) The duty under section 7814(2)(a) to (c) to provide beneficiaries with the terms of the trust and information about the trust's property, and to notify qualified trust beneficiaries of an irrevocable trust of the existence of the trust and the identity of the trustee.
- (j) The power of the court to order the trustee to provide statements of account and other information pursuant to section 7814(4).
- (k) The effect of an exculpatory term under section 7809(8) or 7908.
- (l) The rights under sections 7910 to 7913 of a person other than a trustee or beneficiary.
- (m) Periods of limitation under this article for commencing a judicial proceeding.
- (n) The power of the court to take action and exercise jurisdiction.
- (o) The subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in sections 7203 and 7204.
- (p) The requirement under section 7113 that a provision in a trust that purports to penalize an interested person for contesting the trust or instituting another proceeding relating to the trust shall not be given effect if probable cause exists for instituting a proceeding contesting the trust or another proceeding relating to the trust.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010;—Am. 2010, Act 325, Eff. Apr. 1, 2010.

Compiler's note: Enacting section 1 of Act 325 of 2010 provides:

"Enacting section 1. (1) Except as provided in subsection (2), this amendatory act takes effect April 1, 2010.

"(2) Section 3207 of the estates and protected individuals code, 1998 PA 386, MCL 700.3207, as amended by this amendatory act, takes effect on the date this amendatory act is enacted into law."

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