

RCW 11.104B.120 Unitrusts—Authority of fiduciary. (1) A fiduciary, without court approval, by complying with subsections (2) and (6) of this section, may:

(a) Convert an income trust to a unitrust if the fiduciary adopts in a record a unitrust policy for the trust providing:

(i) That in administering the trust the net income of the trust will be a unitrust amount rather than net income determined without regard to this article; and

(ii) The percentage and method used to calculate the unitrust amount;

(b) Change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or

(c) Convert a unitrust to an income trust if the fiduciary adopts in a record a determination that, in administering the trust, the net income of the trust will be net income determined without regard to this article rather than a unitrust amount.

(2) A fiduciary may take an action under subsection (1) of this section if:

(a) The fiduciary determines that the action will assist the fiduciary to administer a trust impartially;

(b) The fiduciary sends a notice in a record, in the manner required by RCW 11.104B.130, describing and proposing to take the action;

(c) The fiduciary sends a copy of the notice under (b) of this subsection (2) to each settlor of the trust which is:

(i) If an individual, living; or

(ii) If not an individual, in existence;

(d) At least one member of each class of beneficiaries receiving the notice under (b) of this subsection (2) is:

(i) If an individual, legally competent;

(ii) If not an individual, in existence; or

(iii) Represented in the manner provided in RCW 11.104B.130(2);

and

(e) The fiduciary does not receive, by the date specified in the notice under RCW 11.104B.130(3)(f), an objection in a record to the action proposed under (b) of this subsection (2) from a person to which the notice under (b) of this subsection (2) is sent.

(3) If a fiduciary receives, not later than the date stated in the notice under RCW 11.104B.130(3)(e), an objection in a record described in RCW 11.104B.130(3)(d) to a proposed action, the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications, or prevented. A person described in RCW 11.104B.130(1) may oppose the proposed action in the proceeding under this subsection, whether or not the person:

(a) Consented under RCW 11.104B.130(2); or

(b) Objected under RCW 11.104B.130(3)(d).

(4) If, after sending a notice under subsection (2)(b) of this section, a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify in a record each person described in RCW 11.104B.130(1) of the decision not to take the action and the reasons for the decision.

(5) If a beneficiary requests in a record that a fiduciary take an action described in subsection (1) of this section and the

fiduciary declines to act or does not act within 90 days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

(6) In deciding whether and how to take an action authorized by subsection (1) of this section, or whether and how to respond to a request by a beneficiary under subsection (5) of this section, a fiduciary shall consider all factors relevant to the trust and the beneficiaries, including relevant factors in RCW 11.104B.050(5).

(7) A fiduciary may release or delegate the power to convert an income trust to a unitrust under subsection (1)(a) of this section, change the percentage or method used to calculate a unitrust amount under subsection (1)(b) of this section, or convert a unitrust to an income trust under subsection (1)(c) of this section, for a reason described in RCW 11.104B.070(7) and in the manner described in RCW 11.104B.070(8). [2021 c 140 s 2303.]