

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

700.7703 Cotrustees; powers and duties; relief of liability.

Sec. 7703. (1) Except as otherwise provided in this section, cotrustees shall act by majority decision.

(2) A cotrustee shall 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.

(3) If prompt action is necessary to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust if either of the following applies:

(a) A cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity.

(b) A cotrustee who is available fails or refuses to participate in the administration of the trust following notice from the remaining cotrustee or cotrustees.

(4) By agreement of the trustees, a trustee may delegate to a cotrustee 1 or both of the following:

(a) Any power that is permitted to be delegated under section 7817(v) to an agent who is not a trustee.

(b) Any power that can only be performed by a trustee, if notice of the delegation is provided to the qualified trust beneficiaries within 28 days.

(5) Unless a delegation under subsection (4) was irrevocable, a trustee may revoke the delegation previously made. A revocation under this subsection must be in writing and must be given to all of the remaining cotrustees. If notice of the delegation was required to be provided to the qualified trust beneficiaries, notice of the revocation must be given to the qualified trust beneficiaries within 28 days after the revocation.

(6) If 2 or more trustees own securities, their acts with respect to voting have 1 of the following effects:

(a) If only 1 trustee votes, in person or by proxy, that trustee's act binds all of the trustees.

(b) If more than 1 trustee votes, in person or by proxy, the act of the majority so voting binds all of the trustees.

(c) If more than 1 trustee votes, in person or by proxy, but the vote is evenly split on a particular matter, each faction is entitled to vote the securities proportionately.

(7) A trustee is not liable for the action or omission of a cotrustee if all of the following apply:

(a) The trustee is not unavailable to perform a trustee's function because of absence, illness, disqualification under other law, or other incapacity or has not properly delegated the performance of the function to a cotrustee.

(b) The trustee is aware of but does not join in the action or omission of the cotrustee.

(c) The trustee dissents in writing to each cotrustee at or before the time of the action or omission.

(8) A trustee that is not aware of an action by a cotrustee is not liable for that action unless the trustee should have known that the action would be taken and, if the trustee had known, would have had an affirmative duty to take action to prevent the action.

(9) A dissenting trustee that joins in an action at the direction of the majority of the trustees and that notified any cotrustee in writing of the dissent at or before the time of the action is not liable for the action.

(10) Notwithstanding any provision in this section, the terms of a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercise of a power of the other cotrustee to the same extent that a directed trustee described in section 7703a may be relieved from duty and liability with respect to a trust director's power of direction under section 7703a.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010;—Am. 2018, Act 664, Eff. Mar. 29, 2019.

Popular name: EPIC