

RCW 11.98.080 Consolidation of trusts. (1)(a) Two or more trusts may be consolidated if:

(i) The trusts so provide; or

(ii) Whether provided in the trusts or not, the requirements of subsection (2), (3), or (4) of this section are satisfied.

(b) Consolidation under subsection (2), (3), or (4) of this section is permitted only if:

(i) The dispositive provisions of each trust to be consolidated are substantially similar;

(ii) Consolidation is not inconsistent with the intent of the trustor with regard to any trust to be consolidated; and

(iii) Consolidation would facilitate administration of the trusts and would not materially impair the interests of the beneficiaries.

(c) Trusts may be consolidated whether created inter vivos or by will, by the same or different instruments, by the same or different trustors, whether the trustees are the same, and regardless of where the trusts were created or administered.

(2)(a) A trustee must deliver sixty days in advance written notice of a proposed consolidation in the manner provided in RCW 11.96A.110 to the qualified beneficiaries of every trust affected by the consolidation and to any trustee of such trusts who does not join in the notice. The notice must: (i) State the name and mailing address of the trustee; (ii) include a copy of the governing instrument of each trust to be consolidated; (iii) include a statement of assets and liabilities of each trust to be consolidated, dated within ninety days of the notice; (iv) fully describe the terms and manner of consolidation; and (v) state the reasons supporting the requirements of subsection (1)(b) of this section. The notice must advise the recipient of the right to petition for a judicial determination of the proposed consolidation as provided in subsection (4) of this section, and must indicate that the recipient has thirty days to object to the proposed consolidation.

(b) If the trustee receives written objection to the proposed consolidation from any trustee or beneficiary entitled to notice or from their representatives within the objection period provided in subsection (a) of this section, the trustee(s) may not consolidate the trusts as provided in the notice, though an objection does not preclude the trustee or a beneficiary's right to petition for a judicial determination of the proposed consolidation as provided in subsection (4) of this section. If the trustee does not receive any objection within the objection period provided above, then the trustee may consolidate the trusts, and such will be deemed the equivalent of an order entered by the court declaring that the trusts were combined in the manner provided in the initial notice.

(3) The trustees of two or more trusts may consolidate the trusts on such terms and conditions as appropriate without court approval as provided in RCW 11.96A.220.

(4)(a) Any trustee, beneficiary, or special representative may petition the superior court of the county in which the situs of a trust is located for an order consolidating two or more trusts under RCW 11.96A.080 through 11.96A.200.

(b) At the conclusion of the hearing, if the court finds that the requirements of subsection (1)(b) of this section have been satisfied, it may direct consolidation of two or more trusts on such terms and conditions as appropriate. The court in its discretion may provide for payment from one or more of the trusts of reasonable fees and expenses for any party to the proceeding.

(5) This section applies to all trusts whenever created. Any person dealing with the trustee of the resulting consolidated trust is entitled to rely on the authority of that trustee to act and is not obliged to inquire into the validity or propriety of the consolidation under this section.

(6) For powers of fiduciaries to divide trusts, see RCW 11.108.025. [2013 c 272 s 17; 1999 c 42 s 621; 1991 c 6 s 2; 1985 c 30 s 51. Prior: 1984 c 149 s 81.]

Application—2013 c 272: See note following RCW 11.98.002.

Effective date—1999 c 42: See RCW 11.96A.902.

Short title—Application—Purpose—Severability—1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.