

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

700.7607 Rules regarding payment of expenses and obligations; priority; decedent as settlor of more than 1 trust.

Sec. 7607. (1) The following rules apply to section 7606(2):

(a) Upon the failure or insufficiency of money or property out of which payment should be made, to the extent of the insufficiency, a distribution of property from the trust that is to be satisfied out of specified or identified property shall be classed as a distribution to be satisfied out of the general trust property not otherwise disposed of in the terms of the trust.

(b) A distribution of property from the trust given for valuable consideration abates with other distributions of the same class only to the extent of the excess over the amount of the value of the consideration until all others of the same class are exhausted.

(c) Except as otherwise provided in this section, distributions of property from the trust abate equally and ratably and without preference or priority as between real and personal property.

(d) If a specified or identified item of property that has been designated for distribution in the terms of the trust or that is charged with a distribution is sold or taken by the trustee, other beneficiaries shall contribute according to their respective interests to the trust beneficiary whose property is sold or taken, and, before distribution, the trustee shall determine the amounts of the respective contributions, which shall be paid or withheld before distribution is made.

(2) Costs and expenses of trust administration, including trustee compensation and attorney fees, shall be paid by the trustee before and in preference to the administration costs and expenses of the settlor's estate, an enforceable and timely filed claim of a creditor of the settlor, and homestead, family, and exempt property allowances. If, after paying costs and expenses of trust administration, the trust property is insufficient to pay in full all charges for which the trust is liable under section 7605(1), the trustee shall make payment in the following order of priority:

(a) Costs and expenses of administration of the decedent's estate.

(b) Reasonable funeral and burial expenses.

(c) Homestead allowance.

(d) Family allowance.

(e) Exempt property.

(f) Debts and taxes with priority under federal law.

(g) Reasonable and necessary medical and hospital expenses of the decedent's last illness, including compensation of a person attending the decedent.

(h) Debts and taxes with priority under other laws of this state.

(i) All other claims.

(3) A preference shall not be given in the payment of a charge over another charge of the same class under subsection (2), and a charge due and payable is not entitled to a preference over a charge not due.

(4) If the decedent was the settlor of more than 1 trust described in section 7605(1), the charges described in that section are payable pro rata from those trusts based on the gross values of the respective trusts on the date of the decedent's death. Each trustee is entitled to right of contribution as necessary to effect the pro rata liability. The allocation and contribution, however, are subject to provisions in the trusts regarding the allocation and burden of the charges. If there is conflict between the terms of the trusts regarding the allocation and burden of the charges, the decedent's will controls.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010.

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